

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

Chair John Ellis called the Gambling Commission meeting to order at 1:35 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

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 agendas, pointing out some last minute inserts to the agenda packets, which included a series of new news articles, Senate Bill 6554, a copy of Director Day’s testimony supplied in relation to House Bill 2670, replacement pages for the Splits Default Hearing, the draft January Commission meeting minutes, and an e-mail string pertaining to the 50/50 petition. He indicated there were no federal legislation changes to report and pointed out a couple newspaper articles. He reported there were no staff suggested changes to the agendas.

Director Day reported that the Governor had appointed a new Commissioner, Kelsey Gray, whose letter of appointment is included in the agenda packets. He explained that Commissioner Gray planned to attend Friday’s meeting. Director Day asked for the Chair’s permission to save the introductory information on Commissioner Gray until she was present. **Chair Ellis** replied that made sense; it would give Commissioner Gray an opportunity to hear what Director Day says about her and to provide any rebuttal she may choose.

Legislative Update

Agency Request Legislation Bills

> *SB 6046/HB 2219 – Gambling Commission powers and duties*

Agency Consolidation Bill

> *HB 2686 – Consolidating Gambling, Horse Racing, Lottery Commissions and Liquor Control Board*

> *SB 6554 – Consolidating Liquor Control Board and Gambling Commission*

New Bills Since January Commission Meeting

- > *HB 2670 – Limited periodic incremental salary increases for special agents*
- > *SB 6465 – Concerning “members-only” raffles exceeding \$5,000*
- > *HB 2572 – Requiring training of public officials and employees regarding public records and open public meetings*
- > *SB 5333 – Requiring public agencies to post certain information on websites*
- > *SB 6354 – Requiring state agencies to offer electronic filing for business forms*

Other Bills

- > *HB 2232/SB 6175 – Establishing government-to-government relationships*
- > *HB 2172/SB 6142 – Changing agency regulatory practices*

Ms. Amy Hunter reported on the information she provided in her legislative update memorandum. The bills had to make it out of their original policy committee by last Friday and bills with fiscal impacts have to make it out of the Ways and Means Committee by the end of Tuesday. There are always exceptions, particularly for bills that are necessary to implement the budget.

Chair Ellis asked what the cutoff date was for bills to get out of the house of origin. **Ms. Hunter** replied February 14.

Ms. Hunter reported staff was not recommending any pro or con positions on any of the bills before the Commission today. The agency request legislation bill allowing the Commission to issue licenses for up to 18 months is moving right along. The Senate bill is in Senate Rules and has gotten one pull out of Rules but still needs a second pull. The House bill has already passed the House with a vote of 95 to 0, so it is ahead of schedule.

House Bill 2686 is the agency consolidation bill, which would include the Gambling Commission, Horse Racing Commission, Lottery Commission, and the Liquor Control Board. This bill was introduced by Representative Gary Alexander and would combine the agencies and rename them the “Gambling and Liquor Control Commission.” It has an effective date of October 1, 2012, which takes care of some problems that have happened in past consolidation bills that included the Horse Racing Commission because it would be effective after the horse racing season was over. New commissioners would be appointed and would serve at the pleasure of the Governor, meaning they could be removed much more easily than they can currently be removed. The current process is much more complicated and involves a special process with the Supreme Court that was put in for the reason of keeping the Commission more insulated from politics. In this bill, all actions by the Commission would require three or more votes. Currently, only votes related to the regulation of licensing require three or more votes. Commissioners would meet monthly instead of the current ten meetings a year. The Governor would recommend, and the Commission would employ, the Director of the agency. The enforcement positions would continue to be exempt and the compacting process does not change. The current Commissions, including the Gambling Commission, would be abolished and replaced by the Gaming and Liquor Control Commission. About two-thirds of the 21-page bill addresses contracting the State Lottery functions to a private entity.

Senate Bill 6554 is a smaller, less detailed version of House Bill 2686. It only consolidates the Liquor Control Board into the Gambling Commission. The bill combines the two agencies by abolishing the Liquor Control Board and renaming the agency the “Gambling and Liquor Commission.” The process for appointing Commissioners and appointing the Director would remain unchanged. One significant thing about this bill is that it does not have an effective date. By default, that means the effective date would be 90 days after adjournment, which would be about June 7. Under Initiative 1183, all liquor stores are to close by May 31. That would mean that all those liquor stores would be closing, which is obviously a significant change for the Liquor Control Board, and then about a week later this consolidation would occur. A fiscal note was requested and staff have been working with the Liquor Control Board on it because their numbers and how they see staffing are very important as to what our fiscal note would look like.

So far neither of the bills has been scheduled for a hearing, so the Commission would not need to take a position on them at this time.

Chair Ellis agreed that would be appropriate; that it would require some analysis and work to determine what the effect of each bill would be in detail on our regulatory activities, as well as those of the other Commissions and would require some staff time. He thought it would be appropriate to not undertake that work, given the fact that both bills appear to have no prospect for going forward this session. He asked if the other Commissioners had any comment. **Commissioner Amos** replied he had no comment. **Commissioner Rojecki** replied he would reserve his comment but mentioned two of the Commissioners had a strong relationship with the Lottery Director, but that was not germane to this meeting. He did not think the Commission needed to take a position on the bills or staff needed to do any underlying analysis.

House Bill 2670 deals with limited periodic increments and endorsement pay for about 27 of 71 agents. Representative Hudgins introduced this bill, which includes the same language from proposed agency request legislation that the Governor’s Office ultimately denied. However, prior to receiving that denial, staff were briefing members of the Ways and Means Committee about the possible request legislation. Representative Hudgins was particularly interested in the concept and asked staff to keep him informed. He then decided to introduce a bill on the topic. A fiscal note was requested on the bill. These increases had already been part of the Commission’s compensation plan and budgeted for them. The cost of providing the increases is about \$162,000 a year. When an agent leaves the Commission, it costs about \$50,000 to hire and re-train a new agent. Five agents have left in the last year, for a cost of about \$250,000 for hiring and training. The bill had a hearing last week, which the Director attended and testified on. No other action has been scheduled on the bill. It would have needed to get out of the subcommittee last Tuesday, which it did not. Ms. Hunter felt it would be appropriate to send a letter to Representative Hudgins thanking him for his interest in the issue. If that was acceptable to the Commissioners, staff would prepare a letter for Chair Ellis’s review and signature.

Chair Ellis replied it sounded like a good approach. He asked if there were any comments from the other Commissioners. **Commissioner Amos** agreed that would fine.

Commissioner Rojecki asked if, since there was a budget implication, it could technically be alive until three days before the end of session. **Ms. Hunter** affirmed. **Commissioner Rojecki** asked if this was something the Commission wanted to support. He said he was certainly supportive of it, and asked if Ms. Hunter needed something that says the Commission is supportive of the bill if it was brought back up during budget negotiations. He wondered if that would hamstring staff's ability to act on the bill in the event it did get brought up again. He admitted he was not familiar with the technical legislative in-house process. **Director Day** said that all of the Commissioners are supportive of trying to get something done relative to the agents and they appreciated Representative Hudgins taking enough of an interest about the issue to have a discussion. He said Commissioner Rojecki was correct that, if a request comes in at the end of the session, it would be helpful if staff had some indication from the Commission whether they could respond favorably, especially since the legislation was not approved by the Governor's Office.

Commissioner Rojecki recalled the Commission took a position on this when it was sent it to the Governor's Office. **Director Day** affirmed the Commission directed staff to prepare the legislation and forward it to the Governor's Office. **Commissioner Rojecki** asked if the bill was the same. **Ms. Hunter** affirmed it was the same language. **Director Day** added it was Representative Hudgins' discretion when he decided to do it that way. Of course there are other ways that it could appear in the budget in the future.

Commissioner Rojecki had thought it might need to be a motion, but since it is the same language, the Commission was still supportive of it. **Chair Ellis** agreed, adding his inclination would be to not make a motion given the bit of tension in proceeding with a matter that the Governor's Office declined. **Director Day** said that was helpful and staff knew the support was there if this does come up again.

