

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
NOVEMBER 18, 2010
DRAFT MINUTES**

Chair John Ellis called the meeting to order at 1:37 p.m. at the Lacey Community Center and introduced the members present.

MEMBERS PRESENT: **Commission Chair John Ellis**, Seattle
 Commission Vice-Chair Keven Rojecki, Tacoma
 Commissioner Mike Amos, Selah
 Commissioner Michael Reichert, Marysville
 Commissioner Rebecca Roe, Seattle
 Senator Margarita Prentice, Seattle

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

Chair Ellis explained there was a government-to-government relations work session with the Squaxin Island Tribe and the Confederated Tribes of Chehalis that started at 11:30 a.m. and ended at 1:30 p.m. Attendees of the work session included: Chehalis Tribal Council Chair David Burnett, Squaxin Island Tribal Council Chair Dave Lopeman, Chairman of the Casino Oversight Board Robert Whitener, Chehalis Tribal Attorney Robbi Kesler, Commission Chair John Ellis, Commission Vice-Chair Keven Rojecki, Commissioner Mike Amos, Commissioner Michael Reichert, Commissioner Rebecca Roe, Senator Margarita Prentice, Director Rick Day, Deputy Director David Trujillo, Assistant Director Mark Harris, and AAG Jerry Ackerman. Seven members of the public observed the work session.

1. Agenda Review / Director’s Report:

Director Rick Day reminded the Commissioners that this meeting is for one day only. He thanked the representatives of the Squaxin Island Nation and the Confederated Tribes of the Chehalis Reservation for participating in the discussion. He then briefly reviewed the agenda, noting there were no staff requested changes.

Director Day explained the Executive Order 10-06 Suspending Non-Critical Rule Development and Adoption was issued by Governor Gregoire on November 17 and suspends non-critical rule making through December 31, 2011. The Commission has rules under consideration and since there is no meeting in December, staff thought Commission discussion and decision on how to apply this order should take place today. Staff recommends that the Commission follow its past practice and the spirit of the Governor’s

Order. Staff would plan to review any agency rule proposals according to the guidelines listed, and only move forward those that clearly meet an exception. Being aware of some of the background with the moratorium proposal, Director Day knew the idea was basically to stop rule making for a period of a year. With that in mind, there would be very few staff proposed rules that would go forward to the Commission under these recommendations. The Commission has four petitions in process that seem to meet section 3(e) of the Order. The Executive Order cannot alter requirements of state law concerning public petitions. That process is already described in state law. The implementation guidelines are on the back page (beneficial to or requested or supported by regulated entity, local governments, or small businesses that it affects). The current petitions, except one staff petition, have been requested by regulated entities, be that a licensed individual or company, or potentially licensed by this Commission. From that perspective, staff believes the Commission should go forward with those petitions and make a decision based on the merits of those petitions. As the Commission moves forward, staff suggests that continue to be the way petitions would be handled.

Item number 4 on the agenda is a staff proposal to repeal the rule requiring licensees to keep rules manuals on their premises. Staff project that removing this requirement will save \$15,000 to \$20,000 (and help the solvency of the Gambling Revolving Fund in 2011), which meets one of the exceptions referenced in section 3(c) of the implementation guidelines. In addition, staff's outreach has also indicated significant industry support because this repeals instead of enacts a rule, which meets the requirements of section 3(e).

Director Day introduced Michelle Rancour, administrative assistant, who has volunteered to supply a service and to substitute for Ms. Gail Grate at this meeting to support the Commission. Ms. Rancour has been involved in all the preparations for this Commission meeting, which is actually, a requirement in her performance plan. Miss Rancour is required to participate in a certain number of Commission meetings each year, both in preparation and actually completely taking them over. This is to ensure she is prepared, if something were to happen to Gail Grate, to make sure the Commission would continue to function as it normally does. **Director Day** thanked Miss Rancour.

Chair Ellis added he appreciated Miss Rancour's good work. **Commissioner Roe** agreed. **Ms. Michelle Rancour** thanked the Director and Commission.

Director Day returned to the subject of the Executive Order and indicated the Commission believes the staff petition, because it repeals the rule and saves money, meets the requirements of the rules moratorium guidelines. Staff recommends the Commission complete the process with the five rule changes currently in process and, in compliance with this Executive Order, submit a report by January 31, 2012, regarding the rules eliminated and those that proceeded through the process. Staff suggests submitting this report to the Commissioners at the November 2011 meeting, to be presented in January when it will be due before the Commission.

Chair Ellis understood Director Day's proposal. As a matter of policy, staff should adopt a procedure under which it is recognized that the Commission is not literally subject to the Governor's Executive Order regarding suspending non-critical rule development. But as a matter of policy, the Commission should proceed as though it were subject to the policy and the guidelines, and apply the guidelines to existing petitions as well as any future petitions that may arise. **Director Day** responded that, except for applying the guidelines to any future petitions, staff's recommendation is to apply the guidelines to any staff petition that might come forward. The general rule of thumb on the public petitions would be for staff to follow the statutory requirements – and the Commission makes a decision on the merits of that petition.

