

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
THURSDAY, MAY 10, 2012
APPROVED MINUTES**

Vice-Chair Mike Amos called the Gambling Commission meeting to order at 1:00 p.m. at the Spokane Ramada Inn and introduced the members present.

MEMBERS PRESENT: **Commissioner Vice-Chair Mike Amos**, Selah
 Commissioner Keven Rojecki, Tacoma
 Commissioner Kelsey Gray, Spokane
 Senator Margarita Prentice, Renton
 Representative Timm Ormsby, Spokane

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

Staff Accomplishment

Director Rick Day introduced Special Agent Jim Dibble who has been with the Gambling Commission for 18 years and works out of the Spokane office. SA Dibble has been very active in most of the complex internet investigations and is trained in computer forensics and digital evidence. SA Dibble has worked with the International Association of Computer Investigative Specialists (IACIS) for about eight years. He was elected to the Board of Directors in 2011 and served as the Director of Certification until May of 2012 when he was elected Vice President of IACIS. SA Dibble’s focus during the first period was on the certification and training of other examiners. As Vice President he has the oversight of certification, training, and strategic planning. The Commission benefits from SA Dibble’s knowledge, experience, and the positive reflection on the Gambling Commission. Director Day played a short Fox News video that featured SA Dibble.

Special Agent Jim Dibble said it has been a real pleasure for him to bring forensic technology into the Gambling Commission and to develop it to such an extent that the Commission is recognized around the world as having world class expertise in the area of internet gambling and computer forensics. SA Dibble said that, to a large extent, it has been because of the vision of Director Day and his staff who have embraced reaching out as part of the community and helping others. SA Dibble serves on the Internet Crimes Against Children Task Force, of which the Gambling Commission is an affiliate member because it was recognized as not just a law enforcement problem but a humanity problem. Whenever he has an opportunity, SA Dibble helps organizations like the FBI, Secret Service, ICE, with their types of investigations, which

keeps him and Special Agent Terry Bach proficient. They are spreading a lot of goodwill around some of our sister agencies, and it has been a distinct pleasure to do that as they have been enhancing their technical expertise in a lot of different areas. SA Dibble distributed a handout about the IACIS, which has about 2,500 members from 76 different countries. He explained he typically goes over to Germany and trains advanced forensics for all of Europe, the EU, and the Balkan countries. There are about 1,350 certified forensic computer examiners in the organization who not only get their certification through IACIS, but also have to recertify every three years. He thanked the Commission for their support.

Vice Chair Amos asked if there were any questions; there were none.

Agenda Review/Director's Report

Director Rick Day briefly reviewed the agenda, pointing out a possible quorum problem because only three Commissioners were present and Commissioner Gray may have to leave early to catch a flight. He suggested moving Item 3, the Legislative Report, to just before Other Business and General Discussion, and moving the Rockland Ridge/Galaxy Gaming rule petition before the ShuffleMaster rule petition. He explained that Assistant Director Mark Harris would present the Texas Hold'em Pilot Project Report, which was required by rule to be presented to the Commission in May. The ability to continue to use \$100 wagers actually extends through the end of this year, unless the Commission makes a different decision first. Director Day indicated the Commission currently plans to have a two-day meeting in July at Embassy Suites Hotel in SeaTac. He encouraged everyone to check our agency's website for the day, place, and times as the July meeting date approaches.

Vice Chair Amos asked where the Embassy Suites in SeaTac was located. **Director Day** replied the address was 15920 West Valley Highway, Seattle, Washington.

Director Day drew attention to a couple items relative to the Centennial Accord Report: the Gambling Commission's report to the group and a summary of what the Centennial Accord is all about. Each year the Governor and representatives of the state of Washington meet with the recognized Indian tribes to celebrate and reaffirm progress under the Centennial Accord. The Accord was signed by the parties over 20 years ago to establish a framework for government-to-government relationships. The Governor's Office of Indian Affairs prepares a report, which includes information from the parties relative to their progress, activities, and plans. It usually covers all those agencies who normally participate, as well as other elected officials, and then allows time for the group to update their action plans, or put new action plans into place. The Gambling Commission's brief report summarizes several activities of the Commission last year. Representatives are sent each year to the Centennial Accord meeting. This year, the report touches on outreach activities to the Tribes, the Commission's support of Senate Bill 6175 that passed this session and incorporates government-to-government relationships into the law, the Gambling Commission's individual regulatory planning approach with gaming tribes, and its training approach within the Commission itself. The 23rd Annual Centennial Accord meeting is scheduled for June 7, 2012, from 9:00 a.m. to 3:00 p.m. at the Suquamish Tribe's House of Awakened Culture.