Senate Bill 6465 deals with "members-only" raffles that exceed \$5,000. The whole concept of "members-only" raffles was introduced last year by Senator Holmquist-Newbry. This year's bill has a different approach. "Members-only" raffles can be held by charities and nonprofit organizations and liquor can be given as a prize without getting a license from the Commission if the raffle is under \$5,000. This bill would allow those raffles to continue if they are over \$5,000, but the organization would have to get a license from the Commission. Staff worked with Senator Holmquist-Newbry during the interim and received assistance from AAG Ackerman to provide language. Staff thinks this bill is a preferable approach because it would still require those raffles be licensed if they get above a certain amount. Staff routinely get questions and complaints from the public about raffles. The bill is out of committee, out of rules, and is ready for a vote by the Senate. Staff recommends the Commission be neutral on the bill.

Chair Ellis asked if either of the other Commissioners had an opinion as to whether they should remain neutral. **Commissioner Rojecki** replied that was fine. **Commissioner Amos** agreed with Ms. Hunter. **Chair Ellis** asked what was driving this bill. **Ms. Hunter** replied there were some Eagles organizations in the Moses Lake area, which is Senator Holmquist-Newbry's district that wanted to be able to raise money for a hospital. They have actually been very successful and are trying to do this on a national level. The organization felt that if they were able to continue to do these types of raffles, but at a higher amount, they would be able to continue to raise money for that good cause. The

organization spent the time to drive from Moses Lake to attend the hearing, which can amount to two minutes of testimony, but because it was so important to them they came to Olympia.

House Bill 2572 would require the Attorney General's office to develop some online training that would cover the legal requirements of the Open Public Meetings Act, as well as the Public Records Act. Commissioners and staff would have been required to take the training. The bill was introduced on January 17 and has not moved since, so it appears to be dead.

Senate Bill 5333 requires agencies to post certain information on their websites. It passed the last session of the Senate by 48 to 1, but died in the House committee. This bill would require staff to post information, which is currently being posted, like the agenda for meetings, text of rules the Commission is considering, and the minutes once they have been finalized. The only thing staff is not currently doing is leaving all of that information on the website for one year. Currently there is discretion as to what is posted on the website and when it is taken off. The bill is in the Rules Committee and staff feels it would be appropriate to be neutral on the bill.

Senate Bill 6354 requires state agencies to have electronic filing for business forms. It is actually part of a bigger concept to look at one portal for businesses to submit everything they need to submit. The substitute bill would require that, if an agency is going to require someone to complete a document or a form, it should be able to be done electronically – not just by mail or not just by having to show up in person. There are exemptions for it, which are pretty broad. The Director could say it was not feasible for something to be submitted electronically, so then the agency would not have to allow it. If that is done, though, there would have to be a process for notifying the public that the document could not be submitted electronically. Some obvious things are not practical, like accepting fingerprints electronically, because of the way they have to be matched up. There would also be some forms that are used so rarely that it would not make sense to go through the process to make sure those could be submitted electronically. The bill is out of committee, out of rules, and is ready for a vote on the Senate floor. Because the exceptions seem to be pretty broad, staff thinks a neutral position is appropriate.

House Bill 2232 is the companion bill to Senate Bill 6175, which the Commission took a position in support of last month. These bills codify a preferred approach for working with Indian Tribes when an agency is developing policies or implementing programs, many of which the Commission already does and has done for several years. The senate bill is in the rules committee now and the house bill went out of committee on a party-line vote, is already out of rules, and is ready for a vote on the House floor.

Both House Bill 2172 and Senate Bill 6142 have been amended and are identical. They would change several requirements for all regulatory agencies that issue any type of sanctions for penalties. They would impact Labor and Industries, Department of Agriculture, and many other agencies, including the Gambling Commission. The Gambling Commission and about 13 other agencies were initially asked to do a fiscal note

on the senate bill, but that request was cancelled. A statewide fiscal note was done, but not with each individual agency putting in its own information. Ms. Hunter thought the bills, on their face, sounded reasonable. The prime sponsors both testified that they were just trying to codify what they see as good business practices. But, it is the details that look like they would have the potential to create more work and cost, and possibly not very much benefit. Staff would recommend the Commission be neutral on the bills at this point. The house bill died in the Ways and Means Committee, but the senate bill is out of rules and is ready for a vote on the floor. These concepts of how an agency is to work with small businesses are really a continuation of bills that passed in 2009 and 2010. Those bills required that before an agency could impose a sanction, unless it met an exception, it needed to give a licensee a copy of the rule or law that it was violating, and then give the licensee time to correct the violation. Under a bill that was passed last year, it is now seven days that an agency needs to give the licensee to correct the violation. There are exceptions, which include one that if the licensee has already been warned about the same violation the agency does not need to give the seven days.

The substitute bills include language that would still have implications for the Commission and other regulatory agencies. For example, if an agency is out doing an inspection, it is supposed to avoid adding on any violations that could have been discovered and noted in the original violation. An agency would be required to provide a single list of the violations discovered during the review and the required corrective actions. Providing a single list seems to imply that our agents would be required to hand someone a list of things, as opposed to orally telling the licensee, although that is not directly answered in the bill.

Also addressed were technical assistance visits, which can be requested by a licensee or done by the agency. The Commission does not have a formal technical assistance visit program. It does have an enforcement policy that covers some of the things a technical assistance visit program could cover. These bills could potentially discourage technical assistance visits. If a technical assistance visit is done, the licensee would be directed to a website where they could complete a survey about the visit. In addition, the agents would also have to do their own self-assessment or survey of how they felt the technical assistance visit went; then those two different surveys would have to be compared. The bills would also require that once a year the Director, or designee, prepare and submit a report estimating the percentage of cases where one of the exceptions applied. The bills do not indicate to whom the report is to be sent. Staff recommends the Commission be neutral on the bills.

Last, Ms. Hunter pointed out an e-mail that was sent to Chairman Sam Hunt, House State Government and Tribal Affairs Committee, in response to an e-mail he had sent to the staff of the Lottery, Gambling, and Horse Racing Commissions. His email asked what each of those commissions had done to implement the recommendations of the 2009 study done by OFM to combine those three agencies, as well as the Liquor Control Board.

Chair Ellis asked if there were any questions or comments; there were none. He thought Director Day might have an introduction he would like to make. **Director Day** introduced

Senator Kauffman, who was in the audience, and welcomed her to the meeting. He asked Senator Kauffman if she had anything in particular that she would like to discuss with the Commission. He said the Commission knew how busy Senator Kauffman is and wanted to make this opportunity available to her. **Chair Ellis** agreed. **Senator Kauffman** thanked the Commission, from the audience, stating she did not have anything she wanted to express to the Commission.

3. Field Operations Emphasis Patrol Program (PowerPoint presentation)

Greg Thomas, Manager for the Northwest Region, reported the Field Operations Emphasis Patrol Program was started in 2007. He explained that an emphasis patrol is conducted when agents need to make contact with a large group of licensees, in a short period of time, for a specific reason, such as to do an inspection or to provide training. Emphasis patrols can take a significant amount of time to complete, so they are generally limited to one per quarter. They are conducted for high-risk areas where agents are seeing a high frequency of violations and they want to make sure the agency mission of ensuring gambling is legal and honest is being met. When there is a significant change in a rule or law, agents need to make sure it is being followed. Emphasis patrols can be requested by an agent, supervisor, manager, administration; or anyone that notices an area that requires attention. One high-risk area where an emphasis patrol is conducted is underage gambling at card rooms, which was identified in a previous survey as a concern of the public. Commission agents partnered with Liquor Control Board agents to provide training to licensees on how to properly ID customers. WAC 230-06-010 requires a person to be over the age of 18 to play cards and pull-tabs, and many card rooms have established a minimum age of 21. In the first quarter of 2008, agents conducted training for 773 employees at 84 card rooms. That training was later expanded to pull-tab licensees with gross receipts over a million dollars, and was provided to ten high-volume pull-tab licensees.