Chair Ellis asked Attorney General Ackerman if the Commission should have a motion on how they proceed in view of the Executive Order, or simply allow comment on what Director Day has proposed. **Assistant Attorney General Ackerman** responded he supposed all of those were options. He thought this question was really only going to arise if the Commission has a petition brought forth that does not meet one of the exemptions that are listed in OFM's guidance that accompanies the Executive Order. It would be appropriate to entertain any comments the other Commissioners may have on the proposal that Director Day had advanced here. It may also be sound to wait and address new petitions individually. Director Day already talked about the five that exist, but it may be wise to wait and see if any other petitions are brought forward during this one year period described in the Executive Order and then see if there is a need to make a policy decision as to how the Commission wishes to proceed, given the fact that an Executive Order cannot repeal an RCW. Director Day thought the problem may never occur and the Commission may not need to address it, but any of the options that were mentioned are all available at this time.

Chair Ellis asked if the Commissioners had any comments.

Commissioner Roe thought the Executive Order had two purposes: to minimize changes to regulations so people are not burdened, and to decrease the amount of staff time devoted to activities around rule making. Commissioner Roe indicated that Director Day had described how most of the petitions are desired by the people the Commission regulates, and asked how much staff time is devoted to the rule making changes and how staff is doing on the other reason for the Executive Order being issued. **Director Day** responded that, last year, the Commission had 50 rule changes and 24 of those were public petitions. Staff time would be reduced on the petition process fairly significantly because staff petitions would be reduced, but there would not be much impact on the public petitions. The Commission has had a lot of traditional debate; they have routinely accepted many petitions just out of tradition and filed them for public discussion. The Commission was looking to make sure staff observed that part of the Order as well. The Commission is encouraged to scrutinize and make sure that, as a petition is reviewed, it has presented enough evidence to merit further public discussion. As staff goes forward from the first petition, then the staff's time increases and the costs to consider those petitions increases. **Commissioner Roe** asked if

there was any way to quantify the amount of time staff spent on rule making petitions. **Director Day** responded there was a report that identified time and cost and staff could reissue that report and circulate it to Commissioners. He could not recall the dollar amounts, but the report reflected staff time, and Director Day thought the original petitions cost about \$1,000, but as it goes through the process, it ends up in the \$3,000 to \$5,000 range. It shows how the time builds as the petition moves through the process. Staff will redistribute the report.

Commissioner Michael Reichert understood the proposal, or suggestion, that staff would not be generating rule changes under the spirit of this decree from the Governor, and Commissioners would only consider those coming from the public. **Director Day** replied that would be the basic response; that the Commission is recommending the five petitions continue moving forward because of statutory requirements and looking at the Governor's Order. **Commissioner Reichert** asked if any of those were staff petitions. **Director Day** affirmed one is a staff petition. In the future, staff will observe the Governor's Order, realizing that the Order, as a direct report, does not have specific application but requests that staff observe the Order as well. From staff perspective, it will be taken to mean that absent a public safety reason, staff would not be bringing a petition forward to the Commission. **Commissioner Reichert** thanked Director Day for the clarification. **Director Day** added that, if it sounds like something the Commission could work with, staff would just move forward. Director Day did not think a motion was needed; just an indication that it was a good process. **Chair Ellis** responded it appears the Commission agrees.

HR 2267 – Internet Gambling Regulation, Consumer Protection and Enforcement Act

Director Day introduced HR 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act. Miss Rancour has a couple of full copies of the bill if any Commissioner was interested. The bill creates a federal regulatory and licensing scheme under the Secretary of the Treasury. A new summary was provided, which has one correction made to it. There is also the letter addressed to Governor Gregoire in 2006. The letter is a request from the Commission when they were concerned about federal legislation, and the action that was taken is reflected in that letter. The bill was amended and passed out of House Financial Services Committee 41 to 22 and lists six findings. Since the development of the internet, millions of people have chosen to gamble online. Internet gambling is offered by operators located in many different countries under a variety of licensing and regulatory regimes. Another finding was that, despite the increasing use of the internet for gambling by persons in the United States, there is no federal or state regulatory regime in place to protect United States citizens who choose to engage in this interstate activity or to oversee operators to establish and enforce standards of integrity and fairness. These are a couple of the findings the Committee found as they moved this bill forward. Director Day had some disagreement with the second one, but there are six findings. Also included in the Congressional Record were some dissenting views, which included the following comments, "Internet gambling's characteristics are unique; online players can gamble 24 hours a day from home; children may play without sufficient verification; and betting with a credit card can undercut a player's perception of the value of cash leading to

addiction, bankruptcy, and crime. Young people are particularly at risk. John Kent, Professor of Business Administration at the University of Illinois says it is “click the mouse; lose your house.” The bill puts gambling at every work desk, every school desk, and in every living room, and would increase problem gambling exponentially. By approving this bill, the largest expansion of gambling in history, the Committee has taken steps to open casinos in every home, dorm room, library, iPod, Blackberry, iPad, and computer in America.” Director Day also noted some of the findings that the Committee found and listed in the bill along with a couple of the dissenting views. In the summary memo provided are the provisions of the bill, and the main things that it attempts to accomplish. Staff listed some of the amendments and summarized those. At this point the Commission also has some issues and questions.