Director Day pointed out the letter dated April 19, 2012. Chair Ellis had requested staff to draft a response thanking Chairman Ron Allen for the Community Investments Report he sent to the Commission. Under Correspondence is a memorandum that Assistant Director Tina Griffin prepared to update the Commission on the progress for using the Department of Revenue Business License Services (BLS). The Commission's legislation was passed and signed into law allowing the flexibility in renewal dates in preparation for cooperation with BLS. The BLS continues to express an interest in partnering with the Commission, but they are concentrating on improvements to the system and plan to reconnect with the Gambling Commission in December 2012. They are still interested in moving forward, but because of their current reorganization and transfer, they are trying to reinvest and improve the current system before they bring new members onboard. Director Day reported there were no new congressional actions to report.

Director Day introduced Special Agent Bill McGregor who would be presenting the Qualification/ Program Review, which is a joint review by Financial Investigations and Field Operations staff. Special Agent McGregor is one of the Gambling Commission's most experienced and knowledgeable agents relative to nonprofit bingo regulations.

Qualification/Program Review – Spokane Youth Sports Association

Special Agent Bill McGregor, with the Spokane Field Office, presented the Qualification Review for Spokane Youth Sports Association. He explained that Program Reviews are required under WAC 230-07-080 and are conducted to ensure the licensees are meeting the qualifications for licensure. The reviews also give the organizations an opportunity to come before the Commission and talk about their programs and what they are supporting with their nonprofit funds. The scope and objectives of the Program Reviews ensure the licensees are bona-fide charitable/nonprofit entities and are functioning according to their bylaws. Agents verify the existence of the programs and the extent of those services that are being provided and that they are making significant progress towards their stated purpose as required. Agents ensure the licensees are providing adequate and materially accurate information with their Qualification Review Reports and applications provided to the Commission. They also verify any conflicts of interest in the organizations in their business dealings with members of the organization. As part of the Qualification Review, a financial inspection is done of the organizations to verify they have an independent management control structure, the organization is following that control structure, and they have adequate internal controls that are being followed. Agents ensure the compensation being made is all disclosed and the benefits appear to be reasonable for the area, the funds and assets of the organizations are being used for the purposes of the organization, and those funds and assets are not being diverted from the organization. The organization's financial reporting is verified to ensure it is consistent with the WACs and RCWs. Agents also ensure the rents and leases are reasonable for the area.

Spokane Youth Sports Association (SYSA) has a class H bingo license, a class I pull-tab license, and a class A amusement game license. 2011 financial statements were not available, so 2010 data was reviewed. SYSA had \$3.8 million in gambling revenues, of which \$179,000 were net receipts to the organization for their stated purpose. The organization also had additional revenues outside of gambling of \$887,000. The organization's functional expenses spent on programs was 22.3 percent on support services, and 77.7 percent spent on actual program

services. The organization has 20 active voting members, held 10 meetings during the year, has 8 full-time employees, and has 95 part-time employees. In 2010, the organization had approximately 877 volunteers that provided over 42,500 hours of donated time. The mission of the organization is to provide sports activities for youth where everyone gets to play. The youth develop skills, are taught good sportsmanship, and learn the value of being a team player. Spokane Youth Sports Association was founded in 1965 as Spokane Junior Football. In 1976, soccer was added to their program, and that was when they changed their name to Spokane Youth Sports Association. Today they feature numerous youth sports options, including football, soccer, softball, baseball, track and field, cross country, golf, lacrosse, basketball, and volleyball. They currently involve over 8,000 boys and girls and 1,000 volunteer coaches. Most families in Spokane have been involved in SYSA in some way, as players, coaches, or spectators. During 2011, they offered 11 different sporting activities and were able to offer \$43,160 in sports scholarships to 627 youth who were not able to afford the sports fees, which allowed them to participate in activities. This contribution was done through the bingo operations, plus the money was also used for maintaining and rental of some of the fields. Spokane Youth Sports continues to be a part of the youth sports community in the Spokane area, as is evident by the number of programs they offer, the number of participants they have, the number of volunteers they are able to get, and the number of volunteer hours they are able to get from those individuals.

Based on an analysis of the financial statements, narrative information, and supplemental information provided with their application, the organization made significant progress towards accomplishing its stated purpose. To ensure significant progress, the organization must comply with requirements set forth in their Bylaws and Articles of Incorporation, and they must spend at least 60 percent of their gambling income on functional expenses. Currently, they spend 100 percent on their functional expenses. They have demonstrated that their programs supporting the SYSA's mission are credible and legitimate, and the SYSA is qualified to conduct authorized gambling in the state of Washington. Staff recommends Spokane Youth Sports Association continue to be certified to conduct gambling activities in the state of Washington as a nonprofit organization. SA McGregor introduced Jeff Barlow, the General Manager at the bingo hall, and Phil Helean, the Executive Director of Spokane Youth Sports.

