

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
THURSDAY, AUGUST 9, 2012
APPROVED MINUTES**

MEMBERS PRESENT: **Chair John Ellis**, Seattle
 Commissioner Kelsey Gray, Spokane
 Commissioner Margarita Prentice, Renton
 Senator Jerome Delvin, Pasco (arrived late at 2:15pm)
 Representative Gary Alexander, Olympia

STAFF: **Rick Day**, Director
 David Trujillo, Deputy Director
 Mark Harris, Assistant Director – Field Operations
 Amy Hunter, Administrator – Communications & Legal
 Callie Castillo, Assistant Attorney General
 Gail Grate, Executive Assistant

Recognition: Senator Margarita Prentice

Director Rick Day acknowledged Senator Prentice for her 18 years of service as an ex-officio member of the Commission. She will be retiring from the Senate and is also a retired registered nurse. Director Day welcomed Senator Prentice in her new role as a Commissioner after being appointed by the Governor on July 17 to a term ending June 30, 2018.

Chair Ellis said he and the other Commissioners and staff were delighted that Senator Prentice was joining the Commission, that she was willing to continue her many years of service, not only to the people in numerous capacities, but also in the capacity of contributing to the Gambling Commission and all of the tremendous contributions she has made. The wealth of information and institutional knowledge that she brings to the Commission is invaluable. **Senator Margarita Prentice** thanked Chair Ellis and Director Day. She said she has made it clear, many times, that the only reason she stuck around for 18 years was that she was very proud of being associated with this agency. This is an agency that does its job, and does it the way the public really expects it. It is not high profile, so they probably are not even aware of it, but this is a very, very good agency.

Staff Accomplishment: Deputy Director David Trujillo

Director Day recognized Deputy Director Trujillo for his 20 years with the Gambling Commission and state service. DD Trujillo started with the agency in 1992. He was born in Albuquerque, grew up in Ellensburg, and attended college in Bellingham and Ellensburg. When he started, he was assigned to Burlington in Skagit County. He became the supervisor of the Financial Investigation Unit and Criminal Intelligence Unit, and then the administrator of Licensing Services. In 2009, he was appointed as the Deputy Director of Operations, and Director Day has definitely not been disappointed; he has been a great co-leader of the agency.

Deputy Director Trujillo is a licensed CPA and is heavily involved with the Washington Society of CPAs. He is also currently on the school commission at a local private elementary and middle school. Director Day thanked DD Trujillo for his work with the Gambling Commission.

Chair Ellis congratulated Deputy Director Trujillo on his 20 years with the state and the Gambling Commission.

Agenda Review/Director's Report

Director Day briefly reviewed the agenda, indicating there were no staff requested changes. He pointed out some last minute inclusions to the agenda packets, which included a couple of letters, some news articles, a correction page for the Tribal Community Contributions presentation, a correction page for the New Licenses and Class III Certifications report, and response and reply briefs in the ZDI matter. The letter from Spokane Valley Police Department Chief Rick VanLeuven thanks a number of our Spokane staff for assisting the police department in response to the June shooting of two deputies in Spokane. Next is a letter to former Commissioner Keven Rojecki from Governor Gregoire thanking him for his dedicated service to the Commission. Director Day said the plan was to acknowledge his contribution to the Commission at the September Commission meeting. There is also a letter appointing Senator Prentice as a Commissioner on July 17.

Director Day mentioned the next Commission meeting is currently scheduled for two days starting on September 13, but staff is anticipating it may just be a one-day meeting on Thursday. He encouraged the public to check our website or with staff to verify the days and time of the meeting, which will be at the Great Wolf Lodge in Grand Mound.

Qualification/Program Review: 40 et 8, Vancouver

Special Agent Roger Sauve reported that one of his licensees is the 40 et 8 in Vancouver. A couple months ago they went through a qualification and program review. At the time of review, the organization had 258 acting voting members, but are currently up to 305 members, and are making progress towards being number one in the nation. They currently have 12 board members, 14 officers, 3 full-time employees, and 5 part-time employees. During the previous fiscal year, the organization held 22 meetings. All 258 members volunteered at some point and donated 65,000 hours of program services. They have bingo, punchboard/pull-tab, and amusement game licenses. The 40 et 8 was established in 1933, with the primary purpose of upholding and defending the United States Constitution and promoting the well-being of veterans, their widows, and their orphans, and to actively participate in selected charitable endeavors. Some of their primary programs are nurses training, youth sports, Americanism, child welfare, and POW/MIA. In 2011, the organization awarded 23 scholarships for nurses training and 14 scholarships for the youth program. They donated to 30 youth sports groups, including Little League, soccer, football, junior rifle, basketball, and boys and girls scouting programs. They donated shoes, school supplies, and clothes to local schools for the child welfare program, and have also joined with other veterans groups for Christmas and food donations. The organization made contributions to the Salvation Army, food banks, YMCA, and the youth camp. For 2011, they donated \$193,106. The 40 et 8 has donated the use of their meeting facility, known as the Chateau, for meeting sites. They were the host of the 92nd Promenade

Nationale where the national leader of the 40 et 8 for the next year is elected and members from all over the United States attended. If they get about 20 more members, the Vancouver 40 et 8 will become the national 40 et 8, and that national president will be here in Vancouver.

Based on staff findings, the analysis of the financials, and all the supporting documentation, the 40 et 8 has made significant progress towards their stated purpose and is qualified as a bona-fide nonprofit organization. In accordance with WAC 230-07-020, staff recommends the 40 et 8 continue to be certified and be able to conduct gambling activities in the state of Washington. Special Agent Sauve identified the members from the 40 et 8 who were in attendance: the bingo manager, Tina Crawford; the incoming Chef de Gare, Sam Grooms, who is going to be the president; and the Commissaire Intendant, or treasurer, Paul Mason, who has been serving in some capacity for over 33 years and has never missed a meeting.

