

**WASHINGTON STATE  
GAMBLING COMMISSION MEETING  
THURSDAY, SEPTEMBER 8, 2011  
MINUTES**

**Chair John Ellis** called the Gambling Commission meeting to order at 1:10 p.m. at the Great Wolf Lodge in Grand Mound and introduced the members present.

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

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

**1.     Agenda Review/Director’s Report**

**Director Rick Day** briefly reviewed the agenda and inserts provided, noting there were no staff requested changes. The replacement minutes include minor proofreading changes. Rockland Ridge Corporation and Galaxy Gaming have asked that their petition, Item #14 on Friday, concerning envy bonus wagers be held over until at least November. **Chair Ellis** said there were no objections. **Director Day** explained that Special Agent Debby Vandall, who had a lot to do with the success of the Gambling Crimes Education and Awareness Program, will be presenting a PowerPoint. SA Vandall is very enthusiastic and has put a lot of hard work into this program. She put together a display, which is on the back table, showing some of the various items that were produced during this program. The idea for this program was to use assets and funds seized from gambling crimes to raise awareness of gambling, gambling crimes, the Commission, and its operations.

**Chair Ellis** commented that when he spoke with Special Agent Vandall before the meeting began, he found out she has been with the Gambling Commission for 31 years; that is an amazing record. Chair Ellis had heard from other sources that SA Vandall has been in a variety of jobs that she handled very successfully.

**2.     Gambling Crimes Education & Awareness Program (PowerPoint Presentation)**

**Special Agent Debby Vandall** thanked the Commission for allowing her and Special Agent Robert Zaher to work on this program, which is scheduled to end on October 15, 2011. The two-year program was approved by the Commission in August 2009 to raise awareness of gambling crimes and to let people know about the Gambling Commission.

Everybody knows who the Lottery Commission and the Liquor Control Board are, but a lot of people did not know there was a Gambling Commission. SAs Vandall and Zaher tried to spread awareness of the Gambling Commission and how it could help the law enforcement community by investigating crimes. They provided training on investigations and how to prosecute those crimes, and also spread awareness on problem gambling and youth. In 2009, there was legislation that allowed the Commission to issue civil infractions for underage gamblers in licensed casinos and entities. SAs Vandall and Zaher took an assessment approach and looked at what audience they were trying to capture: from law enforcement to the community to the youth. Then they did a logical sequence and went in phases.

***Commissioner Rojecki arrived at 1:20 p.m.***

**Chair Ellis** asked who the supervisor of the program was. **Special Agent Vandall** replied it was Deputy Director Dave Trujillo. She explained they partnered with the Evergreen Council on Problem Gambling (ECPG) in the first six to eight months of the program. ECPG taught them how to create presentations that would cater to each audience and worked with them on doing the presentations. SAs Vandall and Zaher learned a lot from the ECPG by working closely with them and by doing quite a few joint presentations with them. Gambling awareness materials were created. They attended a lot of fraud meetings and networked. They improved the reporting violation link on the agency website so someone could anonymously complain about a violation without fear of reprisal. A "Request for a Presentation" link was added to the website, which generated a lot of requests having to do with the history of the Commission. SA Vandall said they contacted the field agents for their assistance with raffles or card room presentations. They outreached to various organizations such as youth societies, schools, community colleges, etc. In meetings with the law enforcement and other organizations, the Evergreen Council on Problem Gambling and Department of Social and Health Services were promoted because of the potential need of a counselor versus the enforcement side.

The first phase of the program took about six to eight months. SAs Vandall and Zaher went to the police and sheriffs' departments throughout the state to find out what they needed to know about the Commission. SAs Vandall and Zaher let those departments know how the Gambling Commission agents could help them by taking over the gambling crimes so the police departments could concentrate on the cases they have more expertise on, such as drugs and homicide. It was a good relationship and presentations were created and given to law enforcement. SAs Vandall and Zaher were invited to several of the chiefs' meetings to discuss the history of the Gambling Commission, who it is, and what it does. Many brochures were created to assist law enforcement, and SAs Vandall and Zaher received a lot of compliments on the material. The field agents were provided the materials so they could connect with local law enforcement and offer these materials when doing inspections. Letters were sent to the prosecutors of all the counties, and meetings were scheduled with prosecutors from three of the larger counties. Additional letters were sent to other law enforcement agencies like DEA and the FBI explaining that SAs Vandall and Zaher were willing to meet with them and present training sessions. The DEA and State Patrol asked for training sessions, which were given. The same materials were

offered to the 22 tribal entities that have gambling and to their agents and police departments. SAs Vandall and Zaher met with 19 of the tribes and had two meetings scheduled for next week. Junior and high schools were fairly problematic, but the community colleges turned out to be very successful. SAs Vandall and Zaher were able to talk to a lot of the student programs, student advisors, the counselors, libraries, and even the financial aid departments. A lot of the students were spending their college money on gambling, so the material was distributed at the community college level. Bookmarks and other youth-oriented materials were made and distributed to libraries and other youth organizations, senior centers, and parks. The initial bookmarks were on football and basketball, and were later expanded to baseball and soccer. To reach the Spanish population, the soccer bookmark was also made in Spanish.

**Director Day** pointed out the brochures and posters were also translated into several languages. **Special Agent Vandall** affirmed. The brochures were made in eight other languages: two traditional Chinese, Korean, Laotian, Vietnamese, Russian, Spanish, and Cambodian. Those were passed out in the Seattle International District and at colleges that had an International Student Center. Over 64,000 items have been distributed and staff participated in three events: the Public Service Recognition Week in May 2010; National Night Out on August 2 of this year; and Stand With Those Who Serve at the Criminal Justice Training Academy on August 13 of this year. The Gambling Crimes Education and Awareness Program is now being transitioned into the field. The field offices will maintain the materials and will be available to the public and to other law enforcement agencies. It is important that the agents continue the relationships that have already been forged with law enforcement and prosecutors, create new relationships, continue to outreach through the various libraries and youth groups, and maintain a relationship with the Evergreen Council on Problem Gambling.

**Special Agent Vandall** thanked Deputy Director Trujillo and the Commissioners for giving her this opportunity.

**Chair Ellis** said the Commission appreciates the work that Special Agents Vandall and Zaher did under Deputy Director Trujillo. He asked if there was any anecdotal information that SA Vandall had received indicating there had been any anonymous or otherwise reports from people in the state about illegal gambling activities that may have been generated by the program. **Special Agent Vandall** replied that our website keeps track of violations generated by the “Report A Violation” link. The field offices get notified of the violations. An email is also sent to SA Vandall for those violations based on this program, which averages of about 8 to 10 violations per year.

**Deputy Director Trujillo** clarified that Chair Ellis had asked SA Vandall if she had any anecdotal information. Fairly early in the program, they had met with some youth offenders and had some interesting experiences there, if SA Vandall would like to share those. **Special Agent Vandall** replied that was a visit SA Zaher did along with Rhonda Stone from ECPG. Ms Stone had presented her information and the youth were forthcoming saying things like “yeah, my dad comes over and we play poker” and “we have this hot little card game every night at the youth group.” Then SA Zaher stood up

with his badge and gun and identified himself as a special agent with the Gambling Commission, and the faces just dropped. It was like, "Oh, my God, we're going to get arrested again." They were already in juvenile so it did not matter, but everything stopped; it was quiet; there was not one peep from them. At that point, it was decided to either conduct presentations on problem gambling or enforcement because it was hard to combine the two together. The youth were very forthcoming when Ms. Stone was talking but stone-cold silent when SA Zaher got up.

**Representative Gary Alexander** asked if the agents do any sting operations in concert with the other enforcement areas like the Liquor Board, the Lottery, or some of the local law enforcement operations; if they get together and do anything in a collaborative fashion.

**Assistant Director Mark Harris** affirmed our agents do a lot of work with the Liquor Control Board on underage gambling and underage serving. They also do numerous investigations in collaboration with other state and federal law enforcement agencies.

**Representative Alexander** said that, in his history in dealing with this in terms of Fisheries and other organizations, sometimes legislation was needed to give them certain powers so they could enforce other types of violations. For example, if the gambling agents found a liquor violation, they could also have that enforcement ability. He asked if it had ever been discussed with the enforcement agents to have broader powers so that when they are working and see some other violation, they could have that empowerment to bring that to some sort of successful end. **Director Day** replied there have been discussions off and on about the merits of extending general enforcement to the Gambling Commission, but it has probably been close to five years ago. He thought it could be helpful, but on the other hand, he did not want to get into that argument because it ends up in a lot of discussions about retirement systems and all those kind of things. At this point, the Commission is a gambling enforcement agency and has pretty broad powers, even though it is limited, and it seems to be effectively used that way. As the Commission has gotten into the issues nationally and internationally around the cooperation of law enforcement, it does raise its head once in awhile, but at this point the Commission has not chosen to move in that direction. **Representative Alexander** said he appreciated Director Day's comments. He felt the intent would not be to necessarily qualify for the law enforcement/firefighters pension system, as opposed to the PERS, but more so in just cooperating and using the Commission's limited resources in a more responsive manner. **Deputy Director Trujillo** provided a recent example of that cooperation where the Commission was acting in concert with two other agencies. The Liquor Control Board was really on standby. When our agents entered the location with the local police department, they were looking for gambling records but had reason to believe there could be untaxed tobacco and such, which the agents did come across. The Liquor Control Board entered at that point, but they would not have if that had not occurred.

### 3. **2012 Agency Request Legislation**

**Ms. Amy Hunter** reported staff was requesting the Commission consider request legislation to allow the Commission to provide periodic salary increases and limited endorsement pay to 27 special agents, pursuant to the Special Agent Compensation Plan that was approved by the Department of Personnel in 2001. Of the 27 positions, 24 are

special agents and 3 are supervisors. To put the request in context, the Commission has 71 agents in total, not including program managers whose positions are higher than the supervisor position. The compensation plan approved by the Department of Personnel allows the salary adjustments, but because of law changes that have happened in the past few years, special agents have not been able to get these periodic increases or the endorsement pay. The salary freeze on exempt staff will continue through at least June 30, 2013. The Commission has staff in about three different categories: Washington General Services, Exempt, and Washington Management Services. Most of our staff in licensing, business office, information technology, human resources, and some administrative support positions in the agency are Washington General Services and have been getting periodic increases. The law that has frozen the salaries applies to exempt employees. Our special agents are exempt staff, so even though they are in entry-level positions they are not getting the salary increases. There are a number of high level positions that are also exempt, such as the Director. Ms. Hunter thought the intent behind the law was to impact those staff in Washington Management Services, but the agents have been looped under that category because they are exempt. Depending on when the agents started with the agency or received their last incremental increase, by the end of the current salary freeze in 2013, they are looking at five years of not having a pay increase.