Vice Chair Amos asked if there were any questions; there were none. He asked if Mr. Barlow or Mr. Helean would like to speak on behalf of their organization. From the audience, they indicated they did not have anything to add to what Special Agent McGregor had covered.

Vice Chair Amos commented that SYSA appeared to be an excellent organization and had an outstanding program as indicated by the figures and the number of people involved.

Commissioner Rojecki made a motion seconded by Commissioner Gray to recommend, in accordance with WAC 230-07-080, that the Spokane Youth Sports Association continue to be certified to conduct gambling activities in the state of Washington as a nonprofit organization. Vote was taken; the motion passed with three aye votes.

Texas Hold'em Pilot Program Final Report

Assistant Director Mark Harris reported that the Texas Hold'em wagering limit program began on October 15, 2010. Staff gathered about 17 months worth of data from the program. Since the start of the program, 31 house-banked and one Class F card room licensees requested to participate. Of those, 19 house-banked and one Class F card room actually participated in the program and operated at the higher limits. As of the end of March 2012, 11 house-banked card room licensees were still operating at the higher limits. There was an average of a little over nine days that the limits were operated per month, with an average of eight players participating in the game when it was offered. During the program, 16 customers requested to be self-barred; there were no reported incidents of cheating during the time the higher limits were being offered at the tables; staff did not experience any regulatory concerns or problems during the program; and the Director did not have to remove anyone from the program.

Early in the program, staff received one call from the public concerned about the effect on problem gambling. Staff received four letters of support. George Teeny submitted a packet of information that included a letter of support from the Chief of Police of the City of La Center. Three of the card rooms actually operated the higher limits for over 100 days and two of those were still operating at the end of the program. One offered the higher limits almost every day of the entire program. Two of the card rooms reported increased food and beverage sales during the offering of the higher limit games. Of the 20 card rooms that operated Texas Hold'em at the higher limits, one closed during the program, two requested to be withdrawn, six operated at the higher limits periodically throughout the program before discontinuing, and 11 were still actively offering the higher limit games. Of those 11 card rooms, four just started offering the higher limits within the last four to five months, five offered the games about three days a month, one averaged eight days a month, and the one offered a little over 28 days a month.

There were no reported cases of cheating while the card rooms were offering the higher limits, staff did not experience any regulatory concerns from the pilot program, and there was not an increased number of players requesting to be self-barred while the program was being offered with the higher limits. There appeared to be some demand for increased wager limits throughout the state, with a higher demand in a few areas. The commercial stimulant impact on the card rooms in the pilot program was similar to the mini-baccarat pilot program. This also showed an increase in food and beverage sales while the higher limits were being offered. Although not a large percentage of the card rooms offered the higher limits, those that did experienced some positive impact to their business. Increasing the wager limits is consistent with the Commission's statutory authority described in RCW 9.46.070. If the Commission were to receive a petition requesting the increased wager limits in Texas Hold'em card games be made permanent, staff would recommend the petition be filed for discussion.

Vice Chair Amos asked if there were any questions; there were none.

Deputy Director Trujillo commented that he imagined the Chief of Police of La Center did not take writing his letter lightly, adding that he is a former Gambling Commission Special Agent.

Vice Chair Amos called for public comment.

Mr. George Teeny, said he had a couple businesses in LaCenter, including the Last Frontier that has 8 poker tables out of the 15 tables allowed in the state. He said he hoped the Commission had a chance to look at the packet of information he had provided for the agenda packets. It was a culmination of the 18 months. His card room manager at the nine-month mark offered up some conversation to the Commission in Vancouver. Mr. Teeny said the manager was very thankful that Mr. Teeny is now the one doing it and not him. Mr. Teeny said the packet of information should have given the Commission a general feel of where the card room has been and is going with the poker. Again, what they have is a general overview; he has more detailed facts in a book. He said he admired his staff because they take everything to the molecular level. So if the Commission needs any information about anything that deals with that packet, he can give them a song and verse to the point that it is almost ad nauseam. With that being said, Mr. Teeny's business, the poker room, is outstanding and the higher limits have proven to be a real benefit to him. Mr. Teeny said he did not want to be redundant, but he wanted to mention some things contained in the packet. Out of 534 days that this higher limit could have been played in the state since the inception on October 15, 2010, Mr. Teeny had the higher limits in 497 of those days, for a 93.1 percent average. A poker game took place in his facility 58,506 hours during those 18 months. Of that, 13,074 hours, or 22.3 percent, were higher limit games, or the pilot program games. The food and beverage numbers are a culmination of the club and are not specifically to the higher limits. That number should actually be bigger, but the reason why it is not is because he created a poker menu to service those players a \$2 or a \$5 meal that would normally be 2 to 3 times that price on the main menu. But it was an inducement for the players to come in and play. The players were able to acquire those meals at those discounts if they played for an extended period of time; it could be six hours, four hours, eight hours, or as the case might be.