Chair Ellis thanked Special Agent Sauve for his presentation. He mentioned that he had never become familiar with the 40 et 8 and had not heard the name before, so he decided to look it up on Wikipedia to see what the origin was. It is a bit of an unfortunate origin in the sense that it relates to some rather small boxcars, highly uncomfortable boxcars, that were used to transport either 40 troops or 8 horses during the battles in France during World War I. That was an interesting bit of trivia. As Special Agent Sauve said, the 40 et 8 has a wonderful record in the United States as a veterans' organization, as evidenced by the findings and the recommendations of staff. Chair Ellis asked if the members or representatives of the 40 et 8 would like to come forward and say anything in support of the recommendations.

Mr. Paul Mason, Financial Officer of the 40 et 8, reported he was proud to be a member of the 40 et 8. Because of how its members out of World War I set this group up, it is just a great, great organization. Before the end of its next fiscal year, with the Commission's permission that it keep doing what it can do, it will be the largest voiture in the organization, which Mr. Mason was pretty proud of. He explained they have female veterans with the voiture. A few years ago they could not do that, but today they bring in female veterans. The requirements to becoming a member is that a veteran has to have an honorable discharge and has to have done something for the community, state, and nation. A veteran cannot join the 40 et 8, they have to be invited. That's why they have such a group of great guys and girls. Mr. Mason introduced the manager, Tina Crawford, and the incoming Chef de Gare, Sam Grooms. He explained the terms that they use are railroad terms.

Chair Ellis thanked them for coming.

Commissioner Gray made a motion seconded by **Commissioner Prentice** to continue to certify the 40 et 8, in accordance with the Washington Administrative Code 230-07-020, to conduct gambling activities in the state of Washington as a nonprofit organization. *Vote was taken; the motion passed with three aye votes.*

Mr. Mason thanked the Commission.

Request to Exceed Raffle Prize Limit: Washington Restaurant Association Education Foundation, Olympia

Deputy Director David Trujillo explained this request to exceed the \$40,000 raffle prize limit was a last minute addition to the agenda packet. The Washington Restaurant Association Education Foundation is asking for permission to raffle a 2008 Shelby Mustang 500 GT with an estimated value of about \$41,000. The Foundation has worked with staff on an operational plan that is in accordance with the WAC and they have submitted a raffle plan. Staff is satisfied that there are sufficient internal controls that exist to safeguard the prize and the proceeds from the raffle sales. The Washington Restaurant Association Education Foundation's mission is to promote and advance educational opportunities for persons having a sincere interest in a career in the food service or hospitality industry through making and granting scholarships, grants, endowments, and other educational support activities. Their request incorrectly states that the raffle will take place in Portland, but the drawing will actually take place in Auburn, Washington, on August 6, 2013.

Chair Ellis asked if Mr. Hildahl would like to speak about their foundation.

Lyle Hildahl, Director of Education for the Washington Restaurant Association Education Foundation, reported they are a 501(c)(3) nonprofit charitable organization and that they have their own separate Board of Directors. The Foundation operates under our own financials and bylaws, and is a component of the Washington Restaurant Association; the nonprofit element of that Association. About a month or two ago, a former Board member approached Mr. Hildahl and the CEO with an idea to help support the Foundation. This donor has always believed in the mission of the Foundation and the importance it has over the future of the restaurant industry. The donor asked if the Foundation could present a plan if he donated this 2008 Shelby Mustang to the Foundation. Mr. Hildahl said they came up with an idea to run a raffle. Because the Shelby Mustang has only 107 miles on it, the Foundation purchased a car trailer that they will use to tow the Mustang to a variety of different car shows between now and August 6, 2013. With the Commission's approval, the first show will be this Saturday in Grandview and the second show will be in Kent the following weekend. They will take the Mustang to the Coffee Fest at the Convention Center in Seattle in September, and then other shows will be added to the plan as they go forward. When the donor presented the vehicle, he said there was nothing more important than what the work of the Foundation does, and he wanted this to be a statement to the leadership of the industry that the Foundation is critical and needs that support. Like many nonprofits, the donations and sponsorships have been dropping off, so this was really a special gift at a special time for the Foundation.

Mr. Hildahl explained that the donor signed off on the title and then left on a fishing trip to Canada. When Mr. Hildahl presented the title at the Licensing Division to get it transferred, he found out the donor had actually signed on the wrong line and Licensing would not let him transfer the title. Mr. Hildahl called the donor, who said that needed to be taken care of. Because he knew how important it was, the donor flew back the next day to get the title transferred so the Foundation could start the process. At that time, the donor shared a story with Mr. Hildahl. He said he had talked to one of the cooks on the boat that he was fishing on and said, "You are really good at your craft; where did you get your experience?" The cook replied

that he had actually got his career started at a program called ProStart in a high school in Spokane. It just blew him away, and Mr. Hildahl too, because who would have known that the cook on this fishing boat was actually from a program that these funds are going to support; that this donor was actually going to kick start. Mr. Hildahl reported that they are an organization that really helps young people. There are many at-risk youth that are served in ProStart because it teaches culinary and restaurant management; it teaches hands-on rather than the traditional classroom environment where the teacher talks and the student listens. It is hands-on creative, and the students actually get motivated to graduate, to get a high school diploma, and to go on and be successful in the industry. The Foundation is really proud of serving the at-risk youth in that way. Mr. Hildahl said the Foundation appreciates the Commission's willingness to look at this plan because the Foundation is very excited about getting it started. He asked if there were any questions about the Foundation or about this particular project.

Commissioner Prentice asked what the Foundation's expectation was as far as the car first being shown in Grandview, which is a really poor community. She asked if Mr. Hildahl had ties there. **Mr. Hildahl** replied one of their board members, Brad Smith, teaches how to start a winery at Yakima Community College. He also has his own business in how to start wineries in the state of Washington. Mr. Smith is the former president of the Chamber of Commerce for Grandview. When the Foundation was talking about this plan, Mr. Smith mentioned they were having a car show in Grandview on August 11th along with a fair. He offered to promote this opportunity, and a high school in Grandview is one of their ProStart schools, which will be there to help support it in their chef whites. Because of that connection and because one of their board members was in Grandview, they decided to start there. Mr. Hildahl hopes to get the Commission's approval so he can meet the TV station in Yakima tomorrow so they can put out a press release.