In 2009, WAC 230-15-050 was changed to allow card room licensees to establish a time within three hours of opening to meet the minimum cash-in-cage requirement. The card room licensees had previously had to meet that requirement when they opened. The rule was changed because some card rooms had not completed their drop box count prior to opening, so money from the drop boxes was being used to bring the cashier's cage up to the required amount. All rule changes are posted in the agency newsletter, plus licensees are notified at the Commission meetings, study sessions, and given a transition period to make the changes. Some agents did some sample inspections before this emphasis patrol was started; they inspected 81 card rooms and found that 79 were in compliance. One statement of charges was issued and two warnings were given. In 2009, RCW 9.46.228 was changed making it a civil infraction for a person under the age of 18 to gamble at card rooms or play pull-tabs. Commission agents inspected 79 card rooms and conducted 179 ID checks for underage gamblers. No minors were found gambling during those inspections.

Director Day pointed out the Focus on Gambling newsletter that was provided to the Commissioners has a list on page six of the licensees that successfully passed the underage inspection.

Manager Thomas noted that when these underage inspections were started in 2005 there was about a 45 percent failure rate. In 2010 it was down to about 11 percent and slightly above that in 2011. Commission agents were noticing a high frequency of rule violations at card rooms operating tournaments and they recommended conducting an emphasis patrol to address that concern. In the second quarter of 2007, card tournament records and operations were reviewed at 90 card rooms. Agents found that 16 were not operating any tournaments, 39 were in compliance, 33 warnings were issued, and 2 Notice of Violation and Settlement (NOVAS) were issued resulting in a fine.

Chair Ellis asked if **Manager Thomas** recalled any of the types of violations that generated the emphasis patrol. He thought this went back quite a few years. **Manager Thomas** replied that was in 2007 and detailed records were not kept as are now. **Assistant Director Harris** recalled that most of the violations were on the payout record; who was winning the prizes, the detail of name and address, etc. Also, when the card rooms were doing the buy-ins, not all the buy-in records were being completed and some had incomplete details.

Manager Thomas reported that some card rooms incurred violations when they were operating baccarat by allowing more than one player to bet at each betting spot or exceeding the 5 percent commission limit. WAC 230-15-480 allows licensees to collect up to a 5 percent commission on winning hands for house-banked card games, which some card rooms were exceeding because they were rounding up due to the chip denominations. Staff worked on the emphasis patrols with licensees in advance, which is reflected in the results. Of the 17 card rooms operating baccarat, 16 were in compliance. One verbal warning was issued. Coin or token activated amusement games operated by route operators are required to have a Commission ID stamp, which costs about \$28. Staff received information that not all games had an ID stamp, so agents communicated with the amusement game operators and notified them in advance that inspections were going to be conducted. Agents inspected numerous locations across the state that had amusement games, like crane games, and issued three NOVAS that resulted in a fine and ten warnings

Commissioner Amos asked about the crane machines and if the distributors are licensed through the state. He also asked if a restaurant that orders these games had to also be licensed through the state to use them. **Manager Thomas** affirmed. **Commissioner Amos** asked if agents were getting complaints that some of these machines did not have a stamp on them. **Manager Thomas** affirmed. Most of the stand alone crane games were likely put into the different locations by route operators and each game is required to have the stamp on it. There are about half a dozen or more route operators across the state, and some of those route operators were not buying the stamps, but were placing the machines out there.

4. **Half-Year Budget Update** (*PowerPoint presentation*)

Ms. Judy Pittelkau, Business Operations Division Administrator, reported that last year the Commission had asked staff to present a mid-fiscal year update due to the economic situations, so staff thought it would be appropriate to bring that information back to the

Commission again this year. The purpose of this presentation is to provide an update on the status of the budget as of December 31, 2011. As a non-appropriated agency, no general fund dollars are received and the Commission is expected to cover all of its costs through fees and other revenue sources. No appropriation from the Legislature is required to permit expenditures from the gambling revolving fund. All expenses are paid from this fund and disbursements are authorized by the Commission or a duly authorized representative. All expenditures to be paid with seizure funds are first paid out of the gambling revolving fund and then reimbursed from the seizure fund. Fees must be adequate to cover all costs incurred by the Commission relative to licensing and enforcement of the provisions of RCW 9.46. The Commission also has the power to establish fees to offset the cost of administering other programs such as the lab review costs. In statute, the Commission has the authority to raise fees, but I-960 now requires the Legislature to ratify any of those fee adjustments. The Commission still sets its own reimbursement rates.

Revenues are cyclical and peak periods occur at the end of the quarters. Revenue at the end of December was \$6 million (96% of the estimate), which takes into account the continued decline in licensees. Two areas in the estimated and actual revenue by source as of the end of December 2011 were below estimates. The tribal regulation revenue was down, in part, because some tribes chose to make annual payments. Several of those payments were not received until after January 1, so they are not reflected in these numbers. The Tribal Gaming Unit has been down about 2 FTEs, which affects their billing rates. The Electronic Gambling Lab was down because of a delay in starting two new positions that the Commission authorized last August, which affects the Lab's billable hours.

Chair Ellis asked if Ms. Pittelkau had an estimate of what the number would look like for tribal regulation if the payments that were received from tribes after the first of the year were taken into account. **Ms. Pittelkau** replied there was almost \$560,000 in additional receipts right after the first of the year. **Chair Ellis** said that would then be a positive number. **Ms. Pittelkau** affirmed.

Ms. Pittelkau reported the Business Operations Division meets each year with experts in the areas that generate revenue for the agency to review historical and future trend information and to receive information from licensees on their future plans. Based on that information, staff determines changes that need to be made in the estimates of the license numbers. That process will begin next month. Expenditures were below the estimates as of the end of December by almost 9 percent, primarily due to FTEs being lower than estimated and equipment purchases and contract services that have not been made. At the end of the fiscal year, the estimated working capital balance was in line with the Office of Financial Management's (OFM) recommendation of two months' worth of expenditures. The actual working capital balance of \$2.6 million is higher than the estimate of \$2.4 million at the end of December due to the lower FTE levels and the equipment and service contract savings previously mentioned. One concern regarding the working capital balance is the future salary increases that the Commission has responsibility for, which have to be covered out of the gambling revolving fund. Staff is planning on working with the

Evergreen Council on Problem Gambling and KOMO4 Fisher Communications to collaborate on a problem gambling awareness campaign and using \$50,000 from state seizure funds toward the outreach and public awareness piece of that campaign.

Director Day reported that staff was keeping a very close eye on the salary increase issue for budget purposes. The Commission has a group of agents that are in a position where they are not where they should be at their steps. There is also the temporary 3 percent reduction, plus any other increase granted by the Legislature in the future. So it may be very problematic to have enough working capital balance to handle the first year.

Chair Ellis said the Commission realizes the magnitude of that problem, in addition to the major staff retention problem with the agents. He congratulated Ms. Pittelkau on being promoted to the position of Administrator of the Business Division, which was certainly well deserved.

5. New Licenses and Class III Certifications

Deputy Director David Trujillo reported there were two pre-licensing house-banked card room reports for Drift On Inn and the Oak Tree. He drew attention to the news articles on the Oak Tree that provide a little bit more information on their opening. He also pointed out there are 63 licensed and operating house-banked card rooms and that, as of January 31, PJ Pockets closed. Staff recommends approval of all licenses and Class III certifications listed on pages 1 through 23.

Chair Ellis asked if there were any questions; there were none.

Commissioner Rojecki made a motion seconded by **Commissioner Amos** to approve the new licenses and Class III certifications listed on pages 1 through 23. *Vote taken; the motion passed with three aye votes.*

6. Defaults:

a) Vanna Tiv, Card Room Employee, Revocation

Ms. Hunter reported Vanna Tiv was a card room employee who is currently incarcerated in the King County Correctional Facility awaiting trial with no planned release date, stemming from a domestic violence issue. She was charged with Attempted Murder in the Second Degree. The Commission's charges were sent to the correctional facility and they notified her that failure to respond would result in a default order revoking her license. Ms. Tiv did not respond, so she has waived her right to a hearing. Staff would recommend the Commission revoke her card room employee license.