After staff reviewed the bill, they had questions and emerging issues and talked about those just briefly. Part of the reason staff are addressing this is the state of Washington’s law is the clearest regarding internet gambling in the United States. Our enforcement program is a very active enforcement program compared to many of the states, and actually probably internationally.

When staff reviewed this bill, we noted the following things. In this bill the state or the Tribe actually has to opt out in order to not participate in the internet gambling licensing scheme. If the state opts out of internet gambling, it is unclear whether the Commission still has any authority to regulate it as the federal government has taken steps to regulate it. It could pre-empt the state’s regulatory authority. That is a big question if this bill were to move forward. Even if the state opts in, then the state appears to not have any jurisdiction over any illegal or unlicensed operators, including those located within the state of Washington. The bill also provides a question which seems to be fairly significant; would the Governor or the legislature determine whether the state opts in or opts out. The bill implies that the Governor does, but on the other hand, staff is not sure that bill is real clear or lawful under the structure of the statutes. Also states that opt in and request to participate in the regulatory requirement, staff was pretty convinced that there is not a mechanism to reimburse the agency for regulatory costs, just costs associated with licensing investigations if the state were to participate in that.

One of the major omissions appears to be that the bill does not provide for any testing to see if the games operated by operators are fair. And so the environment we were talking about is programming. And even to this day with tribal machines that are in place, the Commission in our private lab spent a great deal of time to make sure the software and the conduct of the game is legal and honest, that the play is fair, and there is not any kind of cheating mechanism within the software. Director Day did not see anything in the bill that specifically mandates that requirement.

The bill also appears to erode the authority given to the states under IGRA as far as how the regulation process works. The Secretary of the Treasury in this case has sole authority to issue, suspend or revoke licenses, while states only have jurisdiction to determine licensee

suitability and conduct limited enforcement of the Act. Essentially what this meant was that the state could participate, but the Secretary of the Treasury has to determine whether the state or tribal regulatory bodies are qualified to review the applications. As a side note, this is approval by a governmental operation that has never regulated gambling that he was aware of. Part of the concern was that the state could actually go through this approval, get approved as a licensing investigation regulation authority. But once we complete our investigation, we do not make the decision as to whether or not this person is licensed and then can do business in the state of Washington. The Department of Treasury actually makes that decision on its own.

The other part here is the maximum penalty for a violation under this Act is not to exceed \$100,000. And we are talking about operations that generate millions and in some cases billions of dollars in revenue. These are some of the things we've been able to identify. The bill is lengthy and complex. It was significantly amended and is under review now by the Committees on Energy and Commerce and Judiciary for consideration of such provisions as fall within the jurisdiction of those committees. We learned a little bit more about the federal process, but still could not say that we were by any means an expert on how bills work through Congress.

Staff understands that the bill is not likely to move this year. However we recommend that we draft a letter expressing the Commission's concerns, if the Commission would agree they are, similar to that 2006 example to be prepared for the Commissioner's review at the January 2011 meeting, if the bill appears to be viable – if it actually moves. This is sort of a process to prepare, given the December break in Commission meetings, to start using some of this information we gathered to draft up a letter. That letter in particular was not actually an opposition letter; it was more of a letter of concern and request that the Governor expressed these concerns to the legislative delegation, and the Commission copied that letter to the Washington Congressional Delegation.

Director Day asked the Commission to consider whether or not they want staff to draft such a letter for the January Commission meeting, if the bill moves. The power has changed in the House. The Chairman of the Financial Services Committee may no longer be the Chairman when the next session comes up. It is possible the bill may not move at all. The bill and Committee report is available on [Thomas-BSS-HR2267-allcongregretionalactions](#).

Chair Ellis asked if there were any questions or comments for Director Day with regard to the bill.

Commissioner Keven Rojecki asked about the difference between this Bill and the one in 2006, or were there really any substantive changes. **Director Day** thought Commissioner Rojecki was referring to the bill in 2006 which was the Gambling Enforcement Act. The letter has nothing to do with the actual bill; it was just for reference.

Commissioner Roe asked if a motion was needed. **Chair Ellis** responded he did not believe so, unless any of the Commissioners saw any difficulty with the plan for staff to prepare a draft letter along the lines of the format of the January 13, 2006, letter, and then present the letter on this topic for discussion at the January meeting, and for authority to proceed. **Commissioner Roe** thought that seemed like a good plan. **Director Day** agreed staff will proceed in that fashion and update the Commission as the bill moves forward.

Correspondence

Director Day drew attention to the memorandum from Assistant Director Mark Harris regarding the requested information on Class G commercial amusement game licensees and how many there were. The Commission currently has nine Class G licensees that are authorized gross receipts of a million or more dollars. The cost of that license is \$9,970. The local tax cannot exceed two percent of the gross minus prizes for amusement game licensees. Director Day explained the memorandum update from Assistant Director Tina Griffin summarized the status of the Texas Hold'em Pilot Project. Staff has currently approved 24 requests to participate. The list of the program participants is included with the memorandum. The mid-program report is due in July of 2011, unless the Commissioners ask staff to produce something sooner. The final report on the pilot project is due May 2012. Participants have to file an activity report with the Commission that is due monthly beginning December 10. **Assistant Director Mark Harris** added that staff currently has three additional licensees that have submitted a request to participate.