Director Day asked for confirmation that the raffle drawing would be in Auburn. **Mr. Hildahl** affirmed, adding he believed that information had been corrected at the Commission office in Olympia. He received correspondence from Sarah Rumley who said it was changed. The Foundation did not realize they could not have the drawing in another state. They have a joint Northwest Hospitality Food Show with the Oregon Restaurant Association, and every other year it goes between Seattle and Portland. When the plan was first drafted, the Foundation thought having the drawing at the show would be a good place because if we had not sold all 3,000 tickets, they would have thousands of hospitality and tourism professionals there to buy the remaining tickets before the drawing. But it is in Portland next year, not in Seattle, which would be against the rules. That is why they adjusted the location to have the drawing at a fundraising event they hold every year in August for ProStart. **Deputy Director Trujillo** confirmed that staff had the updated record for the drawing location at the Lacey headquarters office. The correspondence has gone back and forth, but the corrected drawing location did not make it in time for the agenda packets. The Foundation has been working in tandem, not only with Licensing staff but also with Special Agent Rick Schulte. After staff reviewed the plan, they were satisfied that everything would work out as the Foundation proposed, and recommends the Commission authorize Washington Restaurant Association Education Foundation to exceed the \$40,000 raffle prize limit.

Chair Ellis asked if there were any other questions; there were none. He thanked Mr. Hildahl.

Commissioner Gray made a motion seconded by Commissioner Prentice to allow the Washington Restaurant Association Education Foundation to exceed the raffle prize limit of \$40,000. Vote was taken; the motion passed with three aye votes.

Approval of the 2013-2015 Biennium Budget (PowerPoint presentation)

Ms. Judy Pittelkau, Business Operations' Division Administrator, reported the purpose of this presentation was to get the Commission's approval for staff's proposed 2013-2015 biennium budget, which runs from July 1, 2013, through June 30, 2015. She provided a recap of the Fiscal Year (FY) 2012 data and briefly reviewed the FY13 expenditure plan the Commission approved in July. Fiscal Year 2012 revenue was \$12.4 million, which was 4.1 percent below the estimates. In FY12, punchboard/pull-tab license fees were still the largest single source of revenue; however, it continues to shrink as a percentage of the revenue. Tribal regulation continues to be the second largest source, and house-banked card rooms increased to 13.9 percent of the revenue. Fiscal Year 2012 expenditures were \$14.2 million, which was about 7.7 percent below the estimates. Salaries and benefits made up more than half of the gap between the estimated and actual expenditures, and vehicle purchases made up most of the rest of the gap. Only two of the ten vehicles that were authorized were purchased in FY12.

The allotted FTE level was 157 FTEs, which includes 140 FTEs in the gambling revolving fund and 2 FTEs in the federal seizure fund, but does not include FTEs that were not utilized due to military leave or for approved hires that have not been filled. The actual fill level at the end of June 2012 was about 142 FTEs; currently it is about 149 FTEs. Because the revenue stream cannot continue to support 157 FTEs in future years, attrition and the use of seizure funds are reducing the staffing levels over a longer term. As with most governmental agencies, and even private companies, combined salaries and benefits are the largest expenditures. Goods and services, which is anything from supplies to fuel and rent, is the next largest source. Next is equipment, which includes vehicles, computers, and other assets that are expected to have a useful life of more than one year. Travel is a very small piece of the budget. The ending working capital balance (WCB) for the gambling revolving fund was about \$2.6 million, which was about \$357,000 higher than estimated. This is the result of managing revenues and expenditures and the use of seizure funds. By the time the books are closed in early September, it is estimated the ending WCB for FY12 to be around \$2.5 million, which is expected to drop by the end of FY13.

The Commission approved budget for FY13 is \$14,970,829 and 153.5 FTEs. The WCB and the projected account balances have been updated to reflect the June activity; however, they are still subject to adjustment until the fiscal year is closed in September. The proposed 2013-2015 biennium budget, which was previewed at last month's meeting, is for FY14 and FY15. In March 2012, revenue projections were updated so cost allocation ensures that costs are recovered for those areas that are billed. No new fees, fee increases, or seizure funds are anticipated. The estimated gambling revolving fund revenue for the 2013-2015 biennium is \$26.1 million. This estimate does not include the revenue for the Cowlitz casino, which was included in last month's estimate, as they are not expected to open during the next biennium. There are several issues that have had an impact on the development of the 2013-2015 biennium budget. The 3 percent

salary reduction and the freeze on salaries are set to expire July 1, 2013. This will result in an increase of about \$1.5 million for existing staff salaries and benefits during the next biennium. Those increases will have to be covered out of the gambling revolving fund. Although there will be approximately \$1.2 million in federal seizure funds, that will not be enough to support all of the costs they have covered in recent years. Some of those costs will have to be covered out of the gambling revolving account. As FTE levels are reduced, the agency will want to retain as many of its well-qualified and trained staff as possible. No decision packages were introduced for the next biennium. Expenditures have been allocated between the funds in order to maximize their use and continue to provide consistent offsets to the billing rates.