This agency request legislation is being discussed today because the process the Director has already gone through has not been successful. In 2010, and again in August 2011, the Director requested exemptions for those 27 special agent positions based on retention concerns. The 2010 request was approved by the Department of Personnel, but then denied by OFM. The August request was denied by both agencies. On August 25, the Director requested reconsideration of the latest denial. The Department of Personnel asked for a few more specifics, which staff provided. If DOP reconsiders and authorizes the pay increases, then staff would no longer pursue a legislative change because it would not be necessary. If the decision does not change, or an answer is not received by about September 12, then staff would work on a legislative change to address what is felt to be an unintentional impact and to demonstrate the Commission's commitment to retaining its agents. The memorandum dated August 10, 2011, thoroughly explained the request, and page 3 specifically explained the Commission's retention issues. Commission agents have been leaving for higher paying jobs, and one of the reasons indicated for leaving was no prospect of a salary increase. On top of that is the temporary, two-year 3 percent monthly reduction in salary effective July 1. The Commission has agents who have not been able to get their periodic increases and they now have lost 3 percent more.

Commission agents are extremely well qualified for law enforcement and other similar positions and are very good candidates. In the past 12 months, five special agents have left because of pay issues. That is more than a 10 percent turnover rate when typically this agency has less than 4 percent turnover, which is much lower than the state average. On average, those 27 agents are making about \$375 less a month than they would have been without the salary freeze. Depending on their endorsements and their pay, some agents are making \$774 per month less than they would have been without the salary freeze, which is a significant amount. Staff is proposing adding language to RCW 41.06.070, which was amended in the 2011 session. It would take the section that currently says, "A wage or

salary increase shall not be granted to any position exempt from classification, except that..." and there are a few exceptions already given. Staff's proposal would add "... to special agents of the Washington State Gambling Commission pursuant to the compensation plan approved by the Department of Personnel." If the Commission supports this proposal, then staff will work with AAG Ackerman in the coming weeks on the exact language.

**Commissioner Rojecki** asked how much was budgeted for training purposes for new agents per year or per biennium. **Ms. Hunter** replied that when agents are first hired they go through a basic training, which costs about \$45,000 in training costs and some travel expense. That does not include the cost of going to the Academy and it does not include the polygraph test that prospective agents are given before being hired. It also does not include on-the-job training. The agent with one year of experience is not the same agent who has seven or eight years of experience, even after going through the field training process or investigator process. **Commissioner Rojecki** thought it would impact the Commission budget if agent turnover is normally 4 percent and is now 10 percent. That would significantly impact whatever the pay raise potentially is versus what is now being paid in training costs. Obviously, that is probably an unintended consequence of the legislation. **Ms. Hunter** agreed, adding that when looking just at the five agents who have left in the past 12 months, and taking the \$40,000 times five, the cost is already at \$200,000. If the Commission was able to pay the incremental increases and pending endorsements, assuming DOP approved it tomorrow and the pay could start October 1, that would be about \$200,000. **Commissioner Rojecki** indicated those were known costs and there may still be some unforeseen costs. **Ms. Hunter** affirmed there would definitely be unforeseen costs. **Director Day** clarified the proposal was not to request the Commission be exempted from the across the board salary freezes that were imposed on state employees. It was to let staff abide by the pay plan that was approved by DOP in 2001 and, in staff's viewpoint, the Commission is required to provide. It is the step increases that employees earn each year that employees in similar situations continue to earn. It is not discretionary raises or performance raises, but is the pay plan issue so the Commission can follow through as it said it would.

**Commissioner Rojecki** made a motion seconded by **Commissioner Amos** to authorize staff to pursue legislation that would add special agents of the Gambling Commission to the exclusions of RCW 41.06.070 as described. *Vote was taken; the motion passed with three aye votes.*

#### **4. Approval of Minutes – August 11-12, 2011 Vancouver Commission Meeting**

**Chair Ellis** noted an updated version of the minutes was provided that reflect some clean-up changes that were made to the version of the minutes included in the Commissioners agenda packets. But, as he understood it, there were no substantive changes made.

**Commissioner Amos** made a motion seconded by **Commissioner Rojecki** to approve the minutes from the August 11-12, 2011, Commission meeting as amended. *Vote was taken; the motion passed with three aye votes.*

## 5. New Licenses and Class III Certifications

**Deputy Director Trujillo** reported there were no pre-licensing investigation reports for house-banked card rooms or manufacturers. The public house-banked card room report shows there are 62 licensed and operating house-banked card rooms. There are two applications that are in process: one ownership change that is for an existing location, and one new location. There were no new or unusual items and staff recommends approval of all new licenses and Class III certifications listed on pages 1 through 21.

**Chair Ellis** recalled that Deputy Director Trujillo had told the Commission last month that it appeared the level of house-banked card rooms had stabilized and he asked if DD Trujillo knew how many months the number has been at 62. **Deputy Director Trujillo** replied there have been about 62 or 63 for about four or five months. Only time will tell whether they continue to stay at that number, but they seem to be hovering right about that point.

**Commissioner Rojecki** made a motion seconded by **Commissioner Amos** to approve all new licenses and Class III certifications listed on pages 1 through 21. *Vote was taken; the motion passed with three aye votes.*

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

**Chair Ellis** opened the meeting to public comments from the audience.

**Mr. Robert Tull** said he was the attorney for Rockland and Galaxy Gaming, the petitioners in the matter the Chair postponed for a couple months at the petitioner's request. He appreciated the Commission taking care of that today because it lets him get back to Bellingham so he can be on the motion calendar tomorrow afternoon in Whatcom County Superior Court. Mr. Tull explained they were trying to address technical issues on a technical level so the product of a lot of staff and applicant work that will end up in front of the Commission as a proposed rule will be pretty straight forward and not trail behind it, or along with it, any unanswered questions about other rule changes or other technical things. The petitioners want to do as good a job as possible and would like to make it easier for the Commission so that technical rule changes are handled technically and do not become inflated through confusion. It is a natural process. He reported they absolutely appreciate the tremendous cooperation they have been receiving from DD Trujillo and AD Harris and other members of the staff. He thanked the Commission. The petitioners will be back with these rules with appropriate revisions that will have been in front of the staff enough that they will then be able to give Mr. Tull any further direction and comments, and to provide the Commission at that time with a very clear evaluation. Mr. Saucier and Mr. Saul have very brief remarks as well.

**Mr. Robert Saucier**, Galaxy Gaming, agreed staff has been very cooperative. Staff was prepared to go forward today, and Mr. Tull and Mr. Saucier decided there were a few issues they wanted some clarification on. He thought that Assistant Director Harris' presentation would likely not be presented tomorrow, but he knew that the PowerPoint

presentation would provide an explanation of just what an envy wager is, or what a share the wealth type wager is. In Washington State, they have been around since house-banked games were authorized. They were even used during the original card room enhancement programs before there were actually any permanent rules. What is interesting is that these are both concepts that were developed in Nevada in the mid 1990s, and for some reason, Washington seemed to adopt them greater than anywhere else in the world. Mr. Saucier explained that when they bring this before the Commission, they will go into exactly what it is. He said it was interesting that what has happened is, because these features are so popular – they are more popular in Washington than anywhere else in the world – the casinos have been able to make enough extra margins on these games that almost all of the casinos in Washington, with few exceptions, have waived the commission. The commission is the percentage of a wager that they are able to charge when somebody wins. Mr. Saucier said he has a number of games where a commission, also known as the vigorish, is charged. As an example, the game of Pai Gow Poker is more popular in Washington than anywhere else he has seen. He believed that was because the commission has been waived because of the popularity of this envy bonus and share the wealth type features. So it is an anomaly that exists in Washington that has really provided excitement for the players. So the proposal that he will bring back to the Commission is to take this feature and allow it to be played on multiple games. Currently it is limited to a single game. When it came out, there were only two games that offered the feature, but it has become so popular that more and more games are offering it. And now they want to be able to cross it to where multiple games can use the feature. That is why this is important, and Mr. Saucier looked forward to bringing it back when they felt that they had worked out all the technical details.

**Mr. Gary Saul**, president of Rockland Ridge Corporation, thanked staff for their support on this petition. Since Mr. Saucier did such a good job of explaining it, there was nothing left for him to say except thanks for the support. Mr. Saul appreciated the support from staff on this petition.

**Chair Ellis** asked if there was anyone else from the audience who would like to address the Commission on any topic; no one stepped forward. He called for a break at 2:00 p.m. and reconvened the meeting at 2:15 p.m.

## **7. Petitions for Review**

### **a) Lily Real, Card Room Employee, Revocation**

**Assistant Attorney General Brian Considine** was present for the State, as well as **Petitioner Lily Real**, represented by **Attorney Dennis Twichel**.

**AAG Marvin** and **Mr. Twichel** provided their arguments in the Petition for Review. A recording and transcript of the hearing is available upon request.

At the conclusion of the arguments, **Chair Ellis** asked if there were any questions and called for an executive session at 2:30 p.m. to deliberate the matter; he recalled the public meeting at 3:00 p.m.

Commissioner Amos made a motion seconded by Commissioner Rojecki that the Commission uphold the revocation of the license for the card room employee Lily Real. Vote was taken; the motion passed with three aye votes.

Mr. Twichel thanked the Commission and asked if there was any process to where there can be an appeal or request for less severe sanction than total revocation of the license. Chair Ellis replied, not to the Commission per se. He explained the Commission considered various approaches in this matter and reached their conclusion because the restrictions under state law for the conduct of members of the gambling industry are very severe. Card room employees in this situation must be able to establish by clear and convincing evidence that they are qualified to hold a license. Mr. Ackerman may be able to explain more broadly about any other remedies that may be available.