Director Day drew attention to the memorandum from Assistant Director Tina Griffin on the analysis of the ownership of house-banked card rooms. This is an analysis from December 31, 2007, through September 30 of 2012. The Commission had requested staff submit a report concerning potential for concentration of ownership of house-banked card rooms because there are a number of card rooms owned by a single corporation. The Commission had some concern about that and if it was going to continue to increase. The information offers an interesting historical comparison.

2. Approval of Minutes – Regular Meeting – October 14 & 15, 2010

Chair Ellis asked if the Commissioners had any comments or corrections to the proposed minutes. There were none.

Commissioner Rojecki made a motion seconded by **Commissioner Roe** to approve the minutes from the October 14 and 15, 2010, regular Commission meeting. *Vote taken; the motion passed with five aye votes.*

3. New Licenses and Class III Certifications

Deputy Director Dave Trujillo indicated there were 14 pages of new licenses and pointed out Drift on Inn Roadhouse Casino house banked card room appears on page three of the list. The public house-banked card room report is in your packet as well. He indicated the total number of house-banked card rooms licensed and operating is 64, even though a few

house-banked card rooms closed. Based upon the licensing investigation, staff recommends approving all new licenses and Class III certifications listed on pages 1 through 14.

Commissioner Rojecki 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 five aye votes.

RULES UP FOR DISCUSSION AND POSSIBLE FILING

- 4. Staff Proposed Rule Change** Repealing the requirement that licensees maintain a current version of the rules on the licensed premise.

Repealed Section WAC 230-06-060 – Maintain a copy of Commission rules on business property.

Administrator Amy Hunter explained this rule has been around since 1974 and is one of the original rules. The Commission has been looking at this rule for the last couple of years, either looking at allowing licensees to use internet access in lieu of having the paper rules manual or to just completely repeal the rule. Based on input received, staff is proposing the requirement simply be repealed. During this process, staff surveyed licensees and were able to talk to about 200 licensees. About half of them preferred to access the rules online and half preferred a paper manual. When staff spoke with house-banked card rooms and larger licensees, unanimously they preferred to have internet access and did not feel that having a paper rules manual was something that they needed. Staff also talked to seven different regulatory agencies who unanimously do not distribute paper rules manuals to their licensees. Many of them do provide brochures, which the Commission also has. If this rule is repealed an article will be included in our newsletter letting licensees know they will just need to call or sign up on our website by a certain date and a paper rules manual will be mailed to them. Our field agents often find the rules manuals are still in the cellophane wrapper.

Chair Ellis thought that reflected the level of respect that licensees are giving the rules; preserve them in their pristine condition. **Administrator Hunter** agreed, noting that about \$30,000 is spent to produce the manual. The agency could save between \$15,000 and \$20,000, depending on how many licensees opt in and want to receive a manual. This rule would also be in line with House Bill 2287, which was passed in 2009 requiring agencies to develop and implement a paper conservation program. Staff would recommend filing for further discussion.

Chair Ellis called for public comment; there was none.

Commissioner Rojecki made a motion seconded by Commissioner Roe that the Commission file for further discussion the proposed repeal of WAC 230-06-060,

requirement that licensees maintain a current version of the rules on the licensed premise.
Vote taken; the motion passed with five aye votes.

5. **Petition for Rule Change from the Public** Increasing card room hours of operation from 160 to 168 hours a week

Amendatory Section WAC 230-15-025 – Hours of play

Assistant Director Harris reported that Monty Harmon, the petitioner, is requesting that card rooms be allowed to operate 24 hours a day/seven days a week. Currently they are allowed to operate 24 hours a day/five days a week, and up to 20 hours a day the other two days. That was the result of a petition from a card room player that the Commission approved in 2008. Prior to that, card rooms had to be closed four hours a day specifically between the hours of 2:00 a.m. and 6:00 a.m., unless approved by the Commission for another block of four hours. There was a sliding scale where card rooms could be closed, but it still had to be four hours. The Liquor Board has a similar requirement, which is viewed as a cooling off period. Card rooms still have to have food and beverage of some type if they are operating card game activity.

Staff sent out letters to law enforcement, and received comments from Mountlake Terrace, La Center, Pullman, Federal Way and Kelso who were not concerned with the petition. Staff contacted the Washington State Association of Sheriffs and Police Chiefs who are opposed to the amendment. Letters were sent to the house-banked card rooms; six responses were received; two opposed and four supported the petition.

Currently there are 32 house-banked card rooms operating 24 hours a day/five days a week and 20 hours/two days a week. In 2007, under Compact Tribal casinos are allowed to operate 24 hours a day/seven days a week. By Compact, they also have to have tribal gaming agents on site. Currently approximately eight tribal casinos are operating 24 hours a day/seven days a week; the rest are some other variation.