Chair Ellis asked if there were any questions; there were none. He asked if Vanna Tiv or anyone on her behalf was present; no one stepped forward.

Commissioner Amos made a motion seconded by **Commissioner Rojecki** that the Commission revoke the card room license for Vanna Tiv. *Vote taken; the motion passed with three aye votes.*

b) Shantai Martinez, Class III Employee, Revocation

Ms. Hunter reported Shantai Martinez is a Class III employee with the Yakama Nation, although she is not currently working. The charges were issued based on several Assault 4 Domestic Violence charges and a Violation of a No Contact Order. Ms. Martinez was aware of the charges, but did not respond to them. Staff made a follow-up phone call to Ms. Martinez. Staff would recommend the Commission revoke her certification.

Chair Ellis asked if there were any questions; there were none. He asked if Shantai Martinez or anyone on her behalf was present; no one stepped forward.

Commissioner Amos made a motion seconded by **Commissioner Rojecki** that the Commission revoke the card room license for Shantai Martinez.

Ms. Hunter interrupted to clarify that Ms. Martinez has a Class III certification, not a card room employee license.

Commissioner Amos corrected his motion to indicate the revocation was for Shantai Martinez' Class III Employee Certification. **Commissioner Rojecki** seconded the corrected motion. *Vote taken; the motion passed with three aye votes.*

c) Splits, Kelso, Organization, 30-Day Suspension

Ms. Hunter reported that Splits was an organization in Kelso that has since closed. The charges were based on the business's failure to submit an activity report for their punchboard and pull-tab activity that was due July 30, 2011, and still has not been received. Splits had been warned before for not getting their report in on time. A special agent issued a Notice of Violation and Settlement (NOVAS), which gave the business an opportunity to pay a fine and submit the report, which Splits did not do. The charges were sent by regular mail and certified mail. The certified mail receipt was signed. The legal secretary also made a follow-up phone call and was able to leave a message for the owner to let him know about the default proceeding if he did not get the request for hearing in. Splits did not request a hearing, so staff would recommend that the Commission suspend their license for 30 days. Usually staff's recommendation would be for revocation, but when staff looked back at the original charges, they saw the default language said that if Splits did not respond, staff would be requesting a 30-day suspension. The business is not operating and Ms. Hunter thought a 30-day suspension would be fine, given the circumstances.

Chair Ellis noticed the proposed findings indicated that at least three of the business's licenses expired at the end of December 2011. He asked if this was another situation where the Commission's action needed to be on the record in case there was a future effort by the business to be re-licensed. **Ms. Hunter** affirmed, explaining the charges were issued before the license expired, so the Commission had jurisdiction at that time. Staff was trying to close out the case by asking for the default order.

Chair Ellis asked if there were any questions; there were none. He asked if anyone was present representing Splits, which is a card room in Kelso; no one stepped forward.

Commissioner Rojecki made a motion seconded by Commissioner Amos that the Commission suspend for 30 days Split's license to conduct gambling activities. Vote taken; the motion passed with three aye votes.

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

Chair Ellis opened the meeting to other business, general discussion, and comments from the public.

Mr. Jamie Durkan, representing the Muckleshoot Tribe and Casino, explained he would not be at Friday's meeting because of some medical things he had to do in the morning. He wanted to comment on one of the proposed rule changes that Rockland Ridge and Galaxy Gaming has proposed, because he had a couple concerns about that. The first concern was that the game seemed very complicated and somewhat confusing. He said he consider himself fairly knowledgeable in this industry but maybe not as knowledgeable as others. Mr. Durkan also had concerns about whether or not the players would be able to participate fairly in this type of a game, and to understand the odds and the payouts and the nuances that go along with it. He said he did not know that the staff or the applicant had really vented all the different things that may be involved with the game. Staff may want to go into more details and develop more regulations and assurances in regards to what the players are actually playing, what the payouts are, and if the payouts are all the same to each player that plays the game, because it seems complicated, though he had not had an opportunity to see it in action yet. The other main concern he had, and it is certainly within the purview of the Commission to approve this game, was whether it is an expansion of gambling in Washington State. Mr. Durkan said he looked at a number of things on this particular issue. One, it is a new bet; and two, it allows additional players at a table. So, in a sense, they are increasing the size of that table. They are not doing it with chairs, but are doing it with spots. And so they are increasing spots and, therefore, increasing players at the table. For guidance on this, he could only go to the Lieutenant Governor's rulings on similar issues. He would appreciate it if Jerry Ackerman could take a look at that. And particularly the 2001 ruling that increasing the occurrence of gambling was considered an expansion of gambling. It is a different circumstance, but here they are increasing that occurrence by allowing a new bet at the table. The second thing is the 1997 ruling by the Lieutenant Governor that increasing the list of legal wagers was considered an expansion of gambling. Here they are adding a new legal wager on a new type of game. Mr. Durkan said that when he looked at those rulings and some of the other ones, while they were made on a different subject matter, they are similar in nature to what the Commission is looking at today. He would appreciate if the Commission would look at that particular aspect of the request.

Chair Ellis said that on Mr. Durkan's last point, he thought a response – although he would hate to put himself in the position of trying to characterize what an expert, or Mr. Saucier, or whoever would say – but he could see the response might be that there is no new wager as such. There are simply more opportunities to win on a wager that is made under existing rules. He asked if Mr. Durkan had thought about it from that angle. **Mr. Durkan** replied he had thought about it and certainly could argue that angle. It is really up

to the Commission at that point to determine which has more weight. But they did increase the capacity of tables. The RCW or WAC sets out how many tables a card room can have. The Commission did increase the number of seats at the table at one time, and now they are going one step further to increasing the number of spots at a table. That is somewhat of a slippery slope. Pretty soon there are going to be board tables; large tables, so where does it start and where does it stop? That is certainly up to the Commission to decide that, but Mr. Durkan did want to raise those issues that the Tribe had asked him to raise, which is what he is doing now because he will not be in attendance tomorrow.

Chair Ellis thanked Mr. Durkan and asked if there was anyone else who would like to address the Commission on any relevant topic; no one stepped forward. Chair Ellis called for a break at 2:40 p.m.

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

Chair Ellis called for an Executive Session at 2:50 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.

Adjourn

Chair Ellis called the meeting back to order at 4:05 p.m. and immediately adjourned.

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
FRIDAY, FEBRUARY 10, 2012
APPROVED MINUTES**

Chair John Ellis called the Gambling Commission meeting to order at 9:35 a.m. at the Great Wolf Lodge in Grand Mound and introduced the members present. He welcomed the newest Commissioner, Kelsey Gray, to the Commission.

MEMBERS PRESENT: **Commissioner Chair John Ellis**, Seattle
 Commissioner Vice-Chair Mike Amos, Selah
 Commissioner Keven Rojecki, Tacoma
 Commissioner Kelsey Gray, Spokane / Seattle

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

Director Day welcomed Commissioner Gray to her first Commission meeting. He reported that Commissioner Gray lives in Spokane, has a PhD in Educational Leadership, a Master of Science in Urban Planning, a BA in Political Science, and is a Certified Financial Manager. She works for the William D. Ruckelshaus Center operated by Washington State University and the University of Washington. Commissioner Gray is a managing partner in the organization development firm working with profit and nonprofit organizations, in addition to local, state, and federal governments. She has also worked with law enforcement organizations around the country and with tribes on a number of occasions. He said the Commission and staff look forward to working with Commissioner Gray.

9. Approval of Minutes – January 12 & 13, 2012 – Regular Meeting

Chair Ellis asked if there were any changes that should be made to the minutes; there were none.