Assistant Attorney General Jerry Ackerman replied that Mr. Twichel's right of review from here was set forth in RCW 34.05 under the Administrative Procedures Act. There are a couple different options that Mr. Twichel will have to review to see if he wishes to pursue any of them. AAG Ackerman said he would prepare an order for the Commission's signature, which Mr. Twichel will get at a later date.

**b) Robert Yan, Card Room Employee, Revocation**

Assistant Attorney General Brian Considine was present for the State, as well as Petitioner Robert Yan representing himself.

AAG Marvin and Mr. Yan provided their arguments in the Petition for Review. A recording and transcript of the hearing is available upon request.

At the conclusion of the arguments, Chair Ellis asked if there were any questions and called for an executive session at 3:30 p.m. to deliberate the matter; he recalled the public meeting at 3:55 p.m.

Commissioner Rojecki made a motion seconded by Commissioner Amos that the Commission affirm the ALJ's initial order revoking Robert Yan's card room license. Vote was taken; the motion passed with three aye votes.

**c) Manuel Garcia, Card Room Employee, Revocation**

Chair Ellis asked if Manuel Garcia was present or someone representing Mr. Garcia; no one stepped forward. He indicated that AAG Considine was present representing staff. Chair Ellis explained there were two approaches the Commission could take. They could determine that Mr. Garcia was in default because of his failure to attend and they could strike the Petition for Review on that basis, which would have the effect of leaving the administrative law judge's order as the final order of the Commission in this matter based on the default. The other approach would be to simply not have oral argument and have the Commissioner's reach the merits of the petition on the basis of the materials that have

been submitted; the record in this matter. He asked if Mr. Considine had a preference on behalf of staff.

**AAG Considine** replied the record was pretty self-explanatory so he would not have a problem if the Commissioners wanted to decide on the merits. Mr. Garcia is in default by not being present. Mr. Considine said he has not done this before and would defer to the Commission; although, he thought reaching a decision on the merits was preferable.

**Chair Ellis** asked if either of the Commissioners had a preference one way or the other; neither did.

**Chair Ellis** explained the Commission would take a brief recess to make a determination based on the complete record the Commissioners had received and considered in this matter, as suggested by Mr. Considine. Chair Ellis emphasized that the record should show quite clearly that Mr. Garcia was not present and has, therefore, defaulted. Chair Ellis called for an executive session at 4:00 p.m. to consider the matter; he recalled the public meeting at 4:05 p.m.

**Commissioner Amos** made a motion seconded by **Commissioner Rojecki** that the Commission uphold the Administrative Law Judge decision to revoke Manuel Garcia's card room license. Vote was taken; the motion passed with three aye votes.

**8. Default:**

**a) David A. Falcon, Jr., Class III Employee, Revocation**

**Ms. Hunter** reported that Mr. Falcon, a former card room employee and former Class III employee, was originally charged with Theft in the Second Degree relating to a theft of over \$5,000 in \$500 chips while working at the Snoqualmie Casino. He ended up pleading guilty to Attempted Theft in the Second Degree and was placed on 12 months' probation and the Tribal Gaming Commission revoked his license. The Director issued an order of summary suspension, which was personally served to Mr. Falcon. By failing to respond, Mr. Falcon waived his right to a hearing and the Commission may enter this default order. Staff requests the Commission revoke Mr. Falcon's license and his certification.

**Chair Ellis** asked if there were any questions; there were none. He asked if David A. Falcon, Jr. was present or anyone representing Mr. Falcon; no one stepped forward.

**Commissioner Rojecki** made a motion seconded by **Commissioner Amos** that the Commission revoke David A. Falcon Jr.'s license and certification. Vote was taken; the motion passed with three aye votes.

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

**Chair Ellis** called for an Executive Session at 4:10 p.m. to discuss pending investigations, tribal negotiations, and litigation. He announced that at the end of the executive session, the public

meeting would be resumed solely for the purposes of adjourning. The next meeting will be in Spokane at the Red Lion at the Park on October 13 and 14.

**Commissioner Amos** clarified this month's meeting would continue tomorrow. **Chair Ellis** agreed the meeting continues on Friday for most of those present, excluding the Chair who will not be present. Vice Chair Amos would be running the meeting on Friday and Commissioner Reichert planned to join the meeting, so there will be a quorum. **Commissioner Amos** announced the meeting would start at 9:30 a.m.

### **Adjourn**

**Chair Ellis** called the meeting back to order at 4:45 p.m. and immediately adjourned.

**WASHINGTON STATE  
GAMBLING COMMISSION MEETING  
FRIDAY, SEPTEMBER 9, 2011  
DRAFT MINUTES**

**Vice-Chair Amos** called the Gambling Commission meeting to order at 9:40 a.m. at the Great Wolf Lodge in Grand Mound and introduced the members present.

**MEMBERS PRESENT:**     **Commissioner Vice-Chair Mike Amos**, Selah  
                                  **Commissioner Michael Reichert**, Maple Valley  
                                  **Commissioner Keven Rojecki**, Tacoma  
                                  **Representative Gary Alexander**, Olympia

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

**RULES UP FOR FINAL ACTION**

- 9.    Petition From the Public: Bonanza Press**  
**Allowing manufacturers to sell pull-tab jar tickets to other manufacturers**
- a)    Amendatory Section: **WAC 230-16-015** – Punch board and pull-tab sales restrictions
  - b)    Amendatory Section: **WAC 230-16-195** – Additional requirements for sales invoices
- Staff’s Alternative to Petitioner’s Amendment #1*
- c)    Amendatory Section: **WAC 230-16-035** – Pull-tab construction
- Addition of three housekeeping rules*
- d)    Amendatory Section: **WAC 230-14-045** – Authorized pull-tab dispensers
  - e)    Amendatory Section: **WAC 230-14-135** – Operating spindle, banded, or “jar” type pull-tabs which award only merchandise prizes
  - f)    Amendatory Section: **WAC 230-16-060** – Assembly and packaging of pull-tab series

**Assistant Director Harris** reported the petitioner was requesting the ability to purchase jar tab tickets from other manufacturers. Bonanza Press does not have the capability to manufacturer jar tickets and wants to get into that part of the market. They would like to purchase tickets from another manufacturer, add a flare, package the tickets as a completed pull-tab series, and then sell them to distributors. The petitioner states that he can package the game at a much lower cost than he can buy a completed ticket series from another

manufacturer. AD Harris showed two different versions of a bagged jar ticket game from two different manufacturers. One version has the tickets in an internal bag with another bag over the top with the flare in it. The other version has a sleeve in the front where the flare is slid into the front of the tickets. Some sample tickets were passed around. Current rule authorizes manufacturers to sell pull-tabs to distributors, distributor reps, and pull-tab licensees. Manufacturers are not authorized to sell pull-tabs to, or purchase pull-tabs from, another manufacturer. That may be a carry over from when the Commission had restrictions on sales, promotions, discounts, and pricings, which were repealed in 2005. Currently there are six licensed manufacturers of pull-tabs and 14 licensed distributors. Notification of the proposal was sent to all of them. The petitioner believes the rule change may enable the manufacturers to increase their pull-tab sales. Staff's concern is that the final product that reaches the public is high quality and the games are secure, made correctly, and the gambling public is protected.

A proposed alternative to amending these rules would be for the petitioner to obtain a distributor license and purchase the tickets from another manufacturer. Comments received include one in support, three with concerns, a follow-up letter from one of the three that recommended an alternative of getting a distributor license, one opposing, and correspondence from the petitioner addressing the concerns that were raised in the letters. Staff recommends final action. If the Commission chooses to adopt the proposal, staff recommends adopting Petitioner's Amendment #1, Staff's Alternative to Petitioner's Amendment #1, and three housekeeping rules that change some of the terminology on jar tickets versus tabs to make it consistent throughout the rules. The petitioner is requesting an effective date of 31 days from filing.

**Commissioner Reichert** asked AD Harris to review the steps that could be taken to achieve the same thing – if the petitioner could achieve the same result by using an existing arrangement. **Assistant Director Harris** affirmed that one of the letters received suggested Bonanza Press could get a distributor license. If they had a distributor license, they could buy a completed series from the manufacturer and put a substitute flare over the top. Bonanza Press would like to purchase the tickets themselves without having the flare. The petition said he could re-flare and buy the ID stamps from the Commission cheaper than buying a completed series and putting a new flare over the top. **Commissioner Reichert** asked if staff's opinion was that Bonanza Press could achieve the same thing; whether staff agreed with the petitioner or not. **Assistant Director Harris** affirmed the petitioner could do that by putting a new flare over the top of the existing flare, but he is proposing to buy the tickets without the flare to save money so he could repackage them.

**Commissioner Rojecki** asked if there were other businesses that are both manufacturers and distributors. **Assistant Director Harris** thought there was one that has a distributor license to sell pull-tabs but a manufacturer license to make pull-tab dispensing devices. **Commissioner Reichert** asked if they were using the other option. **Assistant Director Harris** replied they were using the distributor license to sell pull-tabs to operators, and they have a manufacturer license to make the dispensers. **Commissioner Rojecki** indicated they were achieving the same thing within the existing statute. **Director Day** clarified that AD Harris was describing a different application – the same two licenses but

for different purposes. They could, under staff's position and as described with the manufacturers, go through the same practice as a distributor; they just are not.

**Commissioner Reichert** asked how that was different. He presumed the existing organization was using the existing authorizations and licenses to achieve pretty much the same thing. **Director Day** explained the other licensee holds a manufacturer and a distributor license, which Bonanza could also do to accomplish what they want. But the other licensee is not doing what Bonanza is proposing to do; they are using the distributor license to sell pull-tabs and the manufacturer license to make machines or equipment.

