

**WASHINGTON STATE  
GAMBLING COMMISSION MEETING  
THURSDAY, APRIL 8, 2010  
APPROVED MINUTES**

**Vice-Chair John Ellis** called the meeting to order at 1:40 p.m. at the Olympia Red Lion Hotel and introduced the members present. He explained that Chair Keven Rojecki was not able to attend on Thursday, but would be present on Friday. Vice-Chair Ellis welcomed new Commissioner Becky Roe who was attending her first Commission meeting, and provided some background. She is very well known to those who practice law in Seattle. She attended the University of Washington and graduated with her legal degree from Seattle University. She was with the King County Prosecuting Attorney's office under Norm Maleng from the mid 1970s to the mid 1990s, where she developed a national reputation as the supervisor of the Special Assault Unit, which is a nationally known operation focusing on protecting and handling and prosecuting cases of abuse to women and children. From that position, she went on to private practice with the Seattle firm of Schroeter, Goldmark and Bender where she specializes in personal injury cases with a heavy focus on assault cases with women's rights and children's rights. She is a member of a long list of professional organizations. Vice-Chair Ellis greatly appreciated having Commissioner Roe on the Commission and looked forward to working with her. Vice Chair Ellis pointed out the legislative ex-officio members were not expected to attend the Commission meeting because of the events going on in the Legislature with regard to the budget.

**MEMBERS PRESENT:**     **Commission Vice-Chair John Ellis**, Seattle  
                                  **Commissioner Mike Amos**, Selah  
                                  **Commissioner Michael Reichert**, Maple Valley  
                                  **Commissioner Rebecca Roe**, Seattle  
                                  **Representative Gary Alexander**, Olympia (*arrived at 1:45 p.m.*)

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

**Agenda Review**

**Director Rick Day** welcomed Commissioner Roe to the Commission. He then briefly reviewed the agenda and the last minute documents that were provided to the Commissioners.

**Vice-Chair Ellis** welcomed the Honorable Gary Alexander and introduced him to Commissioner Roe. Vice Chair Ellis pointed out, for anyone in the audience interested in the Texas Hold'em

working group, that there would be a working group meeting beginning on Friday at the end of the Commission meeting, which may be in the neighborhood of 10:00 a.m. or so.

**Director Day** explained the Snoqualmie Tribe Phase II Review was the first item of business. It has been awhile since the Commission has dealt with a Phase II Review in either the tribal or non-tribal venue. What it amounts to is a process of a tribal casino moving from a Phase I, which is a smaller, less complex gaming operation, to a Phase II, which is a larger, more complex gaming operation with higher limits, more hours, more table games, and those kind of things. To put this in perspective, most tribes went through this process quite some time ago, just by virtue of when they were compacted and opened their casino. The Snoqualmie Tribe, during the discussion process relative to their Compact, requested an amendment to the Compact, which was negotiated with the State, and allowed a process that was a little different. Rather than opening at a lower Phase I level, then having a review, and then going to a Phase II level, the Compact switched that requirement and allowed the Tribe to begin at the Phase II level, and then go through a review after 12 months to determine whether the Tribe followed the Compact as required. Director Day paused to introduce the members present from the Tribe: Danielle Davis, TGA Director; Bill Papazian, Chair of the Gaming Commission, Mike Zorsch of the Gaming Commission; and James McDermott, CFO. Director Day noted the Commission was glad to have them present.

**1. Snoqualmie Tribe Phase II Review (PowerPoint Presentation)**

**Special Agent Supervisor Kelly Main** recognized Travis Vessey, the lead agent on the review; Special Agent Darcey Axon, who did much of the follow-up work; and Special Agent Jon Godfrey, who was also involved in the review. SAS Main presented some background information about the Tribe. The Snoqualmie Indian Tribe regards Snoqualmie Falls as its birthplace. It is said the spirits of various resources of the Snoqualmie River Valley and the spirits from upstream of the falls form a sacred place for spiritual power. It is also where tribal members would bring their families to hunt and gather food to provide sustenance. Snoqualmie was part of the Point Elliot Treaty of 1855. They relocated on to the tribal reservation, along with some other tribes in the area: the Stillaguamish, Snohomish, and Sammamish Tribes. At its peak, the Tribe consisted of more than 4,000 members; today there are approximately 650 enrolled members. In 1953, the Tribe lost federal recognition when federal policies limited recognition to tribes having their own reservations. Because they had been moved off their ancestral lands and put on the Tulalip reservation, they did not have a reservation. The Tribe fought hard to regain that recognition, which they did in 1997. A legal challenge was brought by another tribe, which put that recognition in peril. In 1999, the Tribe was re-recognized by the Bureau of Indian Affairs. In 2006, a 56-acre property was declared their reservation, which is the site where the casino now stands. In 2002, Snoqualmie Tribal Chairman Joseph Mullen and Governor Gary Locke signed the Tribal/State Class III Gaming Compact. In 2008, the Snoqualmie Casino opened its doors to the public.

SAS Kelly explained a Phase II review was a Compact compliance review. The Second Amendment was signed by Governor Gregoire in June of 2008, granting the Tribe to open

its casino at temporary Phase II limits. Per the agreement, after 12 months of operation, a review was conducted to determine Compact compliance and that casino operations had met certain conditions necessary to remain at those levels. The entire Class III gaming operation is reviewed, which includes table games, tribal lottery system (TLS), cage operations, security, surveillance, the accounting department, and the tribal gaming regulators themselves. Upon successful completion of the review, the Tribe would remain at its current wagering limits of \$500 for table games. With allocations from other tribes, the Snoqualmie Tribe is authorized up to 75 gaming stations and 2,500 TLS player terminals. There are five review criteria in order to successfully complete a Phase II review:

- There have been no violations of the provisions of the Compact that have resulted in sanctions by either the NIGC or the federal district court. Special Agent Vessey contacted Mark Phillips with the NIGC and worked with him to determine there were no violations. That was successfully completed.
- There have been no violations of the Compact that are substantial or, due to repetition, would be deemed material. Numerous onsite reviews and audits of the accounting and finance office were conducted and staff were able to trace records from source documents all the way up to the general ledger. Staff observed hours of game play, making sure that procedures were correct and they were followed. Whenever violations were found, staff worked with the Tribal Gaming Agency (TGA) to get those violations corrected immediately.
- There have been no material adverse impacts on the public health, safety, or welfare of the surrounding communities directly related to the Class III facility. Staff were able to review numerous reports looking specifically for any criminal activity that occurred there. There is also a structure in place where any public complaints are investigated. Staff reviewed the 2 percent impact mitigation funds, which are currently being accrued. The committee has been set up and they have had meetings that included members of the community or local governments that may be affected by the casino. Nothing was brought forward in those meetings indicating any kind of material adverse effects.
- The Tribal Gaming Agency has developed a strong program of regulation and control that demonstrates an adequate level of proficiency. The TGA has hired trained agents to create and run the regulatory program. The Tribe has an independent TGA management and reporting structure separate from the government. They have a thorough and developed system of internal controls and a strong and consistent presence within the facility.
- There have been no material violations of Appendix A, B, or X2 of their Compact. Special Agent Vessey had been working with Danielle Davis, TGA Director, and instructed his staff to contact her and work with her staff to get any violations found during the review taken care of. So when we came to exit, we had relatively few exceptions. Staff followed up with the few exceptions found during the review and were confident that things were being met.

SAS Main and Lead Agent Vessey recommend the casino be granted standard Phase II approval.