Commissioner Amos made a motion seconded by **Commissioner Rojecki** to approve the minutes from the January 12-13, 2012, Commission meeting as submitted. *Vote taken; the motion passed with three aye votes. Commissioner Gray abstained from voting because she had not attended the meeting.*

10. Petition From the Public 50/50 Central Limited – Electronic Raffle Systems and Removing the \$80,000 Raffle Prize Limit

Petitioner’s Amendments Filed for Discussion at the November 2011 Meeting

- a) **New Section WAC 230-11-200** Defining “electronic raffle system”
- b) **New Section WAC 230-11-205** Operating requirements for electronic raffle systems
- c) **New Section WAC 230-11-210** Leasing electronic raffle systems
- d) **New Section WAC 230-16-152** Remote access of electronic raffle systems
- e) **Amendatory Section WAC 230-11-065** Raffle prizes
- f) **Amendatory Section WAC 230-11-067** Requesting approval to offer raffle prizes exceeding forty thousand dollars per prize or (~~or eighty thousand dollars annually~~)

Staff’s Amendments Up for Discussion at the January 2012 Meeting

- g) **Amendatory Section WAC 230-11-065** Raffle prizes
- h) **Amendatory Section WAC 230-11-067** Requesting approval to offer raffle prizes exceeding forty thousand dollars per prize or (~~eighty~~) three hundred thousand dollars annually

Assistant Director Harris reported that 50/50 Central Limited, a previously licensed manufacturer, is requesting adding rules addressing the selling of raffle tickets using an electronic raffle system, including selling tickets at a discount and increasing the discount scheme from one to four. They are also asking to remove the requirement that raffle licensees must get approval by the Commission to exceed \$80,000 in total prizes annually. Since the time the petition was received, 50/50 Central has been purchased by another company, but the new company has not submitted a completed application yet. They did email an application for a service supplier license, but were informed they needed to submit a manufacturer license and that staff would not proceed until the actual payment for the license was received, which was on January 9, 2012.

An electronic raffle system referred to as 50/50 system was approved by staff in June 2011 and is the only approved system in the state of Washington. It is a software system installed on a point-of-sale that can also be used for raffle accounting records. In 50/50 raffles, 50 percent of the money goes to the raffle prize and 50 percent goes directly to the house or nonprofit organization. The electronic raffle system could be used for all types of raffle systems. It provides participants with a raffle ticket, has multiple numbers on a ticket instead of having several tickets on the receipt, and provides the operator with a receipt. It then prints out tickets to be used in the drawing. Raffle tickets can be sold using the point-of-sale system at the cashier’s cage or by sellers walking around using a PDA. Although the 50/50 raffle system complies with the current WAC rules, there are no current rules in place that specifically address this type of technology. For example, because a system was not approved, there are no rules covering leasing agreements or remote access to do repairs and maintenance on the raffle systems. After the system was approved, staff worked with the petitioner to draft rules that outline additional requirements in these areas.

The petitioner also wants to bundle tickets using an additional feature that was not authorized at the time. Because the ticket numbers came out on a set receipt, it did not

meet the definition of a bundle so was not approved. The petitioner also wants to increase the number of schemes from one to four; current rules only allow raffle licensees to offer one discount scheme where they bundle the tickets together.

Staff would no longer have to require review and documentation. The documentation submitted would make it easier for staff to review the records because the electronic raffle system would produce reports that would facilitate staff's oversight. Staff would need to develop a regulatory program to monitor this type of system.

The second part of the petition concerns raffle licensees offering prizes over \$80,000 in a year. Currently, licensees are required to submit information to the Commission and get approval prior to offering prizes totaling more than \$80,000. However, there is less risk associated with organizations that offer multiple prizes in a 50/50 raffle because the cash is readily available at the time and there are usually smaller amounts than those used for other raffle prizes and other types of raffles. Based on the discussion at the November 2011 Commission meeting, staff recommended amending the petition to increase the raffle limit to \$300,000 and put in place some additional reporting requirements instead of removing the \$80,000 requirement. Staff also changed the title to say "license year" instead of "annually" and added some changes in subsections (2) and (3) that require Commission approval prior to implementing or offering prizes over \$80,000 total.

For the first part of the petition, staff recommends tabling the four new rules for the electronic raffle system until a manufacturer is actually licensed to sell the equipment in the state of Washington, or no later than May 2012, which is the date action has to be taken on the petition. For the second part of the petition, staff recommends final action on the increase to \$300,000 raffle prize limit. The petitioner is not present.

Chair Ellis asked, with regard to the second part of the petition on the issue of striking the \$80,000 annual limit, if staff's recommendation would be accomplished if the Commission chose to adopt staff's amendments g) and h), rather than the petitioner's proposal.

Assistant Director Harris affirmed, adding the petitioner was supportive of those amendments. **Chair Ellis** recalled that AAG Ackerman had already advised the Commission that, in his view, that would be acceptable under the Administrative Procedure Act. **AAG Ackerman** affirmed that was correct.

Commissioner Rojecki asked if staff was proposing to table both parts of the petition at this time. **Assistant Director Harris** responded that staff recommends tabling the change to the four rules directly impacting the electronic raffle system, and then to take final action on staff amendments g) and h).

Chair Ellis asked if there were any other questions; there were none. He asked if there was anyone in the audience that would like to address the Commission on this petition; no one stepped forward, so he closed the public hearing. He asked if there was a motion concerning the first staff proposal and, as he understood it, sections a), b), c), and d) should be tabled.

Commissioner Amos made a motion that the Commission table sections a) through d) as recommended by staff until the May 2012 meeting.

Commissioner Rojecki commented that, if the Commission tabled those sections of the petition until May, it could not be brought up at the April meeting. He suggested tabling sections a) through d) until the Commission makes a motion to remove it.

Commissioner Amos agreed to strike May from his motion. **Commissioner Rojecki** seconded the revised motion. **Chair Ellis** clarified the motion was simply to table action on sections a) through d) in the petition. *Vote was taken; the motion passed with four aye votes.*

Commissioner Rojecki made a motion seconded by **Commissioner Gray** that the Commission approve staff amendments g) and h) to WAC 230-11-065 and WAC 230-11-067 to be effective 31 days after adoption. *Vote was taken; the motion passed with four aye votes.*

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

Chair Ellis opened the meeting to other business, general discussion, and comments from the public. He explained there would also be the opportunity for public comment after the Rockland Ridge Corporation and Galaxy Gaming petition. No one stepped forward.

Break – Opportunity to attend demonstration by Rockland Ridge and Galaxy Gaming.

Chair Ellis called for a break at 9:50 a.m. and reconvened the meeting at 10:15 a.m. He stated, for the record, that at the back of the hearing room, representatives of Rockland Ridge and Galaxy Gaming had demonstrated equipment relating to their petition.

12. Petition From the Public Rockland Ridge Corporation and Galaxy Gaming, Inc. Linking Envy Wagers Between Different Card Games at a Single Card Room

- a) **Amendatory Section WAC 230-15-040** - Requirements for authorized card games
- b) **Amendatory Section WAC 230-15-040** – Requirements for authorized card games
- c) **Amendatory Section WAC 230-15-685** – Restrictions on progressive jackpots

Staff's Amendments Up for Discussion at the January 2012 Meeting

Assistant Director Harris reported the petitioners are requesting to allow players in a card room who place an envy qualifying wager amount to receive a prize, even if they are playing at a different game, as long as the game they are playing has that feature. The petitioner worked with staff to clarify items in the current rule to define “envy” and “share the wealth” wagers and to define a separate game. It also allows card game features that do not require a separate wager to be considered a bonus feature and allows bonus features and progressive jackpots to be combined.

Staff proposed amendments to address regulatory concerns, including necessary definitions and clarification for how games should be played. Changes to WAC 230-15-040 include

clarifying that card games and bonus features must be approved by the Director or the Director's designee. It also clarifies that prizes and bonus features are based on achieving a pre-determined specific hand, that approved card games must be operated as documented on the agency website, and that only one player may place a wager per wagering area on mini-baccarat. The word "wager" was changed to "bonus feature." WAC 230-15-685 includes clarifying language that licensees may connect progressive jackpots offered on the same game on multiple tables within the same licensed premises, which is current practice but not in rule. Commission rules generally prohibit placing wagers on other players' hands, except for envy or share the wealth features that allow a player to receive an additional prize based on another player's winning hand. The features were authorized for house-banked card games in April 2000, which was at the conclusion of the card room enhancement program. For a short period of time, envy wagers were permitted to be connected over multiple tables of the same game, but that is not current practice. Staff's concerns include how a winning hand would be determined; how other players at the table or a different table would be notified that an envy wager jackpot had been won; how the card room would identify which pay table would be used to pay out envy prizes on different games; and how the winner of the envy prize would be verified throughout the card room.