The Commission considered this matter and promulgated the current rule in 2008. In Monty Harmon's original petition, he did not provide any information of why this rule change was needed. But has since submitted a letter stating a couple of reasons why he felt it was necessary. AD Harris noted the petitioner was present and asked if there were any questions.

Commissioner Reichert asked if this required additional expenditure of funds on the part of the Commission or extension of staff. **Assistant Director Harris** responded the Commission still has to do the approval of the extended hours. So at the front end there will probably be some additional time if it is approved. **Commissioner Reichert** asked if the Commission repeated the process for each licensee. **Assistant Director Harris** affirmed, noting the longer the card rooms are open, the more likely staff will get more complaints. **Commissioner Reichert** asked if this increased impact on the costs for the Commission. **Assistant Director Harris** affirmed.

Commissioner Amos inquired about closing for two days a week or the four hours and whether card rooms get to pick which days they would be closed. **Assistant Director Harris** responded that under the current rule they can request to be closed outside of that 2:00 a.m. to 6:00 a.m. window. Staff would contact the local police department and the Liquor Board to see if they have any concerns. If not, their request would be approved.

Chair Ellis called for public comment.

Mr. Monty Harmon, a licensed service supplier who has operated in that capacity for the last seven years, testified he goes out to the card rooms and helps them with their regulatory compliance and he speaks to the staff. This particular petition is the product of some of the discussions that he had with the card rooms in that we talk about the rules and possible improvements to the rules. A good discussion just occurred on the efficiencies for the agency and staff costs. Presently the agents go out to the card rooms and will do a review of the closing procedures and the opening procedures with the 24 hours of operation. The nice thing is agents can go out and do the closing and opening observation at the same time. A second efficiency that might occur is that card rooms that operate the five days, if they change their days of operation would have to notify the Commission to choose two other days that they would rather be closed for the four hour period. That would no longer be necessary if the seven day a week option was available to them. There might be efficiency there for the Commission staff as well. Presently they do have to close two days a week. And the reason staff at the card rooms had spoken to me is the difficulty in scheduling those two days. All other days, the five days that they do operate 24 hours, they can have three eight hour shifts. The two days that they close it's difficult to schedule the staff because there's a short shift of four hours. The advantage of being allowed to go the seven days for those card rooms that choose to operate 24 hours is that the scheduling problem would go away. The employees would be able to work three eight hour shifts every day of the week, and you would not have those two days of closure. In addition, with those card rooms that have a poker game going, one of the difficulties with poker is it takes several customers in order to start the game. By closing those four hours on two days a week, the card rooms that do operate 24 hours end up breaking up the poker game. And then getting it started four hours later is a challenge. This challenge would go away, and it would benefit the operators and help them with the operation of their business.

Mr. Harmon appreciated staff's proposal and the way that they showed that pull-tabs are an activity that is allowed to be 24 hours a day, seven days a week. Mr. Harmon apologized to the Commission for the fact that he neglected to provide his arguments in writing as far as the need for this rule. In the future rule proposals he will certainly articulate in writing the reasoning for the rule proposal.

One of the issues with closing a business has to do with the building having fewer people in it. And he thought two days a week where these locations are closed, the location is possibly more vulnerable to having a problem with vandals or whatever. And in this case you continue to have plenty of people around the business because you have your employees

there as well. So there is a safety benefit as well. Mr. Harmon asked if there were any questions.

Commissioner Amos asked how many dealers would a card room have for three eight-hour shifts. **Mr. Harmon** replied it would depend on the number of tables that are open. But the casino has supervisors, surveillance, and security staffs are all present. All of those people pack up and go home if you have a closure day. He estimated there is a minimum of eight to ten people that are on location to have the business open, he thought. **Commissioner Amos** asked if employers only work staff eight hours a day, or could employees do two ten-hour shifts on those days of 20 hours. **Mr. Harmon** responded he thought it was a good question and stated he spoke to some of the staff about that. The problem with a ten-hour shift is the dealer's need to be sharp, and going a ten-hour day is a bigger challenge for them to be as sharp. He thought a lot of the card rooms have leaned towards the eight-hour shifts for that reason. **Commissioner Amos** asked if there was one card table playing for an eight-hour shift, how many dealers would be needed to be rotated in there. How often would they be rotated so they are not standing idle for 30 minutes or an hour at a time? **Mr. Harmon** explained that card rooms do have to have a relief person, and have to have at least one other dealer if the room only had one table open, which would not be operationally efficient. But employers would have to have at least two dealers, and there would be a supervisor in the pit at minimum, a security guard, a cage person, and a surveillance person.