**Vice-Chair Ellis** asked if there were any questions.

**Commissioner Michael Reichert** asked SAS Main to explain a little more about the number of allocated units from the other tribes. **SAS Main** explained that under Appendix X2, the tribe itself can have 975 machines, but are allowed up to 2,500 machines with allocations from other tribes. There are some tribes in the state that do not have a gaming operation or casino. To help those tribes, the large tribes with the ability to draw in lots of people and have a need for those machines can lease the allocations from those tribes that do not have the same opportunities.

**Vice Chair Ellis** thanked SAS Main for his presentation, and then asked if Chairman Papazian or any of the other representatives of the Snoqualmie Tribe would like to address the Commission. **Chairman Papazian** said he would address the Commission from the audience. **Vice-Chair Ellis** asked Chairman Papazian to come to the podium to ensure his words were captured on the transcription system.

**Chairman Papazian**, on behalf of the Snoqualmie Gaming Commission and the Tribe, thanked the Washington State Gambling Commission and all the agents and special agents they have worked with. Everyone, since the inception of this project, has been incredibly helpful to work with. Even this very process itself, they work very well as co-regulators. They received wonderful consultative advice in the process, which they have largely, if not completely, embraced. It has really been a terrific process, and they appreciate it and see a tremendous value in the relationship they have with one another. Chairman Papazian acknowledged the efforts of his Commission: Mike Zorsch, who is the chairman of their Audit Committee; Joe Clees, who could not be here today; and his executive director, Danielle Davis and her staff. Chairman Papazian also thanked the casino operations: Mike Barozzi, the CEO; James McDermott, CFO, whose leadership has made quite a difference in the Tribe's ability to regulate the casino operations, and Mr. McDermott's ability to regulate them. Chairman Papazian hoped to continue these good, open relations, and to have a very strong co-regulating ability together.

**Vice Chair Ellis** indicated he was certainly glad to hear that. Director Day had emphasized the excellent working relationship between the Snoqualmie people and Gambling Commission agents in this process, and the Commission is very grateful to hear that and appreciated Chairman Papazian taking the time to comment on the contributions that have been made by Supervisor Main and his staff. The Commission is very pleased that the Snoqualmie Casino has met all of the criteria to move on to the Phase II status. **Chairman Papazian** thanked Vice-Chair Ellis.

Commissioner Amos made a motion seconded by Commissioner Reichert that the Commission grant the Snoqualmie Casino Phase II approval. *Vote taken; motion passed with four aye votes.*

**Vice Chair Ellis** called for a recess at 2:05 p.m. and resumed the meeting at 2:15 p.m.

**Director Day** pointed out the memorandum behind the tab entitled “Media Award Success of Zander” and explained that in October 2009, with the cooperation of a contract with the Evergreen Council on Problem Gambling, the agency launched an underage gambling program that was called “NotAZander.com.” Director Day introduced Ms. Maureen Greeley, Evergreen Council on Problem Gambling, who would like to provide an update to the Commission and some information and video clips on this program.

2. **Media and MarCom Award: Success of Zander The Underage Gambler Campaign**  
(Video)

**Ms. Maureen Greeley**, Executive Director of the Evergreen Council on Problem Gambling, said she was proud of the long standing, positive relationship the Council has with the Gambling Commission. She commended the staff for the work they have done on a number of gambling issues that are not necessarily related to the day-to-day regulation of gambling but have to do with impacts of gambling and communities. That means a lot to her Council. The Evergreen Council on Problem Gambling is a nonprofit organization. The project Director Day mentioned has been a very successful public/private partnership that is very important to all of us, particularly in this day and age when budgets are tight, being able to work together and do good things in the community, and make resources go as far as they can. Ms. Greeley recognized Susan Arland, Arlene Dennistoun, Amy Hunter, Melinda Froud, Robert Zaher, and Debby Vandal who have contributed a great deal to this campaign. The campaign, NotAZander, began in October of 2009 and, at that time, Zander was a one-dimensional character; a pseudonym or a representative of underage gamblers in the State of Washington. Since then he has gained many dimensions and has come to life. Ms. Greeley introduced Kacie McKinney and Kurt Jacobson from JayRay, the communications consultants who helped create Zander and helped bring him to life. The presentation represents six months of a campaign put into six minutes and, hopefully, will give a taste of what was accomplished. The Gambling Commission asked the Evergreen Council on Problem Gambling to work on an education and awareness campaign to help get the message out about the legislation passed last year for a \$125 fine for underage gamblers caught gambling in casinos and card rooms. With the combined efforts of the Gambling Commission, Evergreen Council, and JayRay staff, the message went out to many groups via presentations and through the media. The Zander campaign PSAs were aired more than 400 times throughout the state of Washington on radio stations in Yakima, Spokane, and Seattle, as well as on KING5, KPLU, KONG, and on the websites for MSNBC and Yahoo. The expectation was that a lot of youth would follow the campaign on Facebook and Twitter, but actually the trend was that more adults went on Facebook to learn more about underage gambling than the youth themselves. So the campaign hit a lot of parents, which was one of the goals, and it really surprised the media that with this campaign the Facebook

followers and fans were adults. More than 200 information packets were sent to people in Washington who were interested in what was going on with the Gambling Commission and underage gambling. The campaign won a Gold MarCom award for excellence in marketing and communications, which Ms. Greeley presented to Vice Chair Ellis.

**Vice Chair Ellis** thanked Ms. Greeley and accepted the award on behalf of the Commission and the Commission staff. He stated the Commission has enjoyed working with Ms. Greeley and her organization. Although this campaign is less than a year old, Vice-Chair Ellis asked if Ms. Greeley had gotten to the point yet where she was seeing greater numbers than before in the terms of minors being referred or seeking help for problem gambling. **Ms. Greeley** replied she was not seeing a lot of minors being referred for treatment yet. One of the reasons could be that most parents deal internally with the issues with their own children. There have been three requests for residential treatment for minors since this campaign started, and the campaign was thought to be a big part of that. The difficulty is that in the state of Washington, there are no residential programs for problem gambling at any level; not for youth, not for adults. The Evergreen Council on Problem Gambling has been able to start providing reimbursement for treatment for adults, but treatment providers must have a special license to deal with youth. Ms. Greeley has been learning of the difficulty of getting problem gambling on the radar. Alcohol and drug abuse residential treatment programs are out there, but there are not many people trained in problem gambling in the residential facilities. That is a goal Ms. Greeley plans to work on. There have been a lot of youth coming out, as seen on the University of Washington panel. Those were youth who said they wanted to do something about increasing awareness of gambling issues among their peers and asked for help setting something up. Those programs are a direct result of the increased awareness from this program.

**Ms. Kacie McKinney** reported the Facebook fan page and a Twitter page were launched, aimed at parents, plus two Facebook ad campaigns. Ms. McKinney explained that when a person signs onto Facebook, ads designed for that specific audience would be seen on the right side – for instance, an ad that just showed up on the pages of those signing onto Facebook who are 13 to 17 years old. Then another ad showed up on what was called “the Moms of Zander,” which included 35 to 55 year olds. There were a couple thousand people that clicked on those ads to go to either the fan page or NotAZander.com, which was a big success. Part of the goal with internet ads is to have a click-through rate of how many people see the ads versus how many people click through and go to the information provided. As Ms. Greeley mentioned, part of this was to have an awareness campaign, and they were very happy with those numbers and hoped to continue using social media as a tool because it is obviously where their target audience is.

**Vice Chair Ellis** said they were impressive numbers.

**Ms. Greeley** added those ads and much more information was included in the packet provided the Commission. Ms. Greeley would love any feedback or input from the

Commissioners and from the staff on the program, adding it has been a great pleasure to work with the Gambling Commission.