The adjusted FY13 budget of \$1.5 million is used as the base from which adjustments are made for the FY14 and FY15 preliminary budgets. In addition to restoring the 3 percent salary reduction for all staff and removing the salary freeze for a cost of approximately \$1.5 million, the headquarters' office lease and all utility costs of about \$812,000 a year are transferred from the federal seizure account to the state seizure account. Vehicle replacements of about \$100,000 for FY15 are transferred from the federal seizure account to the state seizure account. Salary and benefit costs for 9 FTEs for about \$702,000 for FY14 are transferred from the gambling revolving account to the state seizure account. These transfers net to zero, so they do not impact the proposed budget. Adjustments have been made for vehicle and computer replacements of about \$339,000; phasing out 1 FTE that is currently funded with federal seizure funds of \$113,000 and .75 FTE; planned vacancy savings of \$1.3 million and 6.2 FTEs; adjusting rents and one-time costs of \$87,000 for a total reduction of \$322,000 and 7 FTEs. The proposed budget for the 2013-2015 biennium is \$29,619,872 and 146.5 FTEs. For FY14 and FY15, the gambling revolving fund WCB at the end of FY15 is estimated to be about \$2.1 million, which is slightly below OFM's recommended WCB. However, as expenditures and FTEs are actively managed, it is anticipated there may be additional savings, which would bring the WCB in line with OFM's recommendations. Federal seizure funds will be nearly exhausted at the end of FY15; however, there will be approximately \$500,000 in the state seizure fund to help offset the reimbursable rates and costs in the next biennium.

When the budget is built, staff use the best information that is available, taking into consideration internal and external factors. Revenues are cyclical while expenditures are relatively flat, so it is important to maintain a working capital balance to cover the periods of lower revenues. The agency's revenues come from license fees and other revenue sources. The working capital balance gives staff time to respond to changes and decreases and to make reductions in expenditures. Increases in pension rates and other benefits can have a significant impact on the working capital balance. As the costs go up, other state service agencies, such as the Department of Enterprise Services and the Attorney General, will pass their additional costs on for the services they provide. Future salary and benefit increases have a significant effect on the working capital balance. The Legislature makes the decision on increases for represented personnel, and they usually follow suit for the non-represented personnel. So an adequate working capital balance provides the ability to pay for these items without immediate fee increases. The Commission approves fee increases, but those increases now have to be ratified by the Legislature. This could cause future fee increases to be delayed or denied, resulting in revenues being lower than what is necessary to maintain an adequate working capital balance.

Federal guidelines and state statute require that the seizure funds be accounted for separately and be spent by the receiving agency for gambling-related enforcement activity. These funds cannot be used to supplant existing fund sources. By using seizure funds for ongoing agency needs such as computers, vehicles, communications, and facilities, less is needed to be spent out of the gambling revolving fund, which keeps reimbursement rates lower. For instance, the tribal regulation rate would be over \$130 without the seizure funds instead of the \$119.60 they currently are, since some of the operating costs are moved out of the gambling revolving fund.

The budget for the next biennium is approximately \$2.8 million and almost 9 FTEs less than the budget that was originally approved for the current biennium. The original budget for the current biennium that was approved two years ago does not include the 3 percent salary adjustment. About one-quarter of the agency's workforce has been reduced since FY02. The working capital balance declined significantly when the Legislature directed transfers from the gambling revolving fund to the state general fund in the amount of \$4.95 million between FY02 and FY04. Since then, staff have worked to keep the working capital balance down within ranges that would provide a sufficient working capital balance to meet the agency needs. The proposed budget for the 2013-2015 biennium brings revenues and expenditures into line and keeps the working capital balance close to the recommended minimum.

Representative Gary Alexander asked what the relationship was of the FTEs to the corresponding portions of who generates the receipts, and how those FTEs are being distributed between tribal and non-tribal net receipts. **Ms. Pittelkau** replied the Tribal Gaming Unit has about 20 or 21 FTEs out of it, and the rest are distributed throughout Field Operations, Licensing Operations, and Administration. **Representative Alexander** asked staff to provide him with a breakdown of that in the corresponding areas. **Director Day** affirmed that staff would be happy to provide a breakdown of that information to Representative Alexander. He clarified that in the Tribal and Technical Gambling Division there are approximately 28 staff, Licensing Operations does both tribal and non-tribal licensing, and then Field Operations (the law enforcement group) do both illegal and legal gambling and any undercover work required.

Chair Ellis recalled there has been intense scrutiny by at least some of the Tribes into the allocation of expenses to tribal enforcement versus non-tribal activities, so he assumed that, with all of the work that has been done to review it, the Commission has a high degree of confidence that the allocation is appropriate. **Director Day** affirmed that was correct, adding that the agency agreed to an audit on our method of allocation that was funded by the Washington Indian Gaming Association, which came back positive; our allocation method was correct. He indicated that the agency's use of the federal and state forfeiture funds has also been very significant, not only regarding rates but to allow the agency in this recession time to be able to not seek any kind of fee increase. Staff are anticipating that to stay the same through the next biennium. **Deputy Director Trujillo** reminded the Commissioners that it includes licensed and unlicensed activities as well.

Chair Ellis called for public comment; there was none.

Commissioner Gray made a motion seconded by Commissioner Prentice to approve the 2013-2015 biennium budget of \$29,619,872 and 146.5 FTEs. Vote was taken; the motion passed with three aye votes.

Ms. Pittelkau added, as a side note, that the budget that will be transmitted to the Office of Financial Management and the Governor will be \$29,605,000 because agencies are required to round to the nearest thousandths by year for each fund and exclude such items as the industrial insurance premium refund account.

Director Day noted that when staff talk about federal and state forfeiture and illegal enforcement activities relative to illegal gambling, one thing that can escape that issue is the effort to stop or deter illegal gambling has resulted in the agency's ability to use federal and state forfeiture. So the total overall amount that is initially gained is about \$14 million that has been added to the budget. Staff is also involved with federal efforts that have resulted in indictments for the former three largest internet poker sites, and Director Day was hopeful that those efforts would also provide the ability to share in other forfeitures in the future.

Chair Ellis indicated this was the funds that staff recover, and the forfeitures benefit the legal gambling operations throughout the state, as shown in the materials that Ms. Pittelkau presented. Not to mention the benefit to legal gambling operations of eliminating illegal competitors.

Tribal Community Impact/Charitable Payments (PowerPoint presentation)

Director Day asked Assistant Director Lies to clarify the estimates given on the total staff complement that is in the Tribal and Technical Gambling Division. **Assistant Director Julie Lies**, Tribal and Technical Gambling Division, replied the Tribal Gaming Unit has 19 staff, including the manager, an assistant that assists both the Tribal Gaming Manager and herself, and 7 members of the Electronic Gambling Lab. The Electronic Gambling Lab also handles licensed equipment that is operated in the house-banked card rooms. **Director Day** asked if that total included the administrative assistant. **Assistant Director Lies** replied he was right – it would be 28.