AAG Ackerman asked Mr. Harmon if he were representing a card room or a trade association or someone. Mr. Harmon did not have a card room but was talking about staff and functions. His understanding was that functions vary from card room to card room, and was wondering for whom Mr. Harmon was speaking. **Mr. Harmon** replied he came to the Commission meetings on a regular basis, and that he is a licensed service supplier. And he did not have any ownership in any card rooms. He was here on his own volition, and it was his purpose to simply help licensees with the regulatory concerns that they have. He then stated that obviously by his experience and his exposure, which attending the meetings helped his business, and it was just something he did. **AAG Ackerman** asked Mr. Harmon if he had a card room as a client that has asked him to propose these changes. **Mr. Harmon** stated that card rooms are his clients. They have not asked me officially to propose this change, no, sir. He had initiated this particular rule change, as he had with some others earlier. .

Chair Ellis asked Mr. Harmon his reaction to the point made by several card rooms that depicted themselves as being smaller card rooms and the rule would essentially have an anti-competitive effect as to them and allow the larger card rooms that are more able to afford to expand their hours to be getting more of the bettor's dollars by being open longer. **Mr. Harmon** replied that his personal reaction was that for some time now card rooms have been side-by-side and been open 20 hours in one location, as was mentioned by AD Harris. They pretty much can always have one open already in a particular location. He did not understand the argument specifically in that he did not present it. But if he were a smaller card room and he were located in Clarkston or another community, this really isn't going to

have an impact on his business. If he were located near other card rooms that are in a more populated area, the issue would be that there is already a card room that is open at any given time during the day. He was thinking more of the operations that are 24 hours and the opportunity for licensees to choose. **Chair Ellis** thought that was basically the concern being expressed. He was specifically referring to the e-mail that came from the General Manager of Magic Lanes and Roxie's Casino, which as he thought was in South Seattle and close to Burien. He thought their concern was that as one would say, the customers will choose, and that they will choose a card room that can afford to stay open longer hours to the detriment of the card rooms that do not feel that they can incur that kind of expense. **Mr. Harmon** replied he thought customer service and providing what the customers wanted would drive the market.

Commissioner Rojecki asked about the small business impact; no small business impact statement was developed. In reference to Chair Ellis's comments in light of the General Manager of Magic Lanes and Roxie's, would it be sufficient now to request a small business impact statement? What creates the need for a small business impact statement?

Commissioner Rojecki asked if it was a requirement under this action, and if it had been met. **Assistant Director Harris** replied it was his understanding that the rule change does not provide any additional cost or restriction on the licensee, so it is not a requirement.

Commissioner Rojecki affirmed even though it could be considered negative by some, there is no increased cost. **Assistant Director Harris** replied that was his understanding, but he would have to defer to Ms. Hunter and AAG Ackerman. **Chair Ellis** said it does not require an increased cost. **Assistant Director Harris** affirmed that was correct.

Mr. George Teeny (New Phoenix and Last frontier in La Center) said he was speaking for himself and the industry as a whole; not for the Recreational Gaming Association (RGA) where he was second vice president.

Mr. Teeny explained that Mr. Harmon took a lot of stuff from his playbook, and he did not want to be redundant, but did want to touch on the scheduling. He stated that Mr. Harmon was right, and it would help a facility schedule better and create less havoc. The overtime aspect is minimized. Most card rooms have the potential with these extra hours to hire more employees or to give part-time employees full-time status, which creates benefits as well. If they do the math and shut down for four hours a day and then multiply out the 12 to 15 people that they are sending home, employers can end up getting somewhere around 70, 80, 100 hours a week that could be applied to the employees.

Commissioner Amos had asked how many employees it took to run a card room. If they do the simple math, if there are ten tables going, there would need to be 13 dealers generally; three pushers and each dealer at the table. The way the Gambling Commission has the structure set up for pits, there needs to be at least two levels of management over the top of those tables, and they are allowed to have one level of management over seven tables. They would need two people to watch ten tables, and then another person on top of those two people, which is the second level of management. When looking at security guards,

generally speaking, there would be two security guards on staff with that type of a scenario. Obviously there would be a surveillance operator, the food and beverage people, and the cage operation. When the card room shuts down for four hours, quite a few people would be sent home.

Now with that being said, after a card room shuts down for that period of time they will still have one security guard on staff generally. They will probably have one surveillance person on staff and one cage person to do the closing generally. So those are the people that would probably be there during those four hours. The cleaning crew is there 24 hours a day, so they would not be losing any of their cleaning crew, and he could keep breaking it down from there on, and on, and on. So there is a substantial amount of employees that would have to go home during that four hour break.

As indicated, if allowed to go forward, there is the potential of hiring new employees because they have to fill that four hour shift. And at the very least, that would turn part-time into full-time which gives them better benefits. The revenue aspect for the jurisdictions, obviously they would appreciate that. The cost to the clubs obviously would have to be absorbed. But revenue to the governing jurisdictions would increase. There is an increase to the state coffers through B&O and sales tax as well. And obviously during today's times, that is a much needed thing.