**Commissioner Reichert** said that clearly they could do it the other way. They are not doing it that way, but Bonanza could do it that way. **Director Day** affirmed that was correct. Bonanza could use it, but when they purchase them, they would not have to have the complete set with a flare because they could produce their own flare. **Commissioner Reichert** asked if staff could see any concerns with that idea. **Assistant Director Harris** replied the only concern would be that it adds a couple more steps for staff to review in the manufacturing process. Staff would have to look at two different manufacturers versus one. AD Harris clarified that the other licensee was a distributor who was selling pull-tabs then decided they would like to make machines, so they got a manufacturer license to do that. This petitioner is a manufacturer who is making the tickets and would have to get a distributor license in order to buy them from another manufacturer.

**Vice Chair Amos** asked if the petitioner would like to speak about his petition.

**Mr. Richard Norris**, Bonanza Press, thanked the Commissioners for the opportunity to address this issue. The letter from the National Association of Fundraising Ticket Manufacturers (NAFTM) proposes that Bonanza could achieve the same results by acquiring a distributor's license, buying finished product from existing licensed manufacturers, and then re-flaring that product. The problem with that process is that the price is going to be too high. Washington is a very price-sensitive market. If Mr. Norris is paying the same thing that another distributor is paying, and then he has to take a flare and throw it away, and then add his own flare and repackage it, all that added labor, he could not possibly compete with selling it directly from the manufacturer to the distributor. His proposal with this rule change is that Bonanza Press would buy unfinished sets, which are basically tickets in a bag, as were shown earlier, with a flare on the front. It has the ID stamp on the front. None of that would happen with the manufacturer that he happens to partner with. He would do that all in his Woodinville facility. He would get a bag of tickets, then take the serial number and put it into his computer system, match it with an ID stamp, and then shrink wrap the whole thing and offer it for sale. And in doing that, Bonanza Press would then be putting its name on the ticket instead of – well, the way the rules are crafted, both names would be on there, but theirs would be the dominate name, so it is not necessarily brand "x," it is Bonanza's ticket. And that is what they are after. Then they would use their artwork. They have a vast library of successful products here in Washington that they would be able to put on that ticket versus a pull-tab ticket. There are areas in the state where jar sales are very strong, especially in Eastern Washington. They play a lot tickets over there that are not played over here. And Bonanza is basically out of that marketplace because it does not have the ability to manufacture that type of ticket.

Players over there like a paper-banded ticket, so that is one of the ways that Bonanza can get into that marketplace.

**Commissioner Reichert** asked if Mr. Norris saw this as creating a price advantage for Bonanza over the other manufacturer. **Mr. Norris** replied they were going to market price the same as everybody else because Washington is so sensitive in price. If the price is too high, customers were just not going to buy it. Bonanza had that problem in the past when a number of years ago they produced their normal brand, which was an oval shaped ticket. It was the same size as everybody else's, but was just an oval shape. The yield per sheet was not as high as a square ticket; subsequently, the price was higher and they could not do the business that everybody else was doing. They changed their manufacturing method to a square ticket and increased their yield. Bonanza was able to price the product the same as what everybody else's market price was and it improved their business. Mr. Norris did not see that Bonanza's price was going to be competitively lower than the market price.

**Vice-Chair Amos** asked if Mr. Norris was saying that Bonanza Press would like to buy just the bag of tickets and put its own flare on it, and that it was going to be printed somewhere else. **Mr. Norris** affirmed that was correct. **Vice-Chair Amos** asked if the bag of 6,000 tickets gives an idea what winners are in them. **Mr. Norris** affirmed they would specify when ordering a bag that x, y, and z are the winners and that they are in the bag. Bonanza would get a card with the game that has the secondary win codes and that kind of thing, but no flare, no ID stamp, no additional shrink wrap. It would just be tickets in a bag, and then he would enter all that into their computer system to essentially give it their SKU and add the ID stamp. And at that point it is a Bonanza product. Mr. Norris commented on the suggestion that they just purchase the equipment to manufacture this type of ticket. These machines have been around for a long time and there is no current manufacturer for a jar ticket machine. The various machines that are installed around the country have all been custom manufactured, so Bonanza would have to basically build its own machine. In today's economy, they cannot invest that kind of capital in a machine and they would need three at a minimum to satisfy the marketplace. So the investment is huge and there is already an over capacity of jar tickets when looking at the entire country. So Mr. Norris was just trying to take advantage of the fact that manufacturers are out there that have the capacity to produce this product, rather than adding more capacity to an already flooded marketplace.

**Mr. Lane Gormley**, Arrow International, a manufacturer of jar tickets also, reported Arrow's concern has to do more with the integrity of the game that exists and some unintended consequences that could come up with this. When a bag of tickets comes into the state as is proposed with no ID stamp on it, assuming that it gets to Bonanza, then they are going to have to identify that. Currently, there are things that are coming into the state that are identified from the manufacturer with an ID stamp that is tracked all the way to the end user. That is not going to be the case anymore when it comes in. So that is a concern. Mr. Gormley thought that the distributor proposal – because, in essence, that is what is being done; they are going to distribute another manufacturer's products or other manufacturer's products for them here. That is the advantage that the other manufacturers are going to have. Bonanza will not have to have its own warehouse here, which Arrow

does; Arrow employs upwards of 250 people in the state; and Bonanza certainly does not have to buy the manufacturing equipment, which Arrow has done and have continued to maintain. So on the surface, it sounds like this is not that big of a deal: toss a flare on the outside of the bag of tickets and it should not cause any grief. Mr. Gormley thought there was going to be more concerns that are going to come up and that can. He thought the question then arises “are we now going to say that works for jar tickets, how about normal pull-tab tickets? If you have a rule in place that says it works for this type of ticket, why can’t we do it on this product?” The petitioner stated originally that they do not have the capability to manufacture jar tickets. Bonanza is not a manufacturer, then, of jar tickets. Through the rules that are currently in place, WAC 230-16-035 says manufacturers must construct, glue, and seal. Bonanza is not doing that. This is creating a hybrid situation and Mr. Gormley did not think that it was going to be in the best interest. He would also argue as far as the capacity on jar tickets his plant is running – or having jar tickets brought in from his operation in Cleveland – they are running three shifts back there and are not able to keep all of the capacity that they need. They are looking at building additional equipment also to supply the market and buying that additional capacity to do that. Those are his concerns.

**Vice-Chair Amos** asked how many machines at a time were printing the tickets, if Arrow is running three shifts in Cleveland. **Mr. Gormley** replied they are printed on a different printing unit. They have upwards of 70 plus machines actually folding the tickets and banding them.

**Mr. Ian Foraker**, Indiana Muncie Novelty Ticket Company, explained his company has been making jar tickets for 75 years, which is probably twice as long as anybody else in the country. He said he does not have a horse in this race, so it does not matter to him, but this was something he thought years ago should have been done. He reminded the Commission that the two states that are probably the most difficult to manufacture for are Washington and Minnesota. They have the highest standards, and the industry builds to those standards. The other point is the people who would be manufacturing these in the state of Washington are already licensed. The Commission already has the procedures in place and already monitor them. It is just that Bonanza is going to produce a product, like a sub-jobber almost. The costs of setting up and going into business with these new folding machines – his company is in the process of building a new one for a patented jar ticket that they just developed – are about \$600,000. And he is going to need three or four of them once they set up and get into production. So someone cannot just say they need a folding machine because it just does not happen. They are custom built. Mr. Foraker called around and talked to a couple people in the Seattle market and they said just to custom build them without a blueprint or anything would probably be about \$400,000. Bonanza would probably need three or four of those machines, so that is a huge investment; something to keep in mind. That is what is prohibitive; they would not only need a folding machine, but also a banding machine and all the feeding equipment that goes with it. It is a very expensive proposition and not many people can undertake that. Mr. Foraker recalled that at the last meeting someone asked why a distributor could not just go out and get a manufacturer’s license and make them themselves. The most up-to-date stuff now is like iGen printers that are a million dollars a copy, plus they are probably

looking at another \$1.2 million to \$1.5 million for the accessory equipment. He did not think there was a distributor in the state that was going to be willing to put up \$2½ million to \$3 million to go into business where they would not even sell that amount of product. That is it. Again, this is from someone who does not have a horse in this race. He thought it should have been done 12 to 15 years ago.

**Commissioner Reichert** said he had a question for legal counsel that relates to one of the letters received from Mary Magnuson in which she cites the proposed rule does not fall within any of the exceptions to Executive Order 10-06. He thought there was a question there that should be at least talked about here. **AAG Ackerman** replied that he did not have the Executive Order in front of him at this time; however, he recalled looking at this at the time it came in and there were two issues. One was that this is a petition from the public rather than a petition or rule making by the agency. The Executive Order provides greater responsibility on the part of the Commission to review and consider petitions from the public, particularly petitions that are calculated to have some sort of benefit to increased economic activity in the state, which arguably at least this would fall under. Secondly, the Executive Order is just that, it is an Executive Order. As far as rule making, the law is set forth within the Administrative Procedure Act, which is RCW 34.05. It requires that this agency receive petitions from the public and act upon them within certain designated timelines and in certain designated ways. And, frankly, the Governor through an Executive Order does not have the ability to override the mandates of the statute. Historically, the Commission has tried to observe the spirit of the Governor's concerns that are set forth in the Executive Order and to apply them where they could, but they still have to operate within the requirements of the RCWs, so the Commission has to act on the petition.

**Commissioner Rojecki** asked if this proposal skirts language in WAC 230-16-160 specific to the stamping where it requires manufacturers to affix a gambling ID stamp on the flare of the ticket. It appears this proposal would permit a manufacturer to sell unstamped items and he asked how that would play into effect if this proposal was approved. It sounds like that process and that WAC would not be followed under this process as proposed. **Assistant Director Harris** explained it would depend on how it was interpreted because, technically, the manufacturer's argument is they are the final manufacturer and it is a final product at that point, so that is when they attach the stamp. The person who brought that up was implying that because the tickets were made at that point, it should be construed as a final product and would have to have an ID stamp and a flare put on it before it could come into the state of Washington for sale. **Commissioner Rojecki** wondered if they went through the licensing process – under that secondary process that was being talked about rather than approving this proposal – would they ultimately be the manufacturer and distributor. **Assistant Director Harris** replied that Bonanza Press was proposing to buy from another licensed manufacturer, not a manufacturer who is not licensed in the state of Washington. He asked if that answered Commissioner Rojecki's question. **Commissioner Rojecki** affirmed it did.