The petitioner has developed procedures that would help them in establishing internal controls to address those areas; however, the complexity of the various bonuses and connected table games may lead to some additional complaints by customers.

Historically, the Commission has limited the number of games played within a hand of cards and has not allowed different card games to be connected. This proposal would allow more bonus features and allow bonus features to be tied to a progressive jackpot. The Commission may wish to consider whether or not the proposal is consistent with the legislative intent of RCW 9.46.010. If the Commission were to decide to adopt this rule change, it would change current rules to allow multiple tables and different card games to be connected, increase the number of bonus features allowed in card games, and allow progressive jackpots to be tied to bonus features. If the Commission chooses to adopt the rule changes, staff recommends adopting staff's amendments b) and c) rather than the petitioner's proposal. If the Commission chooses not to adopt staff's amendment b) to the petition, staff would recommend still adopting staff's amendment c), which is basically a clarification of current practices regarding progressive jackpots. Staff recommends final action. The petitioner requested an effective date of 31 days from adoption, but staff recommends an effective date of July 1, 2012. The petitioner is present.

Commissioner Gray asked why staff recommends the July date instead of 31 days.

Assistant Director Harris explained the effective dates for rule changes are usually July 1 and January 1.

Chair Ellis asked if staff felt it would be useful to have more time before implementing this rule change. **Assistant Director Harris** affirmed; to give time for staff training purposes and to get everything ready for the potential increase in internal control changes, equipment changes, and card game rule changes.

Commissioner Gray asked if the built-in protections shown during the demonstration for Rockland would also be built in for all card rooms and tribal casinos. **Assistant Director Harris** responded that the petitioner's version and their model have that built in. Staff does not know what a different model might look like that may come forward. Another possibility would be if a card room decided to connect two non-proprietary games themselves and use some type of manual system. Staff does not know what shape or form those would look like. **Commissioner Gray** asked if staff would check to make sure those would be built in. **Assistant Director Harris** affirmed. The current rule petition requires that they submit procedures and controls for staff approval ahead of time.

Commissioner Rojecki asked for clarification that at one time envy bets were linked between tables. **Assistant Director Harris** affirmed that back in the early stages of the card room enhancement program there were a couple locations that had multiple Pai Gow tables and they did the envy payout back and forth between the two tables. If a player had a qualifying hand on one table, and the game was still in play on the second table, the card room would pay everybody. That only worked for a couple of months before the card room quit doing it, so it was not incorporated into the rules once the pilot program was over.

Chair Ellis asked if staff's amendments b) and c) constitute a complete version that covers all of the topics that were covered in the petitioner's initial petition. **Assistant Director Harris** affirmed. **Director Day** clarified that part of the reason for recommending the staff's amendments was some clean-up language in that version relative to baccarat. **Chair Ellis** asked if that was in staff's amendment c). **Assistant Director Harris** clarified that some of it was also imbedded in section b).

Chair Ellis asked if a representative, or representatives, of Rockland Ridge or Galaxy Gaming cared to address the Commission on the petition.

Mr. Bob Tull, representing both Galaxy Gaming and Rockland Ridge in connection with this petition, said they appreciated the significant amount of time that staff and the Commissioners have spent reviewing this. It has been a good process and he thought a lot of potentially confusing issues had been raised, which is the purpose of this rule making process – to make sure that issues get thrashed through. In their report, staff mentions certain early concerns, which they confirmed were addressed. Mr. Tull said it was a pleasure to have a new Commissioner on board and to have the Commission back at full strength. He commented it had already been discussed, so he would not belabor it, but these rules are setting standards. Anyone that wants to make use of these rules has to make an application for a specific game, and they have to have their exact technology reviewed by this agency and its lab. The rules for playing the game have to be examined by this agency and its staff, and make sure they work together. And then the actual internal controls that apply within the casino or the card room, those have to be reviewed and approved in case of the card rooms, by the Gambling Commission staff, and that process is how they get from the general to the specific.

Mr. Tull said that, for demonstration purposes, he was showing the Commission how this applicant would propose to provide this technology to its customers to help put more sizzle into the card room or into the casino. He deliberately – and he thought staff would have insisted anyway – has not created a rule that only Galaxy can meet. Anyone can come up with versions, bring it in, apply, be reviewed by staff, and if they pass muster on all these points, then they can take it to the market place. Internal controls will be part of that package. And then they have a chance to see how they do in the court of public or player opinion. If it is too confusing, people will not play it, but if people like it, they will. If card room operators think it is hurting their business, they will not keep it. If the tribal casinos like it, they will use it too. The staff report covers that. Mr. Tull thought it was important to recognize that it is not possible in the adoption of the WAC, that stage of the process, to provide, or to even seek, the exact answer to every single little technical point. That is why the Commission has a lab; that is why the Commission has very, very qualified staff; and it is why people have to pay the cost of those reviews. Manufacturers want it done, and they want it done correctly.

Mr. Tull explained that Mr. Saucier was going to go through a couple other things, including some history, and take any other questions the Commissioners may have. With respect to the effective date and the staff recommendation, they accepted the staff's recommendation, let there be no doubt about that. He hoped for the action to be to approve the package as the staff has amended it, which will work. Again, this process has been ongoing a long time and he has tried to be responsive and tried to support what staff want to do – and it has been a good process. With respect to effective dates, when they started, 31 days seemed like a good idea, but that date, in and of itself, has almost no relevance. The process for preparing the submission, making the submission, and then having the staff schedule the equipment testing will take months. Probably even under the best of conditions, it probably could not be on the streets on July 1 anyway, so that is not a big hang-up. He explained the reason he recommended, however, that the Commission make it 31 days was that then the purely staff-suggested clean-up changes take effect. It will not affect the manufacturers because they still have to go through that long process. Any other new game has to go through that process. But if the staff would like to see their changes implemented, then it would be an advantage of having it be effective in 31 days. Mr. Tull did not think it was a big issue, and he did not need to belabor it further. But if staff agrees with that, fine; if they do not, then the July date is survivable. Mr. Saucier and his company would have lots of work to do to get the rest of the package ready, and everybody else could start thinking about their product and their technology as well.

Mr. Rob Saucier, representing the co-petitioner, Galaxy Gaming, thanked the Commission for their great questions during the demonstration. He thought that helped everyone because he knew there are a lot of questions on this. One of the things that has come up in this has to do with confusion. He wanted to address that for a moment because he thought the confusion came from not really understanding what is being proposed. Yesterday, testimony was given by a gentleman who could not be present today, and he talked about confusion, but he also admitted he had never seen the product and did not really understand it. Mr. Saucier said that all the things they have shown today as far as envy bonuses, share the wealth, and progressive jackpots to somebody who is untrained,

those things could be easily confused. But to people who day in and day out are doing this – the players, the dealers, the supervisors, the gaming agents – this is all standard and is very well understood. Mr. Saucier said that if he was up here testifying about brain surgery, he would be quite confused listening to what other people would say. But if someone is in the business and doing it on a regular basis, it is not as confusing.

One issue, though, that has come up is if there is a jackpot with different odds on different types of games, does that create an unfair advantage for one player over another. The answer to that is, yes, it would be an unfair advantage if the progressive jackpot was offered to players with different odds on different games. Operators and manufacturers have been wanting to do this for decades. They found two creative ways of resolving that in Nevada. One is that Nevada has a rule that if there are different pay table odds, or different jackpot odds, because of different games, the different game odds have to be within 5 percent of one another. So what has happened is, for example, somebody wants to put a Five-Card Stud game together with a Three-Card Stud game. The way to equalize those odds is they take the Three-Card Stud game and add two additional cards to make it a Five-Card Stud game. So even if they are two completely different games, they have identical odds. That has been a common practice in Nevada for a number of years.