Chair Ellis asked if Mr. Teeny were referring to sales tax on food. **Mr. Teeny** replied yes, food. There are illegal games that still operate within the state. This would also put another nail on their coffin because now people are not being hustled out of the clubs to go into an after-hours game. It is running 24 hours a day. And generally speaking, the customers would prefer to play in a legitimate facility. But if there are no games and they still have a desire to play, they can be hustled out of the clubs and be taken into an illegal game. Safety aspects; this goes somewhat to what Mr. Harmon said, but he took it to another level. In Mr. Teeney's community in La Center, the four clubs that are in there, all have power systems that are off the grid. So if the power goes down in the town of La Center, one of the four clubs, if not all four clubs, can house the populous to come in there to eat, drink, stay warm, because all of our power systems are up and running because we're mandated by the Gambling Commission to have power systems to facilitate the surveillance and the gaming areas.

Some years back, and he indicated going to go back to 1989. When we first opened up our club we ran into ice and snow concerns. We were obligated to shut down at 2:00 a.m. because that was the mandate from the Commission. We had to be closed between 2:00 a.m. to 6:00 a.m. We had two tables of people that we had to usher out, which we did. One guy got into a wreck. A week or so later the same situation occurred. We decided we're going to keep the people in so that they're safe and there are no problems. We locked the doors, everybody slept on the floor. The Gambling Commission found out about it and the City found out about it, and they ticketed us, because we had people in the card room when it was supposed to be closed. At that time our facility was too small to put them in the

bathrooms, or in the offices, or in the bar. We ended up getting ticketed for what we thought was the right thing to do. From that point on, we kept kicking people out, which is inappropriate in the sense of safety.

Mr. Teeney thought Mr. Harmon touched on the issue that the tribes already have the 24 hour seven days a week play in place, so there would not be any reaction to this actually going forward. In other words, there wouldn't have to be anything extra given up or any concerns along those lines. He stated that Chairman Ellis had made a comment about the smaller facilities and their concerns. If you were to petition and get actual hours of operation by some of the major clubs in the State, you would find out that they are not running 24 hours a day five days a week now because business doesn't warrant it. The little clubs still have to deal with it, obviously, with five days a week. The bigger clubs are not all open 24 hours a day, five days a week. We want 24 hours a day seven days a week, because it gives us the flexibility. And it is something that Commissioner Amos had brought forward, and that is the flexibility. Right now one of my clubs is obligated to shut down at 4:00 a.m. Monday morning and 4:00 a.m. Tuesday morning. If business warrants us to stay open longer we cannot. We have to shut down and the people hopefully will go across the parking lot into my other club. But we have a unique situation. That uniqueness is not found throughout the State.

So by allowing the clubs in the State to have 24/7, if business does warrant it, they can keep the clubs open longer on those days. And there is no restriction on cutting the hours short. There has been many a Monday morning where we theoretically could be open until 4:00 a.m. in one of my clubs and we will shut at 2:00 p.m. because business does not warrant it. We can shut obviously sooner. But then there has been other days that at 4:00 a.m. in the morning he has had to ask 35, 40 people to leave and hopefully walk across the parking lot. Sometimes they do, sometimes they do not. Again, it is the flexibility issue. It is not that you are going to have everything jammed up 24/7 by allowing it to take place. That is all he had to comment and asked if there were any questions. He said he would put together more of a formal letter and submit it to Miss Rancour or to Ms. Grate later this week so the Commission would have it for the next meeting.

Chair Ellis asked if there were any other members of the audience that would like to address this issue.

Mr. Spencer Uno, Wizard's Casino in Burien, stated he has been a licensed employee in the state of Washington for the past 15 years. He is a poker room manager, so his perspective is a little bit different from the two gentlemen that have just spoken. He said his perspective is from a poker standpoint of view; a customer-based point of view. Being in the industry for the 15 years, he has seen many regulatory changes such as expansion of center dealers, hours of operation, and betting limits. With all of those changes in his period of time working in the industry, he has seen them as a positive for poker for the players playing, employees because of added hours of employment, and the growth of poker itself. All of those regulatory changes helped poker. Mr. Uno said he was very supportive of poker,

noting it is a great, great, great game, a competitive game, a game of challenge of individuals against one another. It is not a game of luck; it is a game of skill. Players can learn to be better and become better at it. And some are very poor players, and they have a difficult time. But he can help every individual become a better player. There are books, educators, internet, and everything to help one become a better player. Mr. Uno stated he was there to support another aspect of the expansion of poker, which is adding more hours to the week for playing poker. For the individual poker player, Mr. Uno believes it just gives them more opportunity to choose their time to play; when to play, when to quit. It is freedom at its best. The more expansion, from what he has seen, the more positive it has been for the players and the employees working with them. As a poker room manager, he employs 17 dealers at this point in time where he works. If card rooms were to get those extra four hours, it would be easier to schedule, as the gentleman who spoke before him said. The eight-hour period is much easier to schedule. There is the difficulty of these dealers working ten plus hours in that they do get fatigued and they do make mistakes. They are way better at eight-hours than they are at ten-hours. That is an issue as far as employment. It is much easier for him to schedule it because he does all the scheduling as a manager. He explained it is important to him. Mainly, Mr. Uno really believed this would help the players. It just gives them a safe place to play that is regulated. At 6:00 a.m. in the morning the players are not going to go home and be on the internet playing because he knows people still do that. When the closing time comes at 6:00 a.m. in the morning, typically people are quitting early because they know he has to go home, he has got to quit, the game's are getting short, so they leave. And so the card rooms lose that volume of players that they normally would have if they knew they were going to be open a longer period of time, right through the morning and into the next day.