**AAG Ackerman** asked, just as a point of information that goes to the integrity of the game and sort of regulatory concerns, if Bonanza Press or a manufacturer in that position

receives a bag of pull-tabs from the manufacturer that created them does Bonanza Press, or a like company, get some sort of a document that tells them how to construct the flare. In other words, they know how many winners are in the bag and have the other information they are supposed to have, but if it turns out that, for whatever reason, the winners in the bag do not match the flare, how do our agents, as a regulatory entity, track down the problem? It seems like there are two possibilities: one is the original manufacturer did not manufacture pull-tabs that matched the instructions they gave to Bonanza; or that Bonanza (or a company like Bonanza who wants to engage in this process) received the bag and something happened to the bag of pull-tabs at their end so the pull-tabs that go out to the customer do not match the flare. AAG Ackerman asked how our agents knew whether the problem was on the original manufacturer's end or on Bonanza's end. He thought that would be a troubling regulatory issue for our agents. **Assistant Director Harris** affirmed that, at that point, it would be hard to determine where the game was basically defective at; whether it happened at the original manufacturing plant or once it got to the second plant. The agents would have to dig into it to see if there were other games from that same series that were affected, which might imply that it came from the original manufacturing plant. Other than that, the agents could not make an assumption on where it came from, which is why staff has the proposed alternative that holds both manufacturers liable at that point. As far as getting cost recovery, from the distributor and operator standpoint they would seek reimbursement from the primary manufacturer, and then the primary manufacturer would have to reimburse the secondary one. But to find out at what point the game was defective, it would be very hard to pinpoint whether it was at the primary manufacturing plant or the secondary manufacturing plant. **AAG Ackerman** said, in the case of somebody committing fraud, it was one thing to establish they were committing fraud, but it was another thing to establish indemnification and liability agreements between the original manufacturer and the secondary person. That troubled him less than the agent's ability to get to whoever was fiddling with the game. He asked what AD Harris' reaction was to that and if he thought it was going to be a problem. **Assistant Director Harris** replied that, if the agent was unable to pinpoint exactly where it occurred, the Commission may end up having to hold both manufacturers responsible at some point because they were both involved in the manufacturing process. The same could happen now under the distributor repackaging process where some tickets could fall out while they were being repackaged. The agent would not know if it happened at the distributor point or the manufacturer point. So far, that is usually handled as defective games where there was no intent to defraud; it was basically an honest mistake somewhere along the line. It has probably been 15 years since the Commission has had an issue where a manufacturer was intending to defraud the public. But yes, it would be hard to pinpoint in the process where something like that happened; it would take a substantial amount of work.

**Mr. Norris**, Bonanza Press, said one of the things that have consistently been brought up is the integrity of the tickets. He was not proposing that the tickets be purchased from anyone other than currently licensed manufacturers. As a manufacturer, Bonanza was not going to put its license in jeopardy by doing anything that was suspect. He assumed the same thing in the case for all other licensed manufacturers within the state of Washington. They all have a vested interest in doing business here and they were going to conduct themselves as such. But the procedures and the regulations that are in place today that all

manufacturers have to adhere to provide a very strict audit trail for the product. If there is a ticket in the marketplace that is determined to be defective or something is wrong with it, an agent can look up the manufacturing state ID number. That leads directly back to the manufacturer, or the manufacturer that sold it to the distributor, who sold it to the operator. The operator is going to get their money back from the distributor; the distributor is going to get their money back from the manufacturer. At that point, if it was a ticket that Mr. Norris bought from another manufacturer, it was no different than if he had defective paper, or defective ink, or defective glue. He has a relationship with his vendor, who happens to be a licensed manufacturer, that he has to deal with. Because he put the state ID stamp on, he is responsible to this body because he was the one that represented at that point that it was legal for sale in Washington. Up until then, it was just paper that he was buying from a licensed manufacturer because that is the criteria that has been set forth. When tickets are manufactured now, he has a majority of the product in his warehouse that has no ID stamps because it is not destined for Washington customers. That does not mean it is illegal; it just means that he has to monitor that product and make sure it does not get out into the state of Washington with no ID stamp on it. That is not unlike other manufacturers in the state who manufacture for other states and have a lot of inventory and do the same thing. They all have to monitor because only things that are a certain way can go out into Washington businesses. Mr. Norris saw the integrity issue as a non-issue because there are just too many steps, too many procedures, and too much regulation in place to monitor all those things. The fact that they have to track everything by serial number, which they do independently of the state ID stamp, any product that is manufactured that has Bonanza's name on it, he can take the form number and the serial number and tell the date it was made, who made it, and everything about it. That is a requirement that other states have as well; Minnesota, Texas, and he could go on and on. All those things have to be in place, and they all manufacture to the toughest standard, which is generally Washington and Minnesota, so they apply those rules across the country. Even though they might make a product for somewhere else, if it ends up – all they have to do is look at the serial number and the form number and they can tell you everything about it. Mr. Norris hoped that answered some of the concern.

**Vice-Chair Amos** asked if there were any other comments from the audience; there were none. He called for a motion; there was none. *Since there was no motion, the petition for rule change dies for lack of a motion.* **AAG Ackerman** affirmed that was correct.

**10. Petition From the Public:** Robert Bearden – Charitable and Nonprofit Organizations **Increasing the Number of Bingo Cards in Electronic Bingo Daubers From 66 to 144**

a) Amendatory Section: **WAC 230-10-185** – Electronic bingo card daubers restrictions

**Ms. Hunter** pointed out there were some actual daubers and paper cards on the table that Vicki Satiacum, bingo manager for AmVets, would explain later. She reported that electronic bingo daubers with a 66-card limit have been allowed and regulated by the Commission since 1994 and have been unchanged since that time. This rule would increase the number of cards on the electronic dauber from 66 to 144. The rule allows players to only play one dauber at a time and as many unlimited paper cards as they want. Players cannot currently use two daubers to get away from the 66 card limit and under this

rule proposal they would still be limited to one dauber. There is information in the rule summary about other states and the limits they have and the reasons, which were referred to at the last couple of meetings. The Commission currently regulates daubers with few, if any, problems. Staff received several letters in support of this petition, including a letter just received this morning from Senator Steve Conway, which Ms. Hunter read into the record. Staff recommends final action.

**Commissioner Rojecki** commented that it looked like every state has a different number and a different reason. It appears the number itself is actually a subjective number rather than an objective number. He asked if that would hold true as to different reasons for different states as to how they pick and choose their limits on daubers. **Ms. Hunter** thought that was accurate. The Commission started regulating bingo equipment more closely in 1994. The 66 limit in Washington was determined when a couple of surveys were done before the daubers were allowed by rule. The idea was that someone could actually play 66 paper cards, so the limit was an effort to try to keep that fair.

**Commissioner Reichert** asked if there was any impact to the Commission staff on regulatory or enforcement activity, or anything like that. **Ms. Hunter** replied staff does not have concerns about it. The electronic daubers have been allowed since 1994 and staff has had few, if any, problems with them. Initially staff may get a few more questions, but those are usually minimal and start at the beginning of something different being out there. **Commissioner Reichert** asked whether staff saw any additional workload in this process except for the incidental implemental process. **Ms. Hunter** replied staff had checked with GameTech, who is the main manufacturer right now in the state, and they said it was an easy change to make to go to the higher number.

**Vice-Chair Amos** asked if Mr. Bearden would like to comment.

**Mr. Robert Bearden**, First Vice Commander of the state of Washington American Veterans, stated this was not going to bring in a lot more revenue to the state or to their organizations. Over the past three months, he has continued to say that those who want to play, or can afford to play a little bit more, are going to be able to do it. It does help when there is a jackpot that gets a little bit higher and people may want to buy a few more cards to play or a few more games to play. If the jackpot goes up, they are going to play, which is going to benefit the state and also the facility. Not all bingo parlors in the state of Washington offer these daubers; in fact very few do. In other words, do not expect a huge revenue increase because of this potential rule change. He said Vicki Satiacum was going to explain the game dealing with punchcards in conjunction with bingo because that was one of the things they were going to be talking about when discussing the stamps. That way the Commissioners can see how it all plays together. Mr. Bearden was requesting that, if this was approved today, the Commission would authorize it to go into effect within 31 days. It would be a great opportunity to start moving a little bit before the holiday season and get the players accustomed to it. Their budgets simply do not allow them to advertise, so word of mouth would be fabulous if they could get this going as soon as possible, instead of waiting until January 1.

**Ms. Vicki Satiacum**, AmVets Post #1 bingo, passed around some handheld bingo daubers for the Commissioners to try, which were already set up with the schedule of the games they play. The first one was the block of 9.

**Vice-Chair Amos** said he was looking at three games across and asked if that was for the 66 games. **Ms. Satiacum** explained it was an extra game and that she loaded five of each, which would cost \$5 but is equivalent to 15 cards. That was all she put in of the extra games. She explained that to get to the extra game, hit next game on the bottom and enter, and then next game and enter. That would go to their packet games of 66 cards that she had loaded there. **Vice-Chair Amos** asked if he wanted five of those cards, would the games be all three of them at a time or just the ones across the top. **Ms. Donna Buck** replied all 15 of them if he bought five of them. **Director Day** stated, for the minutes, that the individual speaking was Donna Buck and asked her to speak into the microphone if she wanted to say any more. **Ms. Satiacum** continued to explain how the games were played in the electronic daubers. She said the only game that they cannot put in is Bonanza. She did include Pick 7, or crystal ball, and explained how to play that game with the dauber. **Vice-Chair Amos** was sure some of her players did not take as long to learn to operate this.

**Representative Alexander** asked if, when there are multiple numbers and they need to be blocked, that was just to be able to see a fewer number of cards. **Ms. Satiacum** affirmed. On the bottom it shows fewer cards or more cards, so if the players wanted to look at more cards they would just hit that little button. **Representative Alexander** said he was impressed, but the players must have really good eyesight. **Ms. Satiacum** explained that she had only loaded five extra games, which was why they were only seeing the five, but if the Representative Alexander went to next game and hit enter, then he would be able to see more cards.