Mr. Saucier said that when he presented their concept of Mega Share, he said “okay, we understand that, but that’s not what we’re doing.” The progressive jackpots they are offering are unique to each game. He showed the Commission the progressive jackpot on their Emperor’s Challenge Pai Gow Poker and directly next to that could be a Texas Shoot Out game that had its own jackpot and its own odds. And next to that could be a blackjack table with Lucky Ladies, which would have its own jackpot and its own odds. Nevada allowed Mega Share because they offered a second jackpot not tied to the odds of the individual game. Instead what they are doing is taking a second jackpot and sharing it equally among all the players who are playing the same wager. The odds are universal; they are all the same, so all the players are betting the same amount, and they have an equal opportunity to win. And when they do win, they get an equal share. That is the difference with Mega Share. Mr. Saucier said he did not want to confuse that with trying to take a bunch of different progressive jackpots and pushing them all together. That is not what they are doing. Mr. Saucier said he hoped that clarifies that because it is a new concept that his company invented. Nevada was the first place that they did it. The first installation they went live was at the Hooter’s Casino on the strip in Las Vegas. It went live in December and has been doing very well there. It is a new concept. Washington would be the second jurisdiction where they would seek to get that approval.

Mr. Saucier commented on the testimony regarding expansion of gambling – which he thought was interesting because he has personal experience with it. He said he was the original author of the legislation in 1996 and 1997 that allowed the card rooms to expand from 5 to 15 tables, allowed house-banking, and all that sort of items. In 1996, Lieutenant Governor Brad Owen, who is also President of the Senate, and whose responsibility it is to rule on whether or not a piece of legislation represents expansion of gambling, ruled that the proposal that Mr. Saucier had, which was accepted, was that they were going to increase the number of tables in card rooms from 5 to 15, so triple the number of tables;

the house may take a percentage of the wager, called raking, which was never allowed before; and the introduction of what was known as player-supported jackpots. Mr. Saucier said those were, he thought, fairly substantial for the industry in 1996. The Lieutenant Governor ruled that was not an expansion of gaming. In 1997 they introduced another piece of legislation, under Governor Locke – previously it was under Governor Lowry – which again went to Lieutenant Governor Brad Owen as President of the Senate. And in 1997 they introduced the concept of house-banked gaming, which was player-banked gaming before, and then went to house-banked gaming. In 1997 again Lieutenant Governor Brad Owen ruled it was not deemed to be an expansion of gambling.

When looking at the Commission's actions over the years, the Commission has increased, on a number of occasions, wager limits. Mr. Saucier said that when he started out it was \$10; today it is \$300 per position. With the three positions, it allowed three bets plus the \$5, which is a maximum of \$905. The number of player positions have increased from 7 to 9; the number of wagers per player position has increased from two to four; the hours of operations have increased; and the number of games that are approved in the state has increased from 13 to 145. All of that is action by the Commission not deemed to be an expansion of gaming.

Mr. Saucier talked about the landscape in Washington and when looking back five years ago, the card room industry was producing \$290 million a year in revenue. Today the card room industry is producing \$226 million in revenue, a decrease of 22 percent. So clearly that side has not been expanding. On the tribal side, in 2006 the Tribes were producing \$1.2 billion in revenue; today that number is \$2 billion in revenue, a 157 percent increase in gaming. Under his proposed amendment to the WAC, they are not asking for an increase in wager limits; there are no increase in wager limits; there is no increase in the number of players; and there is no increase in the number of games played within the wagering area – it is still the maximum of four within a wagering area. The progressive systems have historically been allowed. The one increase that Mr. Saucier said they were doing was instead of allowing one progressive type meter, they were putting on two. The envy and share the wealth features have been historically allowed in practice in the state. Mr. Saucier said that was his response to whether or not this would be deemed an expansion of gaming, which he truly believed it was not. He said AD Harris was kind enough to give him a memo some time ago addressing the concerns and, not to put him on the spot, but Mr. Saucier thought he had addressed all those concerns, both in the presentation and through his testimony. He asked if there was anything else that either staff or the Commissioners would like him to address.

Commissioner Gray asked if this would be a hardship on card rooms. There was a letter she had read about whether card rooms would be able to afford to put something like this in place. **Mr. Saucier** replied it was voluntary; that nobody was requiring the card rooms to do this. They would only do it because they would believe that they could make more money doing it than not doing it. But certainly there would be no burden to them because there would be no requirement; it is purely voluntary. It is the same as the player's decision on whether or not the player wants to wager; that is purely the decision of the player. They are not forcing anybody to do anything; this is in addition. **Commissioner**

Gray responded her concern had to do with the safeguards that are required for this – that they might require some expensive technology. **Chair Ellis** recalled the same letter, or e-mail, Commissioner Gray was referring to and he thought the question was whether it would put small card rooms at a disadvantage because they would not be able to afford the technology. **Commissioner Gray** agreed. **Mr. Saucier** responded that, if he was not mistaken, the author of that letter, who actually wrote two letters, also wrote a third letter withdrawing his two previous comments. **Commissioner Gray** affirmed. **Mr. Saucier** replied that his answer is this would actually help the small establishments because the larger establishments have the ability to fund the jackpots with larger amounts. So the way to combat a competitor across the street that has a \$500,000 jackpot when the smaller establishment does not have the financial resources to do so is to do something that is different, which in this case would be a smaller jackpot that is spread among more players. So players will think “gee, for \$1 I can win a half a million because I’m a lucky person.” Other players are going to think “I’m not that lucky, but if I could go in and win \$500 because somebody else was lucky, then that’s what appeals to me.”

Mr. Tull said he would like to respond to that question and make a couple final remarks – or actually he would save his final remarks for after testimony. He asked to address Commissioner Gray’s question. What Mr. Saucier’s company wants to do is take a product to card rooms large and small, tribal casinos large and small, and convince them that their business will improve with his product. The idea that they would not be able to afford it has been withdrawn; that issue is really not there. If a card room is not doing house-banked games, then they will have lower equipment requirements. If they are doing house-banked games, they have already got that, and the interlocks and safeguards are the product that they have invented that they will market within these operations. Someone who wants to invent their own version is going to have to invest the capital to do that, and people will. There are other machine companies out there that will be coming forward at some point and they will have to answer the same lab questions and the same staff questions. But Mr. Tull did not see a circumstance where this becomes a burden on a small card room. He sees it as something that could help them promote, as Mr. Saucier just mentioned. Mr. Tull said they would wait for an opportunity to close, but would now step out of the way.

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

Mr. David Ashe, intern to Senator Delvin, explained that Senator Delvin wanted him to share that he supports what Rockland Ridge and Galaxy Gaming is proposing and he supports the bill. Senator Delvin sent him today because of his background in the gaming industry and Las Vegas. Mr. Ashe said he kind of understood what they are trying to do here and it made a lot of sense. Senator Delvin and he had discussed it. Senator Delvin wanted him to share that he was sorry he could not be present, but he does support them.

Ms. Dolores Chiechi, Executive Director of the Recreational Gaming Association (RGA), welcomed Commissioner Gray. Ms. Chiechi said she just wanted to reiterate the RGA’s support for this petition. For Commissioner Gray’s education, she explained the RGA

represents over half of the house-banked card rooms in Washington State. They voted unanimously to support the petition. Obviously, any enhancement to the card games the industry is allowed to offer, which is 15 tables of house-banked blackjack variations and poker, helps the industry get those revenues back up, local taxes to the local governments, and keeps their employees employed. The RGA would appreciate the Commission's favorable position on this.

Chair Ellis asked if there were any other members of the audience that would like to address the Commission on this topic; there were none. He asked if Mr. Tull wanted to make the few brief closing remarks that he had alluded to.