Assistant Director Lies provided a brief introduction and some background information on the contributions made by the Tribes under Compact for community impact, charitable, smoking cessation and prevention, problem gambling, education awareness, and treatment. The agency's role in these contributions is to participate on community impact committees, which AD Lies and the Tribal Gaming Unit manager participate in. Most of the Tribes have committees. There are a few Tribes that are required to make certain payments, so a committee is not required. There are some that have extended MOUs that will last for about five years. The Tribal Gaming Unit staff verify the accruals and the payments. The community impact and charitable contributions are the contributions that were made in 2010 because there is a slight timing difference on those contributions. The Tribes accrue the funds in 2010, they have 2011 to make the payments, and then staff verify the payments in 2012. During this time period 22 tribes were operating 28 casinos. The calculations are based on net receipts, which is the amount wagered less prizes paid. It is on class III revenue only, which would include table games, keno, class III poker, and the tribal lottery system (TLS) machines. Community impact contributions are up to

2 percent of table game net receipts and is paid to governmental agencies impacted by the casino. Language in each Compact can be different; sometimes it is actual impact, sometimes it is provable impact, and sometimes it is future impact. It is based on that Tribe's specific Compact language. The primary recipients of the funds for the community impact contributions would be general governmental agencies like the city and county; fire and emergency organizations like fire departments, county fire districts, and regional fire authorities. Also included in that category are ambulance services and Medic One. There are local law enforcement, police department, sheriff's office, and State Patrol. There are also other governmental organizations that receive funds like hospitals, Chambers of Commerce, and economic development offices. All but two of the Tribes are in compliance, and staff is working with those two Tribes that were not in compliance by trying to verify the payments that were made by one of the Tribes and by working with the other Tribe and some jurisdictions over some disputes that are happening. There was an increase of about \$350,000 last year.

The charitable distribution is one-half of 1 percent of the Tribal Lottery System (TLS) net receipts paid to nonprofit or charitable organizations in Washington State. The net win is calculated using the amount wagered less prizes paid. The Tribes can also deduct certain costs for developing licensing or otherwise obtaining the TLS. For the first two years of a new casino, the Tribes only have to pay a portion of that one-half of 1 percent. There are currently two Tribes in this category that are fully paying this year. The types of organizations that receive funds are social and community services like the March of Dimes, Muscular Dystrophy Association, Red Cross, and food banks; education programs like schools, academies, PTAs, colleges, and scholarship programs; youth programs like Boys and Girls Clubs, Girl Scouts, Boy Scouts, YMCA, and YMCA camps for youth; church organizations for various churches, academies, and ministries; sports like Little League and basketball camps; some Tribal organizations like museums and cultural programs. The Compacts restrict a Tribe from making contributions to their own Tribe, but they can contribute to another Tribe's cultural program. There is almost a \$2.5 million increase between 2009 and 2010, which is primarily due to two casinos now making full payments rather than partial payments. All but one Tribe are in compliance, and staff are working with that Tribe to verify payments. The Tribe has said they have made payments; staff are trying to verify those payments.

The smoking cessation and problem gambling contribution is for FY11, which is because of the way this contribution was written into Appendix X2. Tribes have to pay it within 15 days of the end of their fiscal year. The amounts are based on net receipts, which is the amount wagered less prizes paid. They also have deductions for the costs of operating and obtaining licensing. Smoking cessation is 0.13 percent of just the TLS, which is paid to government, charitable, or nonprofit agencies in Washington State. This particular payment is not required under Compact if a casino is operated completely smoke free or does not serve alcohol. They actually have to have the entire facility smoke free to be exempted from this payment requirement. This is a benefit if a Tribe operates more than one facility. Tribes are not able to deduct that payment if they only offer portions of their building as smoke free.

Chair Ellis asked how many of the tribal casinos do not serve alcohol. **Assistant Director Lies** replied there was only one.

Commissioner Gray asked how many were smoke free. **Assistant Director Lies** replied there was just one casino that was smoke free. Many of the casinos actually have non-smoking rooms, but under this requirement in the Compact, they cannot do any type of allocation of their requirement.

Assistant Director Lies reported there were three tribes that staff were not able to confirm their compliance. What was found was that the money had been transferred to the tribal council, and staff are waiting for the tribal council to take action on the payment of that information. They have accrued the money, but just have not distributed it yet. The primary recipient of these funds is tribal programs and the second is charitable – there were no state contributions.

The problem gambling contribution is 0.13 percent of class III net receipts not only on the TLS, but also on table games, keno, and class III poker, and is paid to governmental, charitable, or nonprofit organizations in Washington State. There was an increase of almost \$1.1 million. Last year, a lot more tribes were confused about this payment and were not really in compliance. Staff did not update this number for 2010 after it was finally confirmed, which may explain the big difference between the numbers for the two years. The same three tribes have accrued the funds, passed them to the tribal council, and are waiting for the tribal council to make a decision on who to make the payments to, and staff has not been able to confirm that yet. The primary recipient of these funds is tribal programs, but there were some state distributions. The Evergreen Council on Problem Gambling received the majority of the charitable contributions under this section.

Representative Alexander asked if the requirements for charitable distributions were part of the Compact agreements. **Assistant Director Lies** affirmed. **Representative Alexander** asked if for the two tribal communities that did not make full payments until 2010 they were going to recover full payments for the previous years. **Assistant Director Lies** responded that the way the Compact was written is the first year that Tribes operate a casino, they only have to pay half of that one-half of 1 percent. In the second year, they would pay three-quarters of the one-half of 1 percent. In the third year and outgoing years, they would pay the full one-half of 1 percent. Those two particular tribes were in their third year of operation, so from here forward they will pay the full amount.

Chair Ellis thanked Assistant Director Lies.