**Director Day** asked if the players have 40 cards, or whatever number they buy, does the equipment monitor that they should be daubing the number. He asked if it brought the card up so the player could daub it. **Ms. Satiacum** replied, absolutely. It tells the players on their receipts how many cards they get for each game or they can check it in the machine.

**Vice-Chair Amos** asked how the machine would know the player only wants 40 cards and not 66. **Ms. Satiacum** explained the players would tell her when they came through the line how many cards they wanted, and then she would load that number into their dauber. **Vice-Chair Amos** asked how she would load it. **Ms. Satiacum** replied they are in crates and she has a computer and just hits the button and it would download into the computer, whether it was for one of the handheld, a stand-up machine, or paper. **Vice-Chair Amos** said this was leaps and bounds above when he played bingo. He asked if the customers who go into AmVets to play could only get the daubers first come, first served and whether they charge the players extra for the machine. **Ms. Satiacum** replied they do not charge extra for the use of the machine but the players have to purchase a minimum of 24 cards. **Vice-Chair Amos** asked if that was \$24. **Ms. Satiacum** replied, no, that could be \$20 for two singles – however the players want to make it for 24 cards. Her packs are 12 cards per

pack. **Vice-Chair Amos** asked if any players had ever complained that they put a number in and somebody bingoed with the next number and they had not seen it, or that the machine fouled up and did not tell the player they had a bingo on one of the cards that they were not looking at. **Ms. Satiacum** replied, no. **Vice-Chair Amos** commented the daubers were very impressive.

**Ms. Donna Buck**, AmVets, clarified that it was all tied together and was the progression of what they used to use – little hard cards like what are still played at the Puyallup Fair. In the computer age, to try to get younger people involved, they had to progress with the handheld toys. Ms. Buck suggested they really need to have a bingo session for the Commissioners to go through all of the steps. **Vice-Chair Amos** thanked Ms. Buck for the offer, but said there was not enough time today.

**Mr. Bearden** asked if Ms. Satiacum wanted to explain how the row call game ties into the bingo. **Ms. Satiacum** explained a row call game was played along with bingo. On the sell out of a bingo – she showed a box of 540 tickets – they would play it along with the bingo game. So there are numbers 1 through 75 in the box, along with some instant winners, and each row out – like say the “L” row was the first row out, that would pay \$10. The second row out, say it is a “B,” that would pay \$20, and so on.

**Vice-Chair Amos** asked if somebody had the card and they had one of those and got all of the “Bs” 1 through 15, they would get \$20. **Ms. Satiacum** replied, yes, if that was the second row out.

**Commissioner Rojecki** made a motion seconded by **Commissioner Reichert** to approve the amendment to WAC 230-10-185 on electronic bingo card dauber restrictions, as presented, with an effective date of 31 days from adoption. *Vote was taken; the motion passed with three aye votes.*

**Ms. Hunter** clarified it would be 31 days from filing, which may be today but would probably not be until Monday. **Vice-Chair Amos** was sure that would be fine with Mr. Bearden, instead of waiting until January.

**Vice-Chair Amos** called for a break at 10:45 a.m. and reconvened at 11:05 a.m.

**11. Staff Presentation: Charitable/Nonprofit Organizations Financial Information**  
(PowerPoint Presentation)

**Assistant Director Tina Griffin** provided information on the number of licenses that are issued to charitable/nonprofit organizations, the annual gross receipts for those licensees, their current licensee fees, and then the proposed license fees under the petition for rule change to reduce fees for charitable/nonprofit organizations by 50 percent. AD Griffin explained that permits are issued to charitable/nonprofit organizations for very short periods of time for fund raising events, recreational gaming activities, and agricultural bingo. Her focus in this presentation, though, would be on the annual licenses that are issued. She reported that, as of July 2011:

- 909 nonprofit organizations held 1,344 licenses.
  - 463 of those licenses have a current annual license fee of \$58.
- 57 amusement game licenses were issued to charitable/nonprofit organizations.
  - 55 of those have current license fees of \$58.
  - Under the proposed fee rule, the annual fee for those would be \$29.
- 95 card game licenses were issued.
  - 91 of those were for non-house banked games in which the organization did not collect a fee to play. They paid an annual fee of \$58.
- Fund raising event distributor licenses are given to charitable/nonprofit organizations that own their own gambling equipment and lease or rent that equipment to other licensed entities for fund raising events. The license is based on the number of times that nonprofit rents or leases their equipment to other licensees throughout the year.
- 683 raffle licenses were issued.
  - 574 of those had annual gross receipts up to \$25,000.
  - 240 of those licensees paid an annual fee of \$58 per year.
  - Under the proposed fee change rule they would pay only \$29 a year.
- Combination licenses are issued to charitable/nonprofit organizations that allow them to have a combination of activities at a smaller scale.
  - It allows them to have bingo, amusement games, raffles, and card games.
  - It does not allow them to have punchboard/pull-tab games.
  - The gross receipts are somewhat limited in these various categories.
  - If they wanted to have any of these gambling activities or punchboard/pull-tab activities higher than the gross receipts, they would seek an individual license for the respective gambling activity.
- There were 180 bingo licensees.
  - 157 of those had annual gross receipts up to \$150,000 a year.
  - 77 of overall bingo licensees had an annual fee of \$58 a year.
- There were 232 nonprofit punchboard/pull-tab licensees.
  - 215 of those had annual gross receipts up to \$500,000.
  - There were no licensees licensed for annual gross receipts over \$2.5 million.

Under the proposed rule, 70% would pay under \$250 for their annual licenses. In summary:

- 34% paid an annual fee for their license of \$58
- 36% paid an annual fee of under \$500
- 30% paid an annual fee over \$500.

Three licensees had been selected randomly to show their activity, their license fees, and the impact on the proposal for fee reduction. Those three licensees were AmVets, Seattle Jaycees, and Seattle Junior Hockey. All three paid \$58 for an amusement game license, but that income was not included because they do not own their own amusement games and do not have a reporting responsibility for that income. The distributor that owns those amusement games reports their total income, but not by premises. For the fiscal year ending June 30, 2010:

- AmVets of Tacoma:
  - \$3.8 million gross gambling receipts for their bingo and pull-tab activity.
    - 76% paid for prizes.
    - 16% paid to other expenses related to the gambling activity.
  - Net income of \$279,000 was available then for the charitable/nonprofit's stated purpose or program expense.
  - \$15,000 in license fees paid during that time period were paid.
  - Under the proposed rule proposal, they would have paid \$7,561 for license fees, which would be less than two-tenths of 1% of their overall gross gambling receipts.

**Commissioner Reichert** asked if there were existing minimum thresholds that have to be met, for instance, in the amount of money disbursed through prizes. **Assistant Director Harris** replied there was a minimum prize return for pull-tab games, but not for bingo.

- Seattle Jaycees:
  - \$2.3 million gross gambling receipts.
    - 70% paid for prizes.
    - 24% paid to other expenses related to their bingo and pull-tab activity.
  - Net income of \$119,000, or 5% of their gross gambling receipts, was available for the stated purpose or program expense.
  - \$9,704 in license fees paid for the period, which was less than one-half of 1% of their gross gambling receipts.
  - Under the rule proposal, their license fees would be \$4,852, which is about two-tenths of 1% of their gross gambling receipts.
- Seattle Junior Hockey:
  - \$6.3 million in income from bingo, punchboard/pull-tab, and raffles.
    - 73% paid towards prizes.
    - 21% paid for other expenses related to the gambling activity.
  - \$347,000 was available for their charitable purpose.
  - \$21,521 in license fees were paid, which was under one-half of 1%.
  - Under the license fee proposal, their license fees would be \$10,761, which would be less than two-tenths of 1% of their gross gambling receipts.

**Commissioner Rojecki** asked if there was anything in the gambling statute that defines what can be used as other expenses and if they were just things like general business and operating expenses, salaries, and building expenses. **Assistant Director Griffin** affirmed. **Director Day** said they were gambling-related expenses to run the gambling operation and asked if the amount that goes to the net income is the 60 percent requirement. **Assistant Director Griffin** affirmed that at least 60 percent of their net gambling receipts has to be used towards their program and support service expenses. **Director Day** asked how much of that money actually had to go to the charitable purpose itself. **Assistant Director Griffin** replied no more than 35 percent can be used on support service expenses, overhead, and management.

**Commissioner Reichert** asked if the 65 percent would then be the difference. **Assistant Director Griffin** affirmed. **Commissioner Reichert** asked if there was any data available as it relates to the average expenses and overhead; other expenses. He saw three listed that go from 16 percent to whatever the larger number is, 21 or 24 percent, and asked if that was rolled up in data somewhere. He would be interested to see what the pattern was across all of those activities of the hundreds of people involved in this. **Assistant Director Griffin** believed the statistical report was available on the agency website that shows the prizes paid, but she did not know if the report shows the percentage of the other expenses. She thought the top ten were also posted that may provide further information about their other expenses. **Commissioner Reichert** was interested in tracking this to see the playing field the Commission was looking at in terms of which groups use it in such a way or that way. He understood that some of the entities may have separate organizations set up to do the fund raising as opposed to the beneficiary and asked if that was true. **Assistant Director Griffin** replied she believed there were a few. **Commissioner Reichert** indicated that would be helpful for him to see as well. **Assistant Director Griffin** agreed. **Commissioner Reichert** said he appreciated it.

**Vice-Chair Amos** asked if there were any more questions or public comment; there were none.

#### **RULES UP FOR DISCUSSION**

**12. Petition From the Public:** Robert Bearden – Charitable and Nonprofit Organizations  
**Cutting License and ID Stamp Fees by Half for Charitable Licenses**

- a) Amendatory Section: **WAC 230-05-020** – Fees-Bona fide charitable and nonprofit organizations
- b) Amendatory Section: **WAC 230-05-030** – Fees for other businesses

**Ms. Hunter** reported this was the third time this has been on the Commission agenda and anticipated it would be up for final action at the November meeting; although, the Commissioners can always have that delayed. The original proposal would reduce the license fees and ID stamps for charitable and nonprofit organizations by 50 percent. Mr. Bearden had addressed the Commissioners at the end of last month's meeting to let them know that he was looking to have the ID stamp part reduced only on products used by charitable and nonprofit organizations. The petitioner is asking for a 50 percent reduction to the stamps that go onto the electronic bingo daubers and for bingo paper. There is a special type of pull-tab called an event pull-tab, which is attached to a bingo game and only nonprofit and charitable organizations can have event pull-tabs. The petitioner is asking that the reduction in ID stamp be on the event pull-tabs. A separate stamp has not been created for event pull-tabs; they are treated like any other pull-tab game. If the Commissioners were to pass this amendment, staff would need to create a special stamp just for those event pull-tabs. If looking at all of the ID stamps, they would go down to about \$50,000, but since the petitioner has requested to amend their petition to only reduce those ID stamps for bingo-related products and for those event pull-tabs, that number would be \$15,000.