**Vice Chair Ellis** asked if there were any questions; there were none. He thanked Ms. Greeley for her presentation, adding this has been an exciting campaign and the Commission staff, as well as the Commissioners, have very much enjoyed their partnership with the Council.

### 3. Director's Report

**Director Day** reported the next presentation explained the Criminal Intelligence Unit functions. Through federal forfeiture, and as the Commission has gone through the budget and approved those budgets, part of the Commission's approval continued to help enhance intelligence gathering in our undercover capacity. The Criminal Intelligence Unit, and its supervisor, Rick Herrington, are also primarily responsible for the federal and state forfeiture funds that have helped support the Commission's budget efforts and as well have supported educational programs like the NotAZander.com program.

#### Criminal Intelligence Unit Functions (*PowerPoint Presentation*)

**Special Agent Supervisor Rick Herrington**, Criminal Intelligence Unit (CIU), reported he has been with the Commission for 17 years, since 1992. Prior to that, he was in law enforcement for another 15 years where he met people like Commissioner Mike Amos. The Washington State Gambling Commission has a Criminal Intelligence Unit, whose main purpose is to protect the public by ensuring gambling is legal and honest. The Criminal Intelligence Unit has three functions. SAS Herrington spoke about the Criminal Intelligence Section whose main purpose is dissemination of information, predicting immediate and future criminal events, and what might happen in the future gambling world. One part of CIU is illegal internet gambling investigations and is nationally recognized as the leading organization dealing with internet investigations. The Computer Forensics section includes two people who are qualified to do criminal forensics and examine computers and digital storage devices. Cell phones in the future will probably bring between \$10 billion and \$12 billion in the gaming world; about 10 percent of that will be involved with illegal gambling.

The Criminal Intelligence process involves basically six steps.

- Collection.
- Evaluation, with the help of an intelligence system called ACISS.
- Collation.
- Analysis – strategic and tactical.
- Dissemination. The information goes out to the law enforcement community, licensees, and special agents. It also goes out internationally and nationally. Dissemination of information is the sole purpose of a Criminal Intelligence Unit. It is important to get the information out.
- Re-Evaluation.

**SAS Herrington** explained tactical intelligence is putting information together to actually investigate or assess a site. CIU assesses all kinds of criminal activity. During a bookmaking operation, agents may go undercover to assess and analyze what is going on. This information is gathered and disseminated out to the people that actually have to do the work to protect them because they are a delicate resource for the Gambling Commission. Tactical packages are mainly done for officer safety. Specific criminal events are analyzed to see who the people are, if they are associated with anything else, and if they are associated with other groups. Community crime alerts usually deal with bulletins that go out to the people that really need to know the information. Graphical displays are also given out. An investigation into an internet gaming organization in Chehalis, Washington resulted in the seizure of \$4.2 million. That is a small portion of the analytical work. SAS Herrington demonstrated a graphic display; TouchGraph, which is a free website. The internet is one of the greatest resource/ information sources in the world; it is an intelligence agent's dream. One thing nice about criminal intelligence versus investigations is that criminal intelligence hands over the information to the people to develop for themselves. An intelligence report cannot be put into a criminal investigation report; the two do not go together. Intelligence is not always based on facts, but could be based on innuendos and information gathered from other places. It is not hard core, but based on reasonable suspicion. It is based on a criminal predicate. It has to be connected with some type of crime.

- Intelligence is very proactive. It is a crime prevention tool because it usually happens before a crime is committed; removing the opportunity to commit a crime. It is based on reasonable suspicion more than mere suspicion. There has to be a criminal predicate and there are specific guidelines for what can be gathered.
- Investigations are reactive. A crime is reported or committed; there is an arrest and a prosecution. It is based upon probable cause.

**SAS Herrington** indicated he is the vice chair for the Northwest Region for the Association of Law Enforcement Intelligence Units (LEIU) and his division abides strictly by their standards for collection, storage, and dissemination. CIU abides by the 28 Code of Federal Regulations, Part 23. CIU has a secure storage device; a separate server from the agency's. Everything they process is considered sensitive and is reviewed over and over. No information may be maintained in the Criminal Intelligence Unit any longer than five years unless it is updated. Working files last 30 days, but information that has merit but cannot be proved right away can be maintained for a year. The purge is reviewed every 30 days to make sure information that is not allowed to be had is purged. Intelligence files access has to be within compliance of the law and have a criminal predicate. The Third Agency Rule means if an agency provides information on an intelligence basis and another agency asks for that information they are directed to the right person and told they need to contact the other agency directly. The originating agency can decide whether they want the information disseminated out to a third party or not. SAS Herrington felt very lucky to work for an administration that supports a Criminal Intelligence Unit's functions.

**Vice-Chair Ellis** asked if SAS Herrington got beyond just strict gambling crimes to associated crimes. Over the past six months, there have been a flurry of robberies of gaming operations – in Germany, Switzerland, England, Berlin. There were several armed robberies in Portland of illegal gambling games. Vice-Chair Ellis asked if that was something that would concern SAS Herrington or if he would pass it on to somebody else who deals with robberies as opposed to gambling offenses. **Special Agent Supervisor Herrington** affirmed he would pass it on, but that it would definitely concern him. He indicated he also belongs to the National Gambling Intelligence Sharing Group, which is an off-shoot of LEIU, and is tasked with keeping up with what is going on in Europe as part of internet gambling. CIU has a criminal predicate for keeping that kind of information and for making sure the information got out to all the gambling agencies in the United States and Canada as quickly as possible. Timeliness is important when working with intelligence.

**Commissioner Reichert** asked what CIU's approach was in terms of their relationship with the tribal casinos and the tribal gaming authorities regarding information or intelligence sharing. **Special Agent Supervisor Herrington** responded the approach was quite simple: he is not allowed to give information out unless it is to a law enforcement agency, which he has explained to tribal gaming directors. The relationship would have to be built with the tribal gaming police. **Commissioner Reichert** said that was helpful, then asked about interpretations of the protocols that were put in place for the practices that CIU agents undertake and if there was a legal review of that, or if SAS Herrington was in conversation with staff lawyers to make sure that the Commission was not stepping on somebody in a way it shouldn't. **Special Agent Supervisor Herrington** affirmed, explaining he was currently putting together new procedures for the Criminal Intelligence Unit, which has been about a three-year process. SAS Herrington is totally revamping the procedures and is currently working with CLD. One of the requirements of LEIU is to review each year how the process is put together. **Commissioner Reichert** thanked him for his work.

**Director Day** added the agency also has an internal audit function that looks at procedures and requirements – not just with the intelligence function but many other functions as well. **Commissioner Reichert** thought it would be helpful for the Commission to hear about that at some time. So many things are being done in so many places that may affect people's lives and the operations of various enterprises that it would be good to know more about those internal oversight steps. **Director Day** replied staff would be happy to do that.

#### Legislative Update

**Ms. Arlene Dennistoun** updated the Commission on five bills:

- Senate Bill 6444, the bill that is going to be moving forward rather than the House Bill, addresses the \$2.7 billion budget shortfall, which will be done through a combination of reducing spending, receipt of federal funds, fund transfers, and reserves from the budget stabilization account. As of April 6, the bill does not include any transfers from the gambling revolving account, but does include a 1.1 FTE reduction for the small agency

client services initiative for agencies with fewer than 176 FTEs. Mr. Westhoff is working with the Director of OFM for exemptions, since the small agency client services would be costly and have a negative effect on agency-wide operations. The bill does not include any reductions to Washington Management Services or Exempt Management Services. There have been quite a few amendments to the bill, including a provision for the implementation of electronic renewal notices that comes from Senate Bill 6683, which is no longer alive but is provided for in the budget bill.