Approval of Minutes – July 12, 2012 Regular Commission Meeting

Chair Ellis That brings us to item 6 on the agenda, the approval of the minutes for the July 12th Commission meeting. Are there any comments or changes that need to be made to the minutes? Hearing none, is there a motion to approve the minutes?

Commissioner Gray made a motion seconded by **Commissioner Prentice** to approve the minutes from the July 12, 2012, Commission meeting as submitted. *Vote taken; the motion passed with three aye votes.*

New Licenses and Class III Certifications

Deputy Director Trujillo drew attention to a late addition to the approval list of the Washington Restaurant Association Education Foundation – the last raffle entry on page two of the list. He pointed out a pre-licensing manufacturer report for Great American Gaming, which was included just as an informational report. The house-banked card room report is still listed at 60 licensed and operating house-banked card room locations. There are no pending applications on the list but it is rumored that an application was dropped at the Lacey office yesterday for a new house-banked card room. Staff recommends approval of all new licenses and Class III certifications listed on pages 1 through 20.

Chair Ellis noted that on the list of house-banked card rooms there were three listed as being in Seattle; one of those is the Lucky Dragon's card room that is no longer operating in Skyway. He knew that Skyway was not actually part of Seattle, and he assumed the same was true for the other two card rooms that are listed as being operated in Seattle, since Seattle has a ban on card rooms. **Commissioner Prentice** responded they are in unincorporated King County, but have Seattle addresses though.

Chair Ellis asked if there were any questions; there were none. He asked if there was a motion.

Commissioner Gray made a motion seconded by Commissioner Prentice to approve the new licenses and Class III certifications listed on pages 1 through 20 with the addition of the Washington Restaurant Association Education Foundation raffle license. Vote taken; the motion passed with three aye votes.

Defaults:

a) Admiral Pub, Seattle, Organization, Revocation

Ms. Amy Hunter reported that the Admiral Pub has a Class F pull-tab license. Staff is requesting this default based on two different cases. The first one dealt with the Admiral Pub not submitting their activity report, which this organization has a history of not submitting. Several years ago the activity report form was streamlined tremendously and is actually a pretty simple report to fill out and send. The other reason is based on the Admiral Pub hosting unlicensed weekly cash poker games. Because of the ban on card rooms in Seattle, they would not qualify to get a license. If they were not located in Seattle, the license they would need costs about \$59 or \$63. The Director issued administrative charges based on these violations. They were sent by certified mail and regular mail. The certified mail card was signed by Jose Ortiz. The charges did notify the licensee that if they did not respond, a revocation would be requested. They did not respond. An agent went out to the licensed location to make sure they knew that staff would be requesting the license be revoked and to offer assistance if it is something that can be remedied, like an activity report. When the agent went out, the owner was not there, but the agent passed the message on to the bartender. Staff have spoken with the owner on the phone. Staff would recommend that the Admiral Pub's license be revoked. It was noted that both of the case numbers should have been included on the caption, so Ms. Hunter said she would handwrite that number on the order that the Commission will sign.

Chair Ellis asked if there were any questions; there were none. He asked if there was anyone present representing the Admiral Pub; no one stepped forward.

Commissioner Gray made a motion seconded by **Commissioner Prentice** that the Gambling Commission revoke the Admiral Pub's license to operate gambling activities. *Vote was taken; the motion passed with three aye votes.*

b) Sannarith J. Sean, Card Room Employee, Revocation

Ms. Hunter reported that Sannarith Sean worked at the Lucky Dragon's Casino in Auburn. Staff are requesting his card room employee license be revoked based on his taking \$400 from his employer by creating a fictitious paid out slip. When he was interviewed, Mr. Sean admitted to taking the money and creating the fictitious paid out slip. The charges were sent by certified mail and regular mail. The certified mail was returned unclaimed, but the regular mail was not returned, so it was assumed that Mr. Sean received it. He did not respond to the charges. Staff were unable to reach Mr. Sean when they tried to make a follow-up phone call to let him know about this proceeding. Staff are requesting the Commission revoke Mr. Sannarith Sean's card room employee license.

Commissioner Gray asked if it was correct that Mr. Sean had promised to pay back the \$400 but did not. **Ms. Hunter** affirmed.

Chair Ellis asked if there were any questions; there were none. He asked if Sannarith Sean or anyone representing him was present; no one stepped forward.

Commissioner Gray made a motion seconded by **Commissioner Prentice** that the Commission revoke Sannarith Sean's card room employee license. *Vote was taken; the motion passed with three aye votes.*

Nomination and Election of Vice Chair

Chair Ellis explained that the completion of Commissioner Rojecki's term has left the Commission with no vice chair for the remainder of this year, which will end June 30, 2013. He asked if there was a nomination for the position of vice chair, which would start today.

Commissioner Gray made a motion seconded by **Commissioner Prentice** to nominate Commissioner Mike Amos for the position of vice chair.

Chair Ellis commented that he assumed Commissioner Gray's nomination was not based solely on the fact that Commissioner Amos was not present. **Commissioner Gray** affirmed, adding she thought Commissioner Amos would be willing to take this on; although, he is not present and cannot answer. **Chair Ellis** pointed out that Commissioner Amos has very ably served as vice chair in the past and he was sure Commissioner Amos would be delighted to serve as vice chair for this time period. *The vote was taken; the motion passed with three aye votes.*

10. Other Business/General Discussion/Comments From the Public

Chair Ellis opened the meeting for public comments.