**Ms. Hunter** highlighted some information contained in the rule summary. In the last ten years, the Commission has only increased the fees on charitable licensees three different times. When the Commission increased fees for commercial organizations in 2002, they did not increase the fees on the charitable and nonprofit organizations. There are no plans to increase fees until at least fiscal year 2014, which would extend the number of years with only three fee increases to 14 years. Staff recognizes that, based on current initiatives, legislative approval would be needed to increase any fee. Ms. Hunter agreed this rule change would decrease the license fee expense for charities and potentially increase the amount of money available for their stated purposes. Staff checked with a couple organizations that use special pull-tab games and found that the potential savings if a new fee was created and then reduced by half would save those four organizations about \$100 a year. She pointed out a typo on page 4 that says the reduction in fees for ID stamps would be \$35,000, but should actually be \$15,000. One of the over-riding RCWs is the one that requires the Commission to set fees that provide not less than an amount of money adequate to cover all costs incurred by the Commission relative to licensing and the enforcement by the Commission of the provisions of this Chapter and rules.

**Commissioner Reichert** asked if that was the aggregate fee or if it was by activity, and how Ms. Hunter read that. **Ms. Hunter** replied it does not say more than what it says. Staff does undercover work, but there is no undercover work fee that the Commission assesses. So in total, it needs to cover that. **Commissioner Reichert** presumed that the Commission was 100 percent covered now and that it is not in excess. He asked if this would mean a fee shift for somebody or a reduction in activity. **Ms. Hunter** affirmed, adding she thought those were the two different choices. There will be another staff presentation at the October meeting to address what would be reduced in current programs. This proposed change would require a significant reduction in the Commission's regulatory program without the benefit, consultation, or direction from the Legislature, which has set the mandates for the Commission. Staff has received many statements in support of a reduction including the letter from Senator Conway. Ms. Hunter pointed out a math error under electronic bingo card daubers where it shows \$5.10 as half of the original fee of \$11.19 but should actually be \$5.60, which the petitioner knows about. Staff received an e-mail dove-tailing into the next rule proposal about basing the fees on net receipts not gross receipts. Staff also received an e-mail yesterday afternoon from Mr. Bearden saying they might be more interested in pursuing this proposal as opposed to the next one, and they may put that one on hold for awhile. Ms. Hunter let him know that he could address the Commission on what he prefers to do and that anyone can always withdraw their petition. She wanted the Commissioners to be aware of that because Mr. Bearden might state something about that petition as he is talking about this petition.

**Vice-Chair Amos** asked if there were any questions; there were none. He asked if Mr. Bearden would like to speak on his petition.

**Mr. Bob Bearden**, American Veterans, indicated this was the stamp they were talking about for the reduction and, of course, the state stamps that will be found on all the packages and everything that comes into the state on these. The other stamp that was brought up is on the bingo paper itself that comes in cases and would have a stamp on it

also. Those are the three stamps they were referring to that Ms. Hunter was talking about having to create specifically for the charities. The 50 percent reduction in license is a big one. He understood the state mandate for the RCW that mandates the agency collect for its own operations, but he kind of interpreted it a little differently. The way Mr. Bearden understood it, the agency's understanding was they try and collect by category what should be grafted for each one. Staff have told this Commission and Mr. Bearden over the last two months that the charities are underfunding the regulators by somewhere between \$400,000 and \$700,000 a year at current rates. He said for anyone to jump up and let him know if he was mistaken. He knew this had been going on for awhile and that the charities were not funding for themselves. He also knew that other organizations, such as the Compacts – there was a 2008 letter from Director Day to the tribes saying at that time that this does not cover what the Compacts are for, what they were offering to pay. So it is not only the charities that are not paying what they are being regulated for, there are other elements within the gaming community that are not paying what their categories are. He did not want to separate charities as being the only ones underfunded. They will be in the discussion phase for the next couple months.

**Mr. Bearden** stated that at the last meeting, Mr. Durkin stood up and recommended, which is also on the summary, that he believed his organization working with Mr. Bearden and working with the agency could come to an understanding of how they could make this happen; how they could reduce governmental costs associated with charitable bingo and gaming. Mr. Bearden said they did not take advantage of that last month, but he would be the first one to do that. He did not want to look like he was getting together with somebody and working out a deal. He talked to Director Day yesterday about this and, basically, said maybe somebody from the agency ought to try and coordinate all these ideas; get them all together in one room and close the door like they did in the military and work it out. Mr. Bearden thought that was what they needed to do. They have two more months to do that before the Commission makes a final decision on this. Mr. Bearden challenged the agency, right now, to grab the helm and run with this; coordinate the negotiations so they can do this effectively. Overall the public support was overwhelming that this happen. Everyone would know besides him the most current information, but the last he heard 15 to 1 were in favor of this, versus not agreeing with this recommendation for a rule change. So the public is out there behind the charities; they want to see the charities survive; they want to see the money going towards their purpose. This was just one way the Commission could help the charities – by getting rid of some of the regulations or changing the regulations to make it easier on them. Mr. Bearden said they have to do other stuff themselves, and they are working on those, but as can be seen on the last line, AmVets #1 was lowest as far as overhead cost. They are trimming their budget as best they can to try and make it, and they continue to do so, continue to get ideas, and continue to implement new strategies to try and do this. This was just one factor of it, but this was the factor that the Commission could help out with. The public is behind them on this and even the legislators are behind them.

**Commissioner Rojecki** said he was just trying to understand this, and asked if this proposal cuts the \$15,000 license fees shown by Ms. Griffin's presentation specific to AmVets in half. **Mr. Bearden** affirmed. **Commissioner Rojecki** asked if there were no

other savings anywhere else in other expenses. **Mr. Bearden** replied that was what he was just referring to, they were trying everything they could to cut down costs. Ms. Satiacum, their bingo manager, has already cut staff. Their prize giveaways are sitting somewhere around 70 to 72 percent, which is standard for the industry, so if they cut back on that, they would lose customers and that would cause a trickledown effect. **Commissioner Rojecki** asked if it was basically going to save AmVets \$7,000. **Mr. Bearden** explained another way to look at it was the proposal the Commission has authorized to go before the Legislature coming up this month to get into the Department of Revenue collecting license fees and away from this agency. He thought that, if that goes into effect the way it is written right now, it would not be effective until 2013, or somewhere in that area, by the time all the regulations are made and the implementation. Being that payments cannot be made to them, Mr. Bearden would essentially be paying three times that \$15,000 at one shot. That would hurt them and could bankrupt them if they had to do that.

**Commissioner Rojecki** asked if he was talking about the Master Business License. **Mr. Bearden** replied the legislative proposal that was discussed last month going before the Legislature. Ms. Hunter could probably tell Commissioner Rojecki more about that than Mr. Bearden could. He said he has only kind of read through it and basically understood that it would be mandated to get a license for 18 months initially to start off this process. That would be for all businesses. For a charity to come up with that kind of money up front is almost impossible. He was not saying that it would, and he has been informed that they do not know how it would actually be done that far out. But just looking at it like that, if it did happen the way it is set up right now, he could not afford to do that, and he did not think any charity would be able to do that.

**Assistant Director Griffin** clarified the agency request legislation was just an opportunity to allow the Commission to issue licenses up to 18 months only upon the Commissioners decision to go with Business Licensing Service (BLS). The issuance of the licenses for up to 18 months would only be during that transition year so if it was decided to use BLS, it would not be a continual 18 month license but would only be that first year because the Commission's license dates would have to be converted to the BLS license ending dates. Staff does not know what that conversion date would be; it could be a shorter period of time or it could be a longer period of time, but it would just be that one year. **Mr. Bearden** said that one year would really hurt the charitable industry to do that even just one time. **Assistant Director Griffin** explained the license fees would be prorated accordingly for the time period in which they were issued.

**Commissioner Rojecki** asked if that was because each business would have a different license date; one business might be only three months and another business might be 12 months or 14 months. **Assistant Director Griffin** affirmed, explaining the reason BLS was asking to go beyond that was because they could issue licenses up to 13 or 14 months. She thought that was because of the two-month renewal requirement notice that they have to give. So if the Commission was close to transition date and someone was going to renew their license the following month, the license was going to have to be issued beyond 12 months because they were not going to get the renewal notice in time.

**Representative Alexander** asked Mr. Bearden how much of the money would go directly to the recipients of the charitable organizations versus being retained by the organization itself if the petition was approved and the reduction in the license fees was reduced by 50 percent. **Mr. Bearden** replied that according to the IRS, the charitable organizations are required to provide “x” percentage of their net income to the programs they have in effect, so in most reputable organizations somewhere between 60 to 68 percent of that money has to go out to programs. Mr. Bearden said they were within the right categories as far as IRS mandates to be a 501 (3)(c) or, in his case, it is 319 as the military. **Representative Alexander** asked if Mr. Bearden would retain the same percentage, so they would basically not be returning all of the money directly to the recipients but would be retaining a certain share of that to maintain their percentage ratio at the same level it is now. **Mr. Bearden** affirmed, stating it was just more money for the community and for their programs, which is what it is for.

**Commissioner Rojecki** asked Mr. Bearden for clarification on a comment he made regarding Mr. Durkin’s position. The Commission’s notes show that Mr. Durkin does not have a position. **Mr. Bearden** responded that he had talked with Mr. Durkin again this morning to make sure he understood what was going on with him, and Mr. Durkin absolutely wanted to work together to try and help the charities out. Mr. Durkin may not have an official position here, that would be his call, but he had informed Mr. Bearden that he was absolutely willing to do that.