Mr. Uno explained the start of the day is a very slow arduous period of time getting players to come in and getting those players to sit down and have the game get started. It is a period of time where revenue-wise, employment-wise, we are slow. And if we were to have those four hours there for us, we would have obviously a better continuity of employment through that period. This is his first time he has been in front of the Commission like this, and thought it very interesting. He stated he was really here for the poker players. He loves the game himself, and has personally played it for 20 years. And he knows for the players, this gives them a chance to choose when they want to play. The limits they want to play have changed also and he has seen with the new pilot program, so that is positive. Anything that gets us to a level playing field is great for me and the industry because he knows he can provide a service for those players that want to play during that period of time. Everyone has different waking hours, he agreed, and some want to play at 6:00 in the morning or 12:00 a.m. He is here to put on the best poker game for them. For me, that is fine, he would love to. They are there and he is going to be there, because he is going to put on a good poker game. So are there any questions? Mr. Uno thought it would be a positive for the players on a whole.

Chair Ellis thanked Mr. Uno for coming and sharing his experience with the Commission. And asked Mr. Uno to spell his last name and which club he worked for. **Mr. Uno** spelled his last name as U-N-O, and said he worked for Wizard's Casino in Burien.

Commissioner Amos asked how long Mr. Uno has been the pit boss at Wizards. **Mr. Uno** responded that he is not a pit boss by title; he is a poker room floor supervisor at Wizards; it's only been about six months. Prior to that he was at Silver Dollar Casino in Renton for about a year, and previous to that he was at Diamond Lil's in Renton for 13 years.

Commissioner Amos asked if his tenure as a poker supervisor was two years ago when they changed these hours from 20 hours seven days a week to 24 hours five days a week, and if the two years previous to where all this was changed was there any concern at that time about the scheduling. **Mr. Uno** asked to clarify if there was a concern about the scheduling, and said at that point in time would it help us or would it be a negative impact do you mean. He explained that it really makes it easier if he has an eight-hour schedule from his standpoint. It can be negotiated and figured out obviously, but a ten-hour period for a poker dealer is actually very difficult. It is extremely fatiguing. It does not seem like there is a lot of stress involved there, but they are dealing with other people's money and emotions. It is up to the dealers not to make a mistake, because if they make a mistake, someone basically can lose a lot of money, depending on the value of what they make. There is a lot of stress on a dealer. It is very important for them to be keenly aware and not make any mistakes. Obviously they are human, so they are going to make mistakes, but that is where he comes in and fixes it and makes it right as best as possible. So that eight-hour schedule is important in that regard. There definitely is a limit to where the fatigue factor sets in and mistakes come into play. There is definitely that in that regard as far as dealers working ten-hour periods versus eight-hours. And actually he thought an even a lesser period is better for them to be working because you want them really sharp. As a dealer, you want them at their best always. And there is definitely a drop off towards the end there. There's definitely a fatigue factor that brings in mistakes.

Commissioner Rojecki asked if the card room that Mr. Uno is working at right now was open the full 160 hours that they are allotted today. **Mr. Uno** replied that was correct. **Commissioner Rojecki** asked about the one prior to that. **Mr. Uno** affirmed.

Chair Ellis thanked Mr. Uno and asked if any other members of the audience would care to address this petition; no one stepped forward.

Chair Ellis asked if there was a motion concerning whether to accept this petition for filing for further discussion. Hearing none, the petition will be deemed denied for lack of a motion to accept it for filing. He asked if any of the Commissioners wanted to specify a reason for not accepting the petition for filing.

Commissioner Amos stated his reason for not making a motion was that two years ago the rule was changed to allow for a two day closure, instead of a seven day closure for four hours per day. He could not see where that was going to make a huge difference in offering

poker, or a card game, for a group on a Monday or Tuesday morning from 3:00 a.m. to 7:00 a.m. Commissioner Amos did not feel the need to change the current rule because two additional days might not make a difference.

Commissioner Rojecki stated that he was in favor of adding more hours for employees, but does not believe the petitioner met the burden of proof to create this petition. He echoed Commissioner Amos' comments.

Chair Ellis indicated the petition would be deemed denied.

The petition for rule change died for lack of a motion.

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

Chair Ellis opened the meeting for public comment; there was none. Chair Ellis explained the Commission was going into an executive session and the meeting would immediately adjourn at the conclusion of the executive session. He announced the next meeting would be in January at the State Investment Board in Olympia.

7. Executive Session to Discuss Pending Investigations, Tribal Negotiations and Litigation

At 3:20 p.m., Chair Ellis called for an Executive Session to discuss pending litigation, investigations, and legal advice from counsel.

Commissioners Ellis, Amos, Reichert and Roe, and Senator Prentice attended the Executive Session.

Adjourn

Chair Ellis called the meeting back to order at 4:46 p.m. and immediately adjourned.

Minutes prepared by:

Michelle Rancour, Administrative Assistant