**Commissioner Reichert** referred back to the issue of the exemption and asked if the agency was seeking exemption or if it was within the language. **Ms. Dennistoun** replied there are exemptions already contained in the bill that staff is working with OFM on. **Commissioner Reichert** asked if the Commission was supporting those exemptions. **Ms. Dennistoun** affirmed. **Director Day** clarified that on the small agency client services initiative, the Office of Financial Management (OFM) has had that organization for some time, but it has primarily supported very small agencies. The amendment expands the level of agencies that small agency client services would be responding to, which includes the Commission and one other larger organization. Under the current language of the bill, OFM can specify how it is going to work with a particular agency and what requirements there might be.

**Commissioner Reichert** asked if there was some discretion in the legislation. **Director Day** replied there was some discretion in the legislation, including extending the transition for one of the larger agencies until next June. Mr. Westhoff has been going through the same discussion with OFM. Staff had been looking at whether it would be a possible savings for our agency and found that the service billing would be more expensive for what the agency would be getting out of it. Staff is committed to going through the process to pin that down and attempt to get agreement on the information. **Commissioner Reichert** asked for clarification: if the legislation was passed and signed by the Governor, it would apply to our Commission but there is a potential for an exemption process within that, which is in the hands of OFM. **Director Day** affirmed.

- Senate Bill 6503 was passed by the House on April 2. The House passed the bill with an amendment that was made on the floor, so it may have to go back to the Senate for concurrence. Moving on to Senate Bill –

**Vice Chair Ellis** asked Representative Alexander if the bill does has to go back to the Senate for concurrence. **Representative Gary Alexander** affirmed it does have to go back to the Senate. There was an amendment made on the floor to exempt the Insurance Commissioner's office, which passed.

- Senate Bill 6503 is the furlough bill, which closes state agencies on specified dates, and was passed by the House. The bill allows agencies to submit compensation reduction plans to OFM for approval. It only requires agencies that do not have an approved plan to close on designated furlough days. If the bill becomes final, clarification would come from OFM on the deadlines for submitting a compensation plan and getting approval for those plans. The bill allows agencies to determine how best to achieve the

compensation cost reduction by: furlough days, leave without pay, layoffs, voluntary separation and retirements, and other compensation reducing measures. Commission staff plans to submit a plan to OFM that would include asking for credit for position vacancy savings that have already been achieved during the biennium. The Commission has already under spent allotments by nearly \$500,000 in the first seven months of the fiscal year. If the Commission were required to implement furlough days, the bill provides an exemption for Commission enforcement officers. Employees who earn less than \$2,500 a month or have less than six months of continuous state employment may use accrued leave. If the furlough days were to be instituted, employee retirement and other benefits would not be affected because of a furlough.

- House Bill 2603 was signed by the Governor on March 29. The bill requires agencies to give small businesses an opportunity to comply with state law or agency rules before imposing a penalty. The amendment to the bill included a two-day grace period before imposing any sanctions or fines, which would not apply if a third-party complainant would be disadvantaged, or if the violation was knowing or willful. The agency has to give advance notice before imposing sanctions or fines, except when the licensee has been previously warned. Agencies must give businesses a copy of any rule violated, and give them at least two business days to correct the violation before issuing any type of sanction. The definition of a small business is defined as a business with 250 employees or less, or with gross revenue of less than \$7 million, which would include most of the businesses the Commission licenses.
- House Bill 3178, creating efficiencies in the use of technology in state government, was signed by the Governor with a partial veto, on April 1. Some of the veto sections of the bill that affect the Commission included: requiring the Information Services Board to develop standardized contracts and to review state agency information technology budgets; requiring the Department of Information Services to report on the efforts to develop a centralized project management office by November 1, 2010. There were other provisions vetoed that have no effect or impact on the Commission. The final version of the bill eliminates the requirement of a five-year computer replacement cycle, and includes the ability for agencies to purchase wireless devices or services through the State Master Contract unless state agencies can provide evidence to OFM those items are being secured through another source for a lower cost.
- House Bill 2617, eliminating certain boards and commissions, was signed by the Governor on March 29. Although the Commission was not on the list of boards and commissions to be eliminated, there was an amendment added to the bill that would reduce compensation, travel, and other costs for boards and commissions. The elimination of travel, lodging, and subsistence allowances for boards and commissions during fiscal year 2011 only applies to class three and five boards and commissions. The Gambling Commission is a class four commission. The bill states that during fiscal year 2011, class four groups shall, when feasible, find alternative methods and means of conducting meetings that do not require travel, while still maximizing member and public participation. Class four groups may still use a meeting format that allows all members to be physically present only when required or necessary by law, but meetings

that require Commissioners' physical presence must be held at state facilities whenever possible. Any meetings conducted using private facilities must be approved by the Director of the Office of Financial Management. OFM will be issuing specific procedures related to the provisions of this bill within the next few weeks.

**Ms. Dennistoun** mentioned she would provide a final legislative report in May.

**Director Day** explained the Commission has been dealing with the meeting location issue much before this legislation. The historical summary shows where the Commission has met since about 2000. The Commission has had a policy of meeting in locations other than just Olympia under the theory that government is not just in Olympia; it is around the state. In 2006 there was a fairly significant change in venues from out of the way locations, what might be referred to as resort-style locations, to mainstream-type locations that are on the major thoroughfare channels to make it easier to get to and more cost effective for Commissioners, staff, licensees, and public attending Commission meetings. In about 2009, in management of the Commission's own budget, the Commission decided to put forward a process to focus on saving money, primarily relative to staff travel. Where possible the meetings were to be held at free or no charge locations in and around the Olympia area. That decision has saved the agency a considerable amount of travel money, particularly with staff and in most cases the Commissioners generate less travel expenses than staff. This legislation basically deals with conducting meetings other than in person. Director Day presented a recommendation about the rest of this year's schedule. He did not think a motion was necessary, but wanted to make sure he conveyed the information to the Commissioners. The Commission has a practice and was required in WAC rule to publish the schedule of meeting dates and locations a year in advance. It is not uncommon to contract locations for these meetings a year in advance. The next meeting is in May in Pasco at a private location, the Red Lion Hotel. In theory, under the bill, it would have to be approved by OFM; however, the bill is not effective until July 1 so that particular meeting is not affected. The next meeting is in July and will have to be focused on state facilities. This is also different from Commission practice because we were using nonprofit facilities as well, like the Lacey Community Center, which is a city facility, but charged a fee. Staff asked OFM about whether this was similar to a state facility, or if "state" meant only "state." Director Day was pretty confident the answer was going to be "state" means "state" because that is what the bill says. Some state locations being checked on are the Columbia room at the legislative building, the auditorium in the GA building, the Senate hearing rooms, and Labor & Industries. The State Investment Board is not available for the July meeting, so Ms. Grate will continue to pursue other state locations. In the event a location cannot be firmed up fairly quickly, there is the availability of the Olympia Red Lion Hotel, but that would require approval of the Office of Financial Management. The next meeting is in Vancouver in August at the Heathman Lodge and the October meeting is in Spokane at the Red Lion Hotel. Both of those meetings have been booked and are under contract, with significant contract cancellation penalties; they will require OFM approval. September's meeting will be at the State Investment Board in Olympia.