Mr. Tull replied his comments would be brief. He thanked the Commission for its time over these months, and the staff for their efforts and time. These processes, as mentioned before, are intended to, over a period of months, make sure issues do get addressed. He believed this set of rules, with the staff repackaging, does establish appropriate standards for supporting this evolution in what is essentially a marketing opportunity for casinos and card rooms. He said he was clear in his interpretation of the staff report and of their comments and of the testimony that there are no regulatory concerns that cannot, or have not, been met. Those which still need to be met will be tied to the very specific games, the very specific technology, and the very specific internal control standards that will be submitted and reviewed and, if approved, put into place. So the Commission is not signing off on unknowns, they are setting the standards that this applicant and any other applicant would have to meet. They are giving their staff a set of rules that staff will interpret and, if they have questions about, will come back to the Commission. There are lots of processes for that.

Mr. Tull said he anticipated that over a period of months Galaxy Gaming would successfully complete those reviews and would then take their product to the market place. There is great interest in it. They have had interest from Tribes, as well as from the card room association, as Ms. Chiechi said. Mr. Tull asked the Commission to vote these in today and let them go forward.

Mr. Tull said he wanted to touch very briefly on the question of "expansion of gambling." Staff referred the Commission to the intent section of 9.46, the Gambling Statute. Mr. Tull thought that was always the Commission's prerogative to have a context for their review and analysis. And as a long ago Commissioner, Mr. Tull said he would have always argued that great discretion exists. But it is also clear that the Legislature, from the beginning, has been very specific that commercial establishments are allowed by these statutes to augment their food and beverage business with gambling activity – and only certain gambling activity, and only activity supervised by this Commission. Mr. Tull said he has always believed that the Commission does not have the power to expand gambling. The Commission does have the power to approve games, to modify games, and to allow them to be taken care of.

Mr. Tull said he was here in front of the Commission asking in a clearly confined regulatory context to allow an evolution. The staff's matrix does a fabulous job of

showing how this is a really minor thing. Mr. Saucier and his company think it is enough of a business opportunity to invest a lot of money in the technology and a lot of time and energy in this process. They hope they can take this forward to the market place. If the market place does not like it, or if the technology does not pass muster, then that will be dealt with. But in the meantime, Mr. Tull said he did not think the Commission has to worry in this situation. He did not think staff was worried that there was anything untoward about this. Having said that, Mr. Tull asked if there were any final questions. If there were any critical issues still pending that the Commission thought had to be resolved in a certain way before they could comfortably pass the rule, then in that case Mr. Tull said to give those to staff and put this on hold. Mr. Tull has not heard those, so he thought the Commission was well situated to pass these rules, and he hoped that was what they were about to do. Mr. Tull said if there were no further questions, he and Mr. Saucier were at the Commission's disposal.

Chair Ellis asked if there were any final questions of Mr. Tull; there were none. He closed the public hearing on the petition. He asked if AD Harris had any additional remarks he would like to make in response to the comments that were made by the petitioners and members of the public. **Assistant Director Harris** replied he had no remarks at this time, but he would be happy to answer any lingering questions the Commission may have.

Commissioner Rojecki said he did not want to put AD Harris on the spot, but noted it was referred that this might be a minor thing as far as staff was concerned. Commissioner Rojecki did not necessarily think that was true. **Assistant Director Harris** replied that would be a fair statement.

Commissioner Amos commented that before he considered the possibility of a motion on this petition, he read through all the information over the past months, watched the display in the back of the room, and heard the explanations by Mr. Saucier, Mr. Tull, and the RGA's vote from Ms. Chiechi saying they were all unanimous in regards to the availability of the possibility of having these tables in their establishments.

Commissioner Amos made a motion seconded by **Commissioner Gray** to adopt the rule changes, with the staff's two amendments, effective July 1, 2012.

AAG Ackerman asked for clarification that what the motion is proposing is that the Commission adopt the staff amendment to WAC 230-15-040, which is denominated b), and an amendment to WAC 230-15-685, which is labeled staff's amendment c). **Chair Ellis** confirmed that was his understanding of the motion. He asked Commissioner Amos if that was correct. **Commissioner Amos** affirmed that was correct. **Commissioner Gray** affirmed that was also her understanding.

Commissioner Rojecki said he wanted to make a couple of points. He did think it was somewhat confusing, and he thought that staff continued to bring up some regulatory concerns. He stated that, at this point, he could not support this motion.

Chair Ellis stated he was torn, but he did sympathize with that point-of-view. He said he was not at the point where he felt comfortable that the changes that would be made, both by the petitioners as well as potentially by other members of the industry, would not be excessively confusing. They certainly continued to be confusing to him, notwithstanding an extensive amount of review and two opportunities to see the demonstration. Chair Ellis stated he would not be supporting the motion for that reason.

Mr. Tull asked if it would it be possible to – **Chair Ellis** interrupted to say he was sorry, but the public hearing was over. He added that he thought the Commission had given Mr. Tull numerous opportunities to speak, and that he did not think this was necessarily going to be the last time the Commission would address this topic. He called for a vote.

Commissioners Amos and Gray voted Aye; Commissioner Rojecki and Chair Ellis voted Nay. The motion failed for lack of a majority.

Adjourn

Chair Ellis adjourned the meeting at 10:55 a.m., noting that next month's meeting was to be a one-day meeting on March 8 in Olympia.

Chair Ellis immediately reopened the meeting to correct an oversight he may have made that concerned the last petition. Staff had requested that in the event the Commission did not adopt the petitions on the issues submitted by Rockland Ridge and Galaxy Gaming that they adopt section c), the clean-up amendments, primarily concerning progressive jackpots and baccarat.

Assistant Director Harris affirmed it was c), the one that includes progressive jackpots. Unfortunately, the baccarat one is already imbedded in the previous amendment, which also incorporated the petitioner's changes. **Chair Ellis** asked if, in staff's view, it made sense for the Commission to consider adopting just c) without the clean-up baccarat amendments. **Assistant Director Harris** affirmed.

Chair Ellis asked if there was anyone from the audience that would like to address whether or not the Commission should adopt staff's amendment c) amending WAC 230-15-685.

Mr. Tull said he would try not to be offensive in his persistence. He understood the staff's revisions and, obviously, they were appended to his petition. Mr. Tull said he did not know whether that was technically okay or not, but he did know those changes needed to be made. He asked that since Chair Ellis had reopened this matter, or at least from a procedural standpoint, that the Commission considers putting the rest of the petition, which has the imbedded baccarat part, on hold – in other words, let that pend. Mr. Tull said he would love to find out exactly what concerns, if any, remain with staff and he would address those concerns. Then he would make sure they had a chance to share those concerns with the Commissioners, including Commissioner Rojecki. Mr. Tull suggested that the Commission undo it in that fashion – take forward the staff's revisions, and have his just be pending. He thought that was procedurally okay, but it was up to the Commission.

Chair Ellis said he was assuming that with regard to the specific issue before the Commission, which is the addition of subsection (5) to WAC 230-15-685, that appears to simply codify what

Mr. Saucier described in his demonstration as a practice that had gone on for 15 years in connecting progressive jackpots offered on the same game on multiple tables within a particular licensee. He asked if Mr. Tull had any objections to that. **Mr. Tull** replied he has always supported staff's amendments.

Chair Ellis asked if there was anyone else in the audience interested in discussing this specific issue; no one stepped forward. He closed the public hearing and asked if there was a motion concerning adopting staff's amendment c).

Commissioner Rojecki made a motion seconded by **Commissioner Amos** to approve staff's amendment c) to WAC 230-15-685. *Vote taken; the motion passed with four aye votes.*

Director Day thanked the Commissioners for catching that oversight.

Commissioner Rojecki noted an effective date was not included in the motion and asked if the default effective date was 31 days. **Director Day** replied it was July 1. **Chair Ellis** asked AAG Ackerman if that would be the effective date for this motion. **AAG Ackerman** affirmed.

Chair Ellis asked if there was anything else he may have overlooked in his interest in moving the agenda along; there was nothing.

Chair Ellis adjourned the meeting at 11:00 a.m.

Minutes prepared by:
Gail Grate, Executive Assistant