Ms. Dolores Chiechi, Executive Director of the Recreational Gaming Association, explained she was standing before the Commission today to relay some sentiment from the industry. In their experience, historically, Gambling Commissioners that have been appointed have been new to gambling issues. With Senator Prentice's – Commissioner Prentice – not quite sure what to call her anymore – with her appointment, she brings a wealth of knowledge, experience, and expertise over several decades involved in the industry. While this can be seen as a great advantage to her position on the Commission, Ms. Chiechi has had members and other individuals express to her that it could be a hindrance to an objective way of looking at issues in matters that come before the Commission. In the early days of the house-banked card room industry, Senator Prentice was one of the RGA's greatest allies. She helped them protect themselves against the media attacks, against the idea that their industry was full of crime and prostitution, and she stood up and said that was not the case. Shortly after, about five years later, that pendulum swung the other direction. There were several bills introduced by Senator Prentice that would have put the industry out of business; a 10 percent tax and a cap or a freeze on the number of licensees. Ms. Chiechi said she was actually coming here with all due respect to Senator Prentice, Commissioner Prentice, but she would be remiss in not relaying those concerns that were expressed by her membership. She could hear Vito in the back of her head saying she needed to go say those things. It might not be well received, but it certainly is something that should be said. With that said, the RGA trusts over the years of her term that Senator Prentice will come to the Commission with a perspective that is open and respectful of all ideas and viewpoints, and Ms. Chiechi said the RGA hopes to be able to work with her to change that perception that some may feel is there. Ms. Chiechi also wanted to congratulate Dave Trujillo for his 20 years on the Commission.

Chair Ellis asked if there were any other members of the public that would like to address the Commission.

Ms. Maureen Greeley, Executive Director of the Evergreen Council on Problem Gambling, said she wanted to share some good news with the Commission. It has been a number of years that her organization has been working with government agencies, private entities, and tribal nations and she was very proud to announce that this month they will be launching the first therapeutic justice program for problem gambling in the state of Washington. It is in conjunction with the Pierce County Superior Court Drug Court, and in partnership with grant funding from the Department of Justice, the Lakewood City Police, the Puyallup Indian Tribe, and some other sources that they are looking into. They have secured enough funding to ensure a pilot program for two to three years, which was her goal. The Council has already reached out to other counties; Thurston and Kitsap Counties will both be attending a training session at the end of August. Ms. Greeley welcomed anyone who might like to join in that training, particularly for the introduction on the first day, which is August 30. The Court has actually shut down for those two days so that judges, attorneys, and administrative staff can join the training. Ms. Greeley would be happy to see the Commission there and give them more information about that.

Chair Ellis asked if there any other members of the audience that would like to address the Commission; there were none.

Executive Session to Discuss Pending Investigations, Tribal Negotiations and Litigation

Chair Ellis called for a 15 minute break. At 3:15 p.m. the Commission went into an Executive Session 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 until tomorrow's meeting that begins 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, AUGUST 10, 2012
APPROVED MINUTES**

Chair John Ellis called the Gambling Commission meeting to order at 9:30 a.m. at the Vancouver Heathman Lodge and introduced the members present.

MEMBERS PRESENT: **Chair John Ellis**, Seattle
 Commissioner Kelsey Gray, Spokane
 Commissioner Margarita Prentice, Renton
 Representative Gary Alexander, Olympia (arrived late at

STAFF: **Rick Day**, Director
 David Trujillo, Deputy Director
 Mark Harris, Assistant Director – Field Operations
 Amy Hunter, Administrator – Communications & Legal
 Callie Castillo, Assistant Attorney General
 Gail Grate, Executive Assistant

RULES UP FOR DISCUSSION AND POSSIBLE FILING

Petition from the Public Recreational Gaming Association – Permanently Increasing Texas Hold'em Wager Limits from \$40 to \$100

- a) Amendatory Section **WAC 230-15-135** Wagering limits for nonhouse-banked card games
- b) Repealed Section **WAC 230-15-189** Pilot program on wagering limits for Texas Hold'em poker

Assistant Director Mark Harris reported the petitioner, Dolores Chiechi representing the RGA was requesting that Texas Hold'em wager limits be increased from \$40 to \$100, and to repeal WAC 230-15-189 since the pilot program is due to expire at the end of December. This proposal comes after an 18-month pilot program that increased the wager limits from \$40 to \$100 for Texas Hold'em poker, which ran from October 2010 to May 2012. The higher limits are in place until the end of December or until the Commission takes action. The pilot program was used to test the regulatory and economic impacts of higher wager limits and to help determine whether there was a demand for higher wager limits for the game of Texas Hold'em. Staff presented a final report at the May 2012 Commission meeting and noted in the report they would recommend that, if the Commission was to receive a petition to make the increased wager limits permanent for Texas Hold'em, they would recommend the petition be filed for further discussion. The full report is included in the agenda packet. Some of the key points included:

- There were no reported cases of cheating while the card games were operating at the higher limits.
- Staff did not experience any regulatory concerns resulting from the pilot program.

- There was not an increase in the number of players requesting to be self-barred while the card games were offering the higher wager limits.
- There appeared to be some demand for the increased wager limits throughout the state and a higher demand in specific areas.
- The commercial stimulant impact on the card rooms in the program was similar to the impacts when mini-baccarat was authorized.
- Two of the card rooms showed an increase in food and beverage sales while offering the higher limits.
- Although there was not a large percentage of the card rooms operating the higher limit card games, there was some positive impact on the businesses that did. Some of them had an increase in new players, an increase in customers signing up for player tracking cards, and an increased interest in the game of poker and the card rooms themselves.
- Increase in the wager limit is consistent with the Commission's statutory authority as described in RCW 9.46.070.

After the final report was presented, one other card room asked to participate in the program; the Black Pearl out of Spokane.

There are no regulatory concerns and the resource impact would be minimal. Actually the resource impact would be a little bit less by not operating the pilot program because all the information does not have to be tracked. Staff recommends filing the petition for further discussion.

Chair Ellis asked if there were any questions; there were none. He added that he thought it was useful to note, for the record, that the working group whose work resulted in the pilot program, included representatives of the Gambling Commission, the RGA, Tribes, and Problem Gambling, among others. There was a broad cross section of viewpoints that went in to the proposal, which ultimately lead to the rule allowing the pilot program. Chair Ellis asked if Ms. Chiechi, as the petitioner, would like to address the petition.