**Vice Chair Ellis** asked about the potential for being subject to being evicted if that state agency had a need for their room even though the Commission had it reserved and asked if that might be a problem with the Investment Board facility. **Director Day** did not believe so, explaining that problem would be more with college facilities where if an educational purpose came up, the educational purpose would trump the Commission meeting. That is something the Commission cannot afford to do – it does not fit the needs of the Commission. The State Investment Board meeting room is near the county courthouse. Staff also looks at where the Commissioners and other people attending the meeting would stay, plus parking charges. There are a lot of things that go into the decisions on where to have meetings besides just the cost of the facility itself. Unfortunately, that is not among the considerations outlined in the bill, but Director Day thought it fit the bill's intent in the language about "when possible or feasible."

Labor & Industries (L & I) is a large facility and has not been available for Commission meetings, in part because of the need to reserve a room for two days in a row. Ms. Grate will continue to attempt to find state facilities, but if an available meeting room in a state facility is not found for the two meetings in July and November, Director Day recommended confirming the Red Lion in Olympia for July and the Doubletree in Tukwila for November. Approval would have to be requested from the Office of Financial Management for those meetings. Ms. Grate will continue to coordinate meeting locations with the Commission Chair. Director Day pointed out to Representative Alexander that it was not feasible to use alternate methods for Commission meetings because they do not allow discussion and exchange with the public and petitioners regarding rule changes or quasi judicial actions, etc. When there is the potential of a very small agenda and the items do not appear to involve much public interaction, a conference call arrangement may be possible in the Lacey headquarters' conference room, and would be open for any public that wanted to attend. The last time it was just done was for just two items: approve licenses and take a position on legislation.

**Representative Alexander** agreed, suggesting looking at the Criminal Justice Training Commission in Burien for the November meeting. It is a good facility and is set up with the same kinds of accommodations as here. It has been used often for different meetings of this size. **Director Day** responded that staff would look into that location. If the Commissioners have some other direction or thoughts, would like staff to go in a different direction, or are aware of a facility that might be useful, please let Director Day or Ms. Grate know.

**Vice-Chair Ellis** asked how much flexibility was built into the process with the public notice requirements with regard to petitions. When a petition is filed, the Commission has to file it and give public notice that it will be hearing the petition and allowing the public to comment. How far in advance does that public notice need to go out, and does the location have to be specified for that hearing? **AAG Ackerman** believed it was 30 days under the rule.

**Vice Chair Ellis** asked if there were any comments with regard to these issues concerning the meetings; there were none.

**Director Day** said staff would continue to research state facilities for the Commission meetings. **Vice Chair Ellis** indicated this was not an easy process and commended Director Day and Ms. Grate for dealing with the new complexities being introduced by the state budget situation, noting everyone knew why it was necessary to go through this exercise.

**Director Day** said it was definitely worth looking at because the changes the Commission have made as far as focusing on Olympia meetings has saved quite a bit of money; although the ability to circulate around the state is lost, but the same group usually participate in the meetings. **Vice Chair Ellis** said that was good, but he thought it also has exposed the Commission to something that OFM is going to learn in a very big way, if it has not already learned, is the general lack of state facilities in Olympia when looking for a place to hold a meeting. It is not as easy as people may think. **Director Day** agreed – inflexibility and parking, and all those things that go with it.

**Commissioner Reichert** asked if the two-day format was mandated. It seemed in the meetings he had been involved in that the Commission had very short second day activities.

**Director Day** replied it was not mandated; it was more tradition. Not too long ago, the Commission had a one-day meeting, but with the structure of the meetings and the length of the agendas, it usually requires two days, especially with the study sessions being on Thursday mornings. Staff will continue to look for one-day opportunities, and staff knows one day meetings can be helpful, especially for Commissioners that are still working in another career.

#### Correspondence

**Director Day** drew attention to the correspondence between the Commission and the City of Kent regarding Engrossed Substitute Bill 5321, which was primarily about sales and use tax. One section of the bill pertained to annexation of an area that had a house-banked card room and allowed the cities, if they met certain requirements, to allow that operation to continue. The City of Kent was asking for the Commission to take a look at that situation and ask questions about whether there was anything in that bill that would restrict the location if Kent approved to allow it to continue to operate. Could they move locations or go from 12 tables to 15 tables? From what staff could see, there would be no restriction other than they would have to have the correct local permits and the Gambling Commission's approval to make those kind of moves or to add tables. Director Day pointed out the summary of the March 25 Texas Hold'em work group meeting and asked Vice-Chair Ellis if he had any further comments.

**Vice Chair Ellis** said he had very little; that the summary gives a good feel for the discussion that was held. That meeting was the first time the members really got into the issues presented, as opposed to looking for background information that would be helpful in exploring the issues. The members made a lot of progress and some direction on the basic issues. Vice-Chair Ellis expected there would be something presented to the Commission at

the July meeting, and they would go from there. All of that is to be discussed with the working group at the meeting tomorrow. **Director Day** noted that AD Harris had missed the last meeting, but **Vice-Chair Ellis** indicated AD Harris was ably represented by two of his Special Agents, Jess Lohse and Dan Frey. **Director Day** thanked AD Harris who was assigned to staff this group and has kept up with it very well, and Ms. Hollee Arrona who has kept material available for the work group.

#### Monthly Update Reports and News Articles

**Director Day** drew attention to the federal update, noting that staff keep track of any federal legislation that might have an impact on gambling in Washington, the Gambling Commission in particular, and federal land decisions that might impact the tribes. Melinda Froud, from our legal office, indicated that House Bill 4976, Internet Gambling Regulation and Tax Enforcement of 2010, was introduced by Representative McDermott and referred to Ways and Means and Educational and Labor committees on March 25. Representative McDermott had previously introduced a similar bill that related to the federal licensing and taxation of internet gambling.

**Director Day** pointed out a news article entitled “Gambling agents bust NASCAR betting site run out of Valley home” about a website that took wagering relative to NASCAR races. It had been operating for some time and our agents executed a search warrant and made an arrest of the alleged operator of that system. Another item of interest is a News Release from the Department of Justice entitled “Leader of Casino-Cheating Criminal Enterprise Sentenced to 70 Months.” The Commission held an appreciation ceremony for the combined investigation for tribal authorities, federal authorities, and other state and local officials that helped in that investigation.

**Commissioner Amos** asked how the Commission agents became aware of the NASCAR ring out of Spokane that had been going on for ten years and the person that complained he had won and lost for ten years. **Director Day** replied “sophisticated investigative technique,” better known as the person complained to the paper and they called the agent. **Assistant Director Harris** added that somebody did not get paid and called to complain. **Commissioner Amos** thought they must have been paying for awhile if it had been going on for ten years. **Director Day** affirmed, pointing out that some of the comments and information publicly released mentioned that he had been getting paid before. Evidently he was not so great at that, and generated complaints to the agent.

**Vice Chair Ellis** asked if there were other questions from the Commissioners; there were none.

#### Comments from the Public Regarding Director’s Report

**Vice Chair Ellis** called for public comment on any of the matters covered during the Director’s Report; there were none.

**4. Approval of Minutes – Regular Meeting – March 11 & 12, 2010**

**Vice Chair Ellis** asked if the Commissioners had comments or corrections to make in the proposed minutes.

**Commissioner Amos** indicated there appeared to be a typographical error in the motion under Item 4 on Thursday, page 10, where Commissioner Reichert made a motion to enter an order affirming the Initial Order of the ALJ revoking the license of “Mr. Allen,” which is incorrect. It should read “Angela Pagnossin.” **Commissioner Reichert** affirmed.