**Director Day** clarified a comment made by Mr. Bearden regarding the 2008 letter of his to the tribes. He thought it was important for the Commissioners to know the context of that letter, which was actually precedent to increasing the tribal billing rates from \$80 an hour to \$120 an hour in order to appropriately recover the costs of the agency. He explained that Mr. Bearden and he had talked about a proposal relative to the BLS and the two-part payment plan. If a large licensee chose to take advantage of that plan, they would pay their license fee in halves rather than all at once, which has been viewed as a fairly significant benefit. How that fits with BLS is another issue, but it is really an independent issue from the concept of going to BLS. Director Day had informed Mr. Bearden that it would need its own facts to support or not, but it does not require the tripling of any fees or any of that kind of stuff, so there was nothing that staff had proposed that would lead there. The second half payment is something that when staff gets there may very well have to be looked at because staff is also in the process with a number of licensees who have defaulted on the second half. Licensing, at this point, is stuck with using collections to try to come up with the additional amount, which also causes an additional financial burden to licensees who are paying their fees. So, in the end of the assessment, staff may see that it is necessary to continue, but if there was a rule change, it would have to come back to the Commission to decide if that was something they wanted to change or not.

**Vice-Chair Amos** called for public comment.

**Mr. Foraker**, a private citizen, testified there were some things coming down the line that he thought would make it very important that the charities get a break. Personally, he did not feel they should be paying anything, but he thought the Commission really needed to

look at cutting because the charitable organizations have got some expenses coming down because they are fighting inflation and the decrease in sales. But there is also the Obama health care issue coming. It is going to cost somebody like AmVets with ten full-time employees, \$25,000 a year to opt out of that program. Mr. Foraker thought that would probably be the death knell for a lot of people. And that is something that needs to be looked at coming down the road. Another thing that is kind of off the issue is expanding the type of games that they can play. In other states, they play what is called bingo event games, which have saved bingo in several states where they are making substantial amounts of money off of the games that are played right along with the paper game. As a matter of fact, in California it is multi-multi-million dollars in additional sales since they have gone to these bingo event games. They are currently not legal here. But again, Mr. Foraker said he did not have a horse in this fight either. But he thought the Commission needed to start looking at some things coming down the road that are just going to be devastating to the charitable games unless some changes are made in the license fees, etc. To give an example, his manufacturer license fee is \$25 in LA County and \$25 in Sacramento County, and that is it. The rules for the state of California for charitable bingo are two pages and that is it, instead of a big 1,500 page document. Mr. Foraker thought some of these things need to be addressed – some of the regulations that just tie up and slow the system down instead of streamlining things. So, just things to look at down the road because if those things do not happen, it will be a mute point because a lot of these guys will be gone.

### **RULES UP FOR DISCUSSION AND POSSIBLE FILING**

**13. Petition From the Public: Robert Bearden – Charitable and Nonprofit Organizations Calculating License Fees for Charitable Licensees based on “net gambling receipts” rather than “gross gambling receipts”**

- a) Amendatory Section: **WAC 230-05-020** – Fees-Bona fide charitable and nonprofit organizations

**Ms. Hunter** reported that most of the fees are based on gross gambling receipts. The idea has been that as the organization’s gross receipts go up their license fee goes up, and vice versa. Staff are not sure how this petition would work with the prior petition, so what they tried to do in the rule summary was address what the calculation would be if the fees were based on net. It does not take into account the possibility of an additional 50 percent reduction on top of that. Using actual numbers from fiscal year 2010, staff took each charitable organization and looked at what their fee was if it was calculated based on gross and then if it was based on net, which would be after prizes. In fiscal year 2010, fees for bingo, pull-tabs, and amusement games were about \$845,000. If calculated on net, after prizes, the fees would be reduced 63 percent to \$308,000. The license fees would vary depending on the amount of prizes paid. If the fees are based on net, if an organization decides to increase their prizes, the license fee would continue to go down. There is a set overall percentage the pull-tab games have to be manufactured to, but for bingo they have to meet a different type of requirement. If this rule were to pass, one rule staff would need to look at would be the rule on exceeding license class which may not work if the licenses are based on net. It would require setting up more programming in the long term because

currently fees are based on gross. This rule change would cause a dual system where some licenses are going to be based on net and some on gross. Staff recommends this petition be denied.

**Commissioner Reichert** asked for clarification of the definition of net. **Ms. Hunter** replied net would be after prizes but not after any other expenses. **Commissioner Reichert** said it was not operations, just prizes. **Ms. Hunter** affirmed that was correct. In bingo or pull-tabs if gross receipts are \$100,000 and 75 percent was paid out in prizes, there would be \$25,000 left. The license fee would be based on that \$25,000, versus being based on the \$100,000.

**Commissioner Reichert** asked if Director Day had any comment on the impact question that has been raised in terms of the ability of the agency to function, at least as currently mandated. **Director Day** replied he was pretty clear in his mind and in the responsibilities of the Commission. The current enforcement program could not continue with the kinds of reductions being talked about. The Commission has already combined reviews and reduced requirements. At this point, staff has also identified \$400,000 that is not collected from charities and compared to what was expended by the Commission. That already means the Commission is really not paying the bills directly through the charities at this point. He thought any further reduction in fees, which also gets to the discussion of getting together as a group and discussing a reduction, just means there would have to be a change in the level of requirements that are both in WAC and in the Legislature in order to accommodate them. The Commission could not maintain where it is now.

**Commissioner Reichert** indicated there was a comment on an earlier comment by one of the community members here that perhaps the Commission was over regulating on some level. He knew that the Commission does not have total jurisdiction over that decision, but asked if Director Day had a comment about the reduction in government involvement as was brought up. **Director Day** replied staff has been striving to make sure the Commission regulates to the extent it has to. In his experience with the program and the reductions that go through, he thought the Commission was at the point of being able to pass the straight-face test in its regulation of nonprofits. The idea in the RCWs was that the focus of nonprofit gambling operations was to return a significant amount of money to their activities. That was the orientation of the Commission's WACs, and Director Day thought it was currently at the minimum. **Commissioner Reichert** asked if the Commission had any real discretion in that regard, as a Commission themselves in any event. **Director Day** replied no, that was what he actually looked at. The RCWs are guiding the WACs adopted by the Commission, so the Commission has attempted the best it can and he thought it was at a minimum right now. There has also been comments comparing other states. Director Day thought the Commission had to be very careful because it has gone through a number of comparisons of other states in the past and what they charge and what they do not charge. But a lot of states are actually subsidized by the general fund, so the enforcement of the gambling regulations would actually be funded by the general fund and the money collected by license fees would go to some other activity. He could not recall at this point whether California was that way, but he would be concerned about following California's financial example on most anything. In this state,

the requirements of the statute are that it is fully funded. If a business desires to operate gambling in the state of Washington, the entire cost of that activity to regulate and enforce it comes from those fees, and it always has.

**Vice-Chair Amos** asked if there were any other questions; there were none. He asked if Mr. Bearden would like to comment.

**Mr. Bearden** promised to be short. Most of the Commissioners were not at yesterday's workshop when he explained the baseline of why this proposal was recommended. He had mentioned that charities are doing 5 percent of the gambling business in the state. It does not seem that far off to use net instead of gross. Someone said the Commission would have to make a dual system, but there is already a dual system in effect. Even in last month's minutes it referred to the net/gross that is done in the Compacts, so there is already duplicative efforts in effect. Organizations that do only 5 percent of the business are no way capable of ever leveling the playing field to make fairness happen. All this proposal does is to say if they had net that would that bring it up a little bit; absolutely. Ms. Hunter said exactly the same thing. Although it would be a 63 percent reduction using her figures of what is currently being collected for licenses and fees, that is significant. Mr. Bearden said they had a very good discussion on the 50 percent, and he thought they could go forward on that, to be perfectly honest. He sent an e-mail to Director Day and Ms. Hunter last night indicating that he probably needed to do this, and just concentrate on what they think they can do because they know the agency is hurting for funds. He understands that. This would be a big shock to them, to try and fight this one and worry about what the 50 percent is going to do. Mr. Bearden asked, at this time, to withdraw this proposal, this line item on this proposal, so they do not need to go any further. He would rather concentrate on something that he thinks could be beneficial to all.

**Commissioner Rojecki** asked what the process was to do that. **AAG Ackerman** replied that if he understood Mr. Bearden correctly, as the petitioner he has indicated that he wishes to withdraw the petition. **Mr. Bearden** said the line item. **AAG Ackerman** asked what the line item was. **Mr. Bearden** replied just the line item, the net versus gross. There were five line items associated with this submission; the first one was eliminated the first time it was brought up by the Commissioners. **AAG Ackerman** explained he was talking about the petition that concerns calculating license fees for charitable licensees with net gambling receipts rather than gross gambling receipts. He asked if that was the one Mr. Bearden would like to withdraw. **Mr. Bearden**; affirmed that was correct. **AAG Ackerman** explained that Mr. Bearden has indicated he would like to withdraw his petition, which is his right. So, unless the Commissioners have some other action they wish to take, it would be considered withdrawn at this point.

**Commissioner Reichert** said the Commission just recognizes the withdrawal.

**Vice-Chair Amos** confirmed the Commission would recognize Mr. Bearden's withdrawal of that petition. He pointed out for those who were not present yesterday that Item 14 had been set over by Mr. Saucier for discussion at the November Commission meeting at the Lacey Community Center.

14. **Petition from the Public:** ~~Rockland Ridge Corporation, a licensed Gambling Service Supplier; and Galaxy Gaming, Inc., a licensed Manufacturer~~  
**Linking Envy Wagers Between Different Card Games at a Single Card Room**

a) ~~Amendatory Section: WAC 230-15-040 – Requirements for authorized card games.~~  
*(Held over to November Commission Meeting at Petitioner's request)*

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

**Vice-Chair Amos** opened the meeting to other business, general discussion, and comments from the public; there was none. The next meeting of the Commission will be in Spokane on October 13 and 14.

**Adjourn**

**Vice-Chair Amos** adjourned the meeting at 11:55 a.m.