Ms. Chiechi, petitioner on behalf of the Recreational Gaming Association, wanted to express their wishes for positive action. George Teeny is going to provide a few more details. Ms. Chiechi said she appreciated Commissioner Ellis' comments about the process they went through on this matter. It was not like they willy-nilly just decided to do this; it has been in study and the impacts were really looked at. Anything that would help the card room industry would be appreciated.

Mr. George Teeny, owner of the Last Frontier and New Phoenix card rooms in LaCenter, stated that he had dropped off three packets of information at the Spokane meeting to the Commissioners who were there Commissioners Rojecki, Amos, and Gray. He brought that same package with him this time, in case Commissioners Ellis or Prentice would like to look at it as well in case it had not been passed on to them. The Commission has said there was not a need for the card rooms to continue sending in information as of May of this year. Mr. Teeny said his establishment was going to continue doing it until December or until this rule petition is

accepted. That will show the Commission the trend line and if anything has changed from the previous 18 months. If the Commission is interested, the staff does have that information. Mr. Teeny said he was here in case the Commission has any questions they want to ask on this issue. He said if the Commission would like to get that executive summary, he would pass it on to Ms. Grate and she could certainly forward them on to the Commission.

Chair Ellis asked if both of his casinos were in the pilot program. **Mr. Teeny** responded that both of them were in the pilot program, but only one of them has the poker. **Chair Ellis** said that was what he was thinking. Being so close to the Portland market, Mr. Teeny was obviously getting some draw across the border for poker. Chair Ellis asked if Mr. Teeny had any kind of a breakdown or estimate of the extent to which his poker business was coming from Oregon. Chair Ellis knew Mr. Teeny had a frequent player program, and he wondered if that gave Mr. Teeny some sort of a breakdown that he found useful between Washington players and Oregon players. **Mr. Teeny** explained his player-tracking programs can break things down to the minute; 71.8 percent come from Oregon. There is a variety of illegal games that are taking place in Oregon. If the City of Portland or the County of Multnomah were to shut them down, as they should because they are in public facilities, Mr. Teeny was sure that 71.8 percent number would increase to something greater.

Chair Ellis asked if there were any other members of the audience that would like to address this petition; there was none.

Commissioner Gray made a motion seconded by **Commissioner Prentice** that the Commission accept this petition for filing for further discussion. *Vote was taken; the motion passed with three aye votes.*

Director Day noted, just for reference, that staff would continue to present this petition for the next three months, just to make sure there is sufficient opportunity for discussion. **Chair Ellis** thought that made sense under the circumstances, even though there has not been much controversy to this point.

Other Business/General Discussion/Comments from the Public

Chair Ellis opened the meeting for other business, general discussion, or comments from the public. No one stepped forward.

Motion for Status and Scheduling Conference (ZDI Gaming, Inc.)

Assistant Attorney General Callie Castillo stated it appeared Ms. Happold was not here yet. **Chair Ellis** asked if she had any information about whether Ms. Happold is enroute. **AAG Castillo** replied she did not. **Ms. Hunter** noted the hearing was actually noted for 10:30 a.m. in the notice that went out. She assumed Ms. Happold was on her way; although she had not heard from her. **Chair Ellis** indicated that since the motion was noted for 10:30, the Commission would wait until 10:30, or earlier if Ms. Happold arrives before then. He called for a recess at 9:40 a.m. and reconvened the meeting at 10:10 a.m. when Ms. Happold arrived.

Assistant Attorney General Stephanie Happold was present for the State, as well as **Petitioner Jay Gerow** being represented by **Attorney Joan Mell**. A recording and transcript of the hearing is available upon request.

Ms. Mell asked for a preliminary motion that Senator Prentice voluntarily recuse herself because she has a conflict of interest and violates separation of powers by acting in both a Senatorial capacity, as well as a Gubernatorial appointee to the Gambling Commission.

Chair Ellis asked if Ms. Mell realized the implication of her motion. If the Commission granted Ms. Mell's preliminary motion to recuse Senator Prentice, there would not be a quorum and the Motion would have to be set over for a decision at a future meeting. **AAG Happold** agreed that if there was no quorum, the Motion would have to be reset. In that case, she would like to have the whole argument reset to a different Commission date.

Chair Ellis called for an executive session at 10:15 a.m. to consult with AAG Castillo concerning the appropriate response to this motion. He reconvened the meeting at 10:20 a.m.

Commissioner Prentice stated she would not recuse herself.

Ms. Mell wanted to make a clarification for the record. She understood Senator Prentice to indicate that she would not recuse herself. Ms. Mell wanted to make it clear that that was a ruling on her motion; that it was consistent with the ruling on the motion. **AAG Castillo** asked if Ms. Mell was seeking something else from her motion. She had asked for Senator Prentice to voluntarily recuse herself and that decision was made. **Ms. Mell** asked to amend her motion to make it very clear that she was asking the body to make a determination as to whether or not there is a conflict of interest, or a separation of powers issue, by having Senator Prentice hear this matter and vote on this matter.

Chair Ellis asked if there was a motion concerning whether Senator Prentice should recuse herself.

Commissioner Gray made a motion seconded by **Commissioner Prentice** that Senator Prentice not recuse herself. *Vote was taken; the motion passed with three aye votes.*

AAG Happold and Ms. Mell provided their arguments in the Motion for Status and Scheduling Conference. *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 10:50 a.m. to deliberate the matter; he recalled the public meeting at 11:20 a.m.

Commissioner Gray made a motion seconded by **Commissioner Prentice** that the Commission grant the Commission staff's Motion for a Briefing Schedule to decide whether the ZDI machine is a gambling device pursuant to RCW 9.46.0241. *Vote was taken; the motion passed with three aye votes.*

Chair Ellis explained there would be an Order reflecting the Commission's decision forthcoming. He noted that the next meeting was scheduled for September 13 and 14 at the Grand Mound Great Wolf Lodge. He encouraged everyone to check the Commission's website to determine whether the meeting continues to be scheduled for two days or cut back to a single day.

Adjourn

Chair Ellis adjourned the meeting at 11:25 a.m.

Minutes prepared by:

Gail Grate, Executive Assistant