**Commissioner Reichert** made a motion seconded by **Commissioner Amos** to approve the minutes as corrected from the March 11 and 12, 2010, regular Commission meeting. *Vote taken; the motion passed with three aye votes (Commissioner Roe abstained because she was not at the March meeting).*

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

**Commissioner Reichert** made a motion seconded by **Commissioner Amos** to approve the list of New Licenses and Class III Certifications as listed on pages 1-14. *Vote taken; the motion passed with four aye votes.*

**6. Other Business / General Discussion / Comments From the Public**

**Vice Chair Ellis** called for public comments.

**Ms. LaVonne Withey**, IGT’s Director of Regulatory Compliance, wanted to thank staff for giving them the opportunity – they have been having stakeholder sessions with regard to the increase on the license fees and have been working with them collaboratively on this effort. Ms. Withey appreciated the opportunity to come out and work with staff and come to a reasonable means of the increase and the restructuring of the license fees.

**Vice Chair Ellis** thanked Ms. Withey and asked if there were any other comments; there were none.

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

**Vice-Chair Ellis** called for an Executive Session at 3:45 p.m. to discuss pending investigations, tribal negotiations, and litigation. He called the meeting back to order at 5:00 p.m. and immediately adjourned.

**WASHINGTON STATE  
GAMBLING COMMISSION MEETING  
FRIDAY, APRIL 9, 2010  
APPROVED MINUTES**

**Chair Keven Rojecki** called the meeting to order at 9:10 a.m. at the Olympia Red Lion Hotel and introduced the members present and then called an executive session to discuss pending investigation and potential litigation. He called the meeting back to order at 9:25 a.m.

**MEMBERS PRESENT:**     **Commission Chair Keven Rojecki**, Tacoma  
                                  **Commissioner John Ellis**, Seattle  
                                  **Commissioner Mike Amos**, Selah  
                                  **Representative Gary Alexander**, Olympia

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

**7. Motion to Dismiss Petition for Review – The Club, Everett; Revocation**

**Assistant Attorney General H. Bruce Marvin** was present for the State. There was no representative of The Club. AAG Marvin indicated the time was approximately 20 minutes after 9:00 a.m. and assumed someone would have been present by then.

**Chair Rojecki** asked if there was anyone present representing The Club from Everett. Nobody stepped forward on behalf of the The Club.

**AAG Marvin** testified he was present today on a motion to dismiss The Club’s petition for review. The Club had a taxation issue that was before the Commission in January. At that time, the Commission issued a final order revoking The Club’s license. They subsequently filed a petition for judicial review that was heard on an expedited basis by Judge McPhee. It was a motion for a stay of the final order. That stay was denied and on February 12, The Club entered a motion stipulating to the dismissal of that petition for judicial review. At that point, all possible avenues for appeal of the revocation of their gambling license was terminated. Today’s motion relates to a second set of charges that were pursued parallel to the gambling tax case. The gambling tax case went to hearing in November of 2009. This case went to hearing in December of 2009. And the final, the initial order in this case, was issued in February of 2010 after the Commission had already issued its final order revoking the case – revoking the licenses in the first case. Basically the Commission is under a situation now in which The Club no longer has a gambling license because it was revoked

through an issuance of the Commission's final order. The Club has abandoned their appeal of that final order. That order has terminated the licenses; there are no licenses existing at this time. Therefore, to allow this case to go forward on the second set of charges, the case is essentially moot. They have no legal rights. The Commission is not in a situation where even if it chose to reverse the ALJ's ruling there is no way the Commission could grant any type of effective relief because the licenses no longer exist. So that is the first grounds that were bringing the motion today. The second grounds are that the petition for review was untimely filed and the service of the petition was not perfected. So there is also that issue; that is a jurisdictional issue. Their failure to timely file a petition for review prevents this organization, or this tribunal, from having jurisdiction to hear the case, as well as the mootness issue. Based on those two issues, the Commission staff has moved to the petition for review on this case and terminates the petition for review on the second case.

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

**Commissioner Ellis** asked AAG Marvin to repeat his last sentence. **AAG Marvin** responded he did not think he could. In any event, there are two grounds upon which staff are seeking to have the petition for review dismissed. The first one is on mootness and the second is for the failure to timely serve and perfect jurisdiction of this tribunal regarding the petition for review. On those two bases, staff is asking that the Commission issue a motion – an order – dismissing the petition for review and basically putting this case to rest.

**Commissioner Ellis** asked if AAG Marvin was asking the Commission to issue an order on the merits as opposed to a default order. **AAG Marvin** affirmed he would be asking that it be issued on the merits.

**Commissioner Ellis** made a motion seconded by **Commissioner Amos** that the Commission enter an order dismissing the petition for review of The Club on the merits and on the grounds that number one, the petition is moot, and number two, the petition was not properly served. *Vote taken; the motion passed with three aye votes.*

**AAG Ackerman** noticed there were two cause numbers on the motion to dismiss the petition for review and asked AAG Marvin to explain why there were two cause numbers. **AAG Marvin** believed the cause numbers relate to two different investigations; the first relating to a failure to file a financial statement, and the second related to a failure to maintain a playing card log. Those two cases were put together and consolidated in the statement of charges. **AAG Ackerman** asked if the administrative law judge had heard them as a consolidated matter and if the initial order covered both. **AAG Marvin** affirmed, pointing out that the use of two docket numbers was followed consistently throughout the course of the administrative pleadings. **AAG Ackerman** apologized – he had missed one of the pleadings.

## 8. Defaults:

### a) Coleen Solomon, Class III Employee, Revocation

**Ms. Dennistoun** reported Ms. Coleen Solomon is a Lummi Nation tribal member. Her criminal history included a shoplifting conviction in 2004, which Ms. Solomon did not disclose. Staff issued and granted a conditional certification on August 6. Later in August, staff received notice from the Tribe that Ms. Solomon was no longer employed. By December 2009, staff found that Ms. Solomon had been convicted of two counts of theft in the third degree, which she did not disclose. Conditional certification requires the Class III employee notify staff of criminal charges. Class III employees with conditional certifications are only allowed to work for the particular tribal casino that requests the conditional certification. Although Ms. Solomon is no longer working for the Lummi Nation, she still has an active Class III certification and unless a prospective employer calls the Commission, they would not know that her certification was conditional and may allow her to work. Ms. Solomon has not responded to the charges, so staff is asking that her certification be revoked.

**Chair Rojecki** asked if there were any questions? Chair Rojecki asked if Ms. Solomon or a representative was present; no one stepped forward.

**Commissioner Ellis** made a motion seconded by **Commissioner Amos** that the Commission enter a default order revoking the Class III certification to conduct gambling activities of Coleen Solomon. *Vote taken; the motion passed with three aye votes.*

### b) Chantha C. Khuy, Class III Employee, Revocation

**Ms. Dennistoun** reported that Mr. Chantha Khuy was charged with first degree rendering criminal assistance; a felony. Mr. Khuy was alleged to have driven the car with a passenger in it who shot and killed a person. A routine check by licensing staff revealed the charge and obtained the court records, including an affidavit of probable cause. It was found there was some sort of altercation that ended when Mr. Khuy allegedly drove by the victim's house, slowed down, and the passenger began firing his pistol at the victim. The Director summarily suspended Mr. Khuy's certification, and staff personally served Mr. Khuy at the Yakima County jail. Mr. Khuy did not respond to the charges, so staff is asking that his certification be revoked.

**Chair Rojecki** asked if Mr. Chantha Khuy or a representative was present. No one stepped forward.

**Commissioner Ellis** made a motion seconded by **Commissioner Amos** that the Commission enter a default order revoking the Class III certification to conduct gambling activities of Chantha C. Khuy. *Vote taken; the motion passed with three aye votes.*

c) Marianne C. Tholmer, Charitable/Nonprofit Gambling Manager, Revocation

**Ms. Dennistoun** reported that Ms. Marianne Tholmer was a gambling manager at the Fraternal Order of Eagles #4122. While employed there, about \$4,391 in pull-tab revenue was not deposited and could not be accounted for. Agents found discrepancies in the organizations records during a routine inspection. As a gambling manager, Ms. Tholmer was responsible for safeguarding assets from misuse or theft, but failed to do so. Ms. Tholmer did not respond to the charges, and staff are asking that her license be revoked. Ms. Dennistoun pointed out the Commissioners had been provided with a corrected order.

**Chair Rojecki** asked if Ms. Marianne Tholmer or a representative was present. No one stepped forward.

**Commissioner Amos** made a motion seconded by **Commissioner Ellis** that the Commission render an order of default revoking Marianne Tholmer's gambling license. *Vote taken; the motion passed with three aye votes.*

### RULES UP FOR FINAL ACTION

9. **Staff Proposed Rule Change** – Restore the 120 day deadline for nonprofit licensees to report their annual progress and restore the licensee's ability to request an extension to submit the forms

**Amended Section WAC 230-07-145** – Reporting annual progress

**Deputy Director Trujillo** reported that during the rule simplification process there was one lengthy reporting requirement rule, which was broken into smaller bite sized rules. The 120-day reporting requirement was inadvertently omitted. This restores the 120 day reporting requirement and adds language for requesting an extension. Staff has not received any statements supporting or opposing the rule change and recommends adoption with an effective date of July 1, 2010.

**Chair Rojecki** asked for confirmation that there was nobody in support or opposed to the change. **Deputy Director Trujillo** responded that when the rule was discussed, there was silence. Even the charitable and nonprofit organizations remained silent. Generally speaking, those organizations that needed to abide by the requirement prior to January 1, 2008, have continued to do so, assuming the 120-day reporting requirement remained. This simply adds the requirement back into the rule. **Chair Rojecki** asked if the licensees just assumed that was the date. **Deputy Director Trujillo** affirmed.

**Chair Rojecki** called for public comment; there was none.

**Commissioner Ellis** made a motion seconded by **Commissioner Amos** that the Commission approve the proposed amendment to WAC 230-07-145, reporting annual progress in the form submitted, with an effective date of July 1, 2010. *Vote taken; the motion passed with three aye votes.*

**10. Staff Proposed Rule Change – Punchboard and pull-tab operators must only award cash or merchandise as prizes**

**Amended Section WAC 230-14-090 – Controlling prizes**

**Ms. Dennistoun** reported the proposed amendment to the rule does two things. It restores the requirement that punchboard/pull-tab operators must award cash or merchandise prizes only. Prior to the rules simplification project, the rule was very clear and stated that all prizes from the operation of punchboards and pull-tabs shall be awarded in cash or in merchandise. Unfortunately, during the rule simplification project that language was inadvertently omitted. In response to the industry, this amendment codifies a long-standing practice that a player may trade in his cash prize for additional pull-tabs – a player wins a cash prize and asks the bartender or the pull-tab worker for pull-tabs equal to the cash prize. Licensees had asked for this practice to be codified. Since filing the rule proposal in January, staff discussed the proposal at the February study session and drafted an amended version #1. The Recreational Gaming Association (RGA) and others in the industry thought that staff version #1 was too wordy, so staff went back to the drawing board and came up with version #2 that included language about players making a verbal request to trade their cash prize for pull-tabs, which has since been removed. Included in the agenda packet is a version #3 that was drafted by the Recreational Gaming Association. Staff does not support version #3 because the language in subsections (3) and (5) conflict. One says it is okay to award pull-tabs; the other says additional pull-tabs cannot be awarded. Also included in the agenda packet is version #5, which ZDI Gaming submitted after the March Commission meeting. Staff does not support this version because the language in subsection (5) was removed and it would allow pull-tabs to be awarded as prizes, which has never been allowed. Version #4 is the version that staff asks to be adopted. Staff have received three letters opposing the proposed rule change. Ms. Dennistoun addressed some of the concerns the letters addressed. Staff is not trying to codify that it is okay for a player to communicate how they want to spend their winnings, but are trying to be responsive to the industry by codifying a long-standing practice involving trading cash winnings for pull-tabs. Staff does not see any negative impact on operators because current requirements were not being changed; staff was just trying to add back into the rule inadvertently omitted language. If this amendment is not adopted, the intent and meaning of the rule, which is a player protection issue, will not be as clear as it was prior to the rule simplification project. Players need to know that they do not need to keep getting additional pull-tabs or any prizes other than cash or merchandise that is advertised on the flares relative to the pull-tab game. If adopted, this would be effective July 1, 2010.

**Chair Rojecki** called for public comment.

**Ms. Amanda Rotherick**, representing the Buzz Inn Corporation on behalf of Mr. Bill Tackett, explained that, as an owner and licensee of 12 different establishments, they are strongly opposed to the proposed amended rule version #4. Ms. Rotherick questioned why it needed to be added back into the rule after being removed during the simplification

process. Since there have been no problems to date and it is common knowledge and always has been, adding this back into the current verbiage would set the licensees up for interpretation of the rule by different agents and keep them from moving forward in any fashion in the future. Licensees need to be able to open the doors to the possibility of advancement in technology and innovation without having to modify version #4 in the future. Ms. Rotherick recently had a situation where two agents went into one of their locations in Lake Stevens and by the end of that situation, had been assessed a fine; then a week later took the fine away because the agents realized that Ms. Rotherick was acting within the rule. Since they have 12 different establishments, they have several different agents that work with them. The kind of the thing they are talking about is that when there is a rule that is up for the agent's discretion on whether to enforce it, or not enforce it, they are going to end up with one agent enforcing the rule and the other one not enforcing it. Ms. Rotherick felt that it just did not need to be there. She also felt very strongly about the fact that the pull-tab industry has not really had any advancement at all since it began in 1973, with the exception of the electronic pull-tab machines. Every other industry advances as the years go on; the internet and all the technology advancements are way ahead of its time and has always been. The industry needs to advance forward or the pull-tab industry as we know it is going to be gone. Ms. Rotherick stated that, at this time, they would like to support ZDI's version #5 because it was a way to get the rule in, as the Commission would like it, but also opens the door to advancement in the future.

**Director Day** asked Ms. Rotherick which rule was of issue with the agents. **Ms. Rotherick** replied it was the way she did her invoicing on merchandise. She does all the shopping for their merchandise prizes and then makes the flyer and delivers it to each of their locations. She has used the same generic invoice since she started in 1998, where on one side she writes the name of JDW, which is their corporation, and on the other side she writes the store that it is going to – she calls it the store, but it is the restaurant it is going to. And then if it is one that she is delivering, it is being sold there; if she is buying it back, it says credit on the top. Then it is filed in their book. One of the two agents that were there was named John and was new. He was accompanied by a supervisor who does not normally do field inspections. His interpretation of the rule was that she needed a preprinted invoice with their JDW full name, address, and license number on it. And then she needed an original receipt with the invoice from where she purchased it. So if she purchased five TV's from Costco, she needed to have that receipt on the premises. About ten years ago this came up, which was the last time it came up. Sally Herschlip who is the comptroller for the Buzz Inn, had arranged – and Ms. Rotherick was not sure who Ms. Herschlip spoke to – that they did not have to do that because JDW is its own entity and had the capability to buy and sell to her locations and go back and forth. In the end, staff realized that Mr. Rotherick did have that capability and didn't have to have the actual physical receipt from Costco at said location. **Director Day** said it sounded like it was relative to the verification of the 60 percent payout; that the agents were trying to determine the value of the prizes. **Ms. Rotherick** agreed that was what the agents were getting at. **Director Day** thanked Ms. Rotherick.

**Mr. Jay Gerow**, ZDI Gaming, asked Ms. Dennistoun or AAG Ackerman if, on the proposal he submitted – amended version #5, the only problem that they have with it was the deletion in subsection (5). **Ms. Dennistoun** replied that, in subsection (3) of amended version #5, there is additional language that says only award cash or merchandise as prizes; however, pull-tabs may be awarded in lieu of all or part of the cash prize if requested by the player. And then in subsection (5), the first sentence in the current rule – not award additional punches or tabs as a prize – is stricken. That is what staff does not support. **Mr. Gerow** clarified that striking the first sentence in subsection (5) was what staff did not support. **Ms. Dennistoun** affirmed. **Mr. Gerow** said he would be more than willing to remove that strike out and call it amended version #6. He believed that would take care of staff's issues and, probably, would take care of all of the operators' issues as well; not cause any problems and also not make it as limiting as staff's version is with the face-to-face transaction, which is not anywhere in any of the other WAC rules in the WAC book. He offered to hand out his copy of the WAC.

**Chair Rojecki** indicated for the record that Mr. Gerow distributed amended version #6 to the Commission.

**Mr. Gerow** said he believed that would satisfy everybody's needs, according to what has been told here in the meeting; staff, operators. **Commissioner Ellis** asked for clarification on what Mr. Gerow's problem was with version #4, which had been agreed to by the staff and by substantial portions of the industry. **Mr. Gerow** stated he did not believe that Gary Murrey and the RGA were a substantial portion of the industry; that they represent maybe 5 to 6 percent of the industry. **Commissioner Ellis** asked what percent Mr. Gerow represented. **Mr. Gerow** replied he represents himself and a lot of the small bar operators that do not come to this meeting. He was not saying he was a majority by any means, but he was also saying the RGA was not the majority of this industry as well – there are 2,500 licensees in this state and they are 70 of those.

**Chair Rojecki** asked a more legal and wordy type question. This amended version #6 is written compared to amended version #4. The intent of amended version #4 was to correct from the rule-making process to add “only award cash or merchandise prizes.” There was concern at the time that it did not include the allowance that had been a long-standing practice. So there was not that cash transaction back with pull-tabs. Chair Rojecki asked if amended version #4 was closer to what today's practice is versus amended version #6 and how it would play out compared to –

**AAG Ackerman** replied that his understanding was that amended version #4 was an attempt to reinstate a rule that was omitted during the rule simplification process, but also to have it reflect the past practice, which has been to eliminate the step of somebody with a winning pull-tab saying “okay, give me my winnings. And now I want to take my winnings and turn around and buy more pull-tabs.” AAG Ackerman understood it to be an attempt to reflect what had been the practice under the old rule, and of course, required a face-to-face transaction. He did not agree that amended version #6 was at all comparable to amended

version #4. Amended version #6 is closer to what Mr. Gerow had proposed in amended version #5, which basically allows the awarding of pull-tabs as prizes, which Ms. Dennistoun pointed out has never been allowed historically in the state of Washington. It was either cash or merchandise, but not pull-tabs. If, as a policy matter, the Commission wanted to revisit that issue, it is certainly within the Commission's prerogative. But to be honest, the reason that amended version #6 has been proposed is to allow a machine to credit winnings back on to a cash card. It is intended to eliminate the human interaction that is currently required when a player redeems a pull-tab and makes the conscience choice to take the money they have won and turn it back into another pull-tab. That is what this is all about. If the Commission wants to maintain the historic practice of this Commission, amended version #4 does that. If the Commission wants to open the door to a type of machine gaming that Mr. Gerow has been proposing for a long, long time, amended version #6 will open that door. **Mr. Gerow** commented that he appreciated AAG Ackerman finally admitting that in front of everybody here. Mr. Gerow has been asking that for the last four months and has just been told that it has been inadvertently omitted, so he appreciated that very much.

**Ms. Rotherick**, Buzz Inn, mentioned that she had submitted letters over the last couple of days that were not included in the agenda packets. There were six letters and she wondered why they did not get included. **Director Day** asked her to give them to him now. He did not have any idea why they were not included in the agenda packets. As letters come in, they are included in the rules packet. He was not sure where they were submitted, or if for some reason they went to the wrong place at the agency. But they will certainly be included right now. **Ms. Rotherick** apologized and said she would have made copies for everybody, but assumed the letters were included. **Deputy Director Trujillo** indicated he had received a call from our Public Records Officer this morning, but had misunderstood and thought she had received some comments about the proposed fee restructure. The letters came in to the fax machine at headquarters either last night or this morning. Ms. Arland may have been referring to these letters, so if they are the same, staff did receive them at headquarters. **Director Day** indicated the letters were dated April 7 and 8 and asked Ms. Rotherick if the letters were faxed. **Ms. Rotherick** affirmed she sent some on Wednesday afternoon and the others yesterday prior to noon. **Director Day** said they will be included in the record. **Ms. Rotherick** thanked Director Day.

**Commissioner Ellis** indicated for the record that the Commissioners were reviewing the letters. **Chair Rojecki** affirmed the Commissioners were reviewing comments to proposed WAC 230-14-090 that were just submitted. Chair Rojecki asked if there was any further discussion from the Commission. **Commissioner Ellis** thought there was a bit of confusion reflected in these newest letters in the sense that several of them indicate the Commission is doing something that would change existing practice in the industry. That obviously is not the intent and it is not the way the proposed rule, version number #4 at least, is understood by either staff or by many of the people that have testified in the past. Commissioner Ellis understood the argument that the door should be left open for technological advances, but there has been considerable discussion in the context of past petitions about technological

advances. The Commission has litigation pending on those issues, and they understand that, but this petition was not intended to be a mechanism to address those issues. It was intended to solve a very simple problem in which a very simple long-standing rule was inadvertently omitted during the course of the rather mammoth rule simplification process. There has been at least one person who wrote a letter saying there was no need for this rule because it reflects existing practice; there have been other people from the industry saying the existing practice should be written down in a rule and people should not have to guess as to what the rule is. Different agents might have different views of what the practice is.

Commissioner Ellis made a motion seconded by Commissioner Amos that the Commission approve staff's amended version #4, amending WAC 230-14-090, to be effective on July 1, 2010. *Vote taken; the motion passed with three aye votes.*

**Chair Rojecki** echoed Vice-Chair Ellis' comments and believed that amended version #4 was what the industry has today, and also is further clarification on the rule simplification process. .

#### **11. Election of Officers – Effective July 1, 2010 to June 30, 2011**

**Chair Rojecki** called for a motion for the Chair position.

Commissioner Amos made a motion seconded by Commissioner Ellis nominating and electing Commissioner Ellis as Chair of the Commission for the period July 1, 2010, through June 30, 2011. *Vote taken; the motion passed with three aye votes.*

**Chair Rojecki** called for a motion for the Vice-Chair position.

Commissioner Ellis made a motion seconded by Commissioner Amos nominating and electing Commissioner Rojecki as Vice-Chair of the Commission for the period July 1, 2010, through June 30, 2011. *Vote taken; the motion passed with three aye votes.*

#### **Other Business / General Discussion / Comments from the Public / Adjournment**

**Chair Rojecki** opened the meeting for public comment.

**Commissioner Ellis** indicated the Texas Hold'em working group would meet in ten minutes in the room next door

**Director Day** congratulated the new officers.

With no further business or public comment, **Chair Rojecki** adjourned the meeting at 10:10 a.m. The next meeting will be held in Pasco at the Red Lion Hotel.

Minutes prepared by:

Gail Grate  
Executive Assistant