One of the things that may mean more to a businessman than the Commission is the amount of new sign-ups that he has had. Most clubs in the state have some type of a player appreciation signup card which means if they become a regular player and sign up with this card, the card will give them special benefits such as the discounted food, or maybe they will get a discount in clothing or gas cards. Mr. Teeny reported his card room has had a substantial increase since this higher limit went in. He was averaging about 14 or 15 signups a month and it skyrocketed to almost 33 a month on an average since the inducement of the higher limits. He could not attribute everything to the higher limits, but he did know that his poker room increased substantially in that area. Mr. Teeny said he could give the Commission stuff about face counts, new faces, and letters that were written. He was going to do kind of a petition where he would ask players if they wanted to keep this limit inside the club to please sign the petition. But his CEO, who Mr. Teeny said was smarter than he was, suggested that was a bad idea because then there would be petitions for everything inside the club, which is the last thing he wanted to do. But in making comments at the table, because Mr. Teeny does play poker with his customers, he made several causal comments. And from that there was a large response from people who wanted to send in letters. Mr. Teeny suggested that they not do that because he was not quite sure what they would say and he would like to filter them a little bit. Again, with that being said, there were 3 to 5 people who said they would like to do it. Mr. Teeny felt they were able to put two words together without insulting anybody, so the Commission may have received a letter from them.

Mr. Teeny said he had mentioned the game “Kill” in his packet, and he had somebody ask him what that meant. In the game of poker, there are things that are allowed in this state. One of them is “Overs,” another one is “Kill,” and another one is “Straddle.” Mr. Teeny said he would not get into the minutia on the other two, but he explained that on the “Kill” game, if Commissioner Amos won a hand in this game and he won a second hand following the first one, so it is concurrent, and the pot that he drew met a certain dollar amount – say \$50 – they would take a button that is on the table, then go from a blank to a kill, and now the bets increase. His games have a 10/20, 15/30, and they have a kill. If that kill takes place, that 10/20 game would become a 20/40 game. If it was a half kill, it would go to a 15/30 game, if that makes any sense. Mr. Teeny wanted to give some clarity there because he had some people ask him what “Kill” meant. It is not doing anything bloody, unless the player loses maybe. So with that being said, Mr. Teeny asked if there was anything he could give clarity to, or if the Commission had a question of him.

Commissioner Rojecki asked if Mr. Teeny had any recollections or understanding from others in the business as to why they are seeing it being used sporadically in this kind of program. Some of it could be simply training amongst staff or confidence to introduce something; others must be demand. **Mr. Teeny** affirmed, pointing out that he had made note of this in the summary in his packet. There are about 140 card games that any facility in the state could use, and this poker happens to be one of those 140. It works for some demographics. Mr. Teeny said his background was poker. He understands how to play Blackjack, but to give an explanation about the odds, percentages, hands per hour, or win/loss rate, he would be lost. But if someone asked him the odds on hitting an inside straight, he could give them that. So poker means a lot to Mr. Teeny. When poker was brought into the state, or when it was in the state before it went to house-banked, he was very familiar with it. He is a poker player; he understands poker players. So it came natural to go forward with this, and it fit within his demographics. Mr. Teeny’s customers understand him; a lot of the players came from the old days in Vancouver when Vancouver used to have poker, then they went from there up to La Center and so forth. For the demographics, his labor force is highly trained for it. Mr. Teeny considers his dealers to be some of the best in the country, not just the state, because they take pride in what they do. It may not work for other facilities. There is a place called Diamond Lil’s in Renton with a huge Asian community; their poker room thrives. Why the owners chose not to go to a higher limit, that is certainly their business, but their business thrives because of the location, who they are, and the demographics. Mr. Teeny chose to put it into his card room and, obviously, like he said earlier, he has turned 8 of his 15 tables into poker tables, which is unheard of in the state, unless it is Diamond Lil’s or possibly the Black Pearl that is trying to do nothing but poker. So that is one of the reasons.

Another reason why there are not very many games now is the lack of understanding and, maybe, the labor force. Again it was brought forward in the letter, and Mr. Teeny did not want to be redundant. Customers do not care about why a game is taken back or given away; they do not care about smoking and no smoking; they do not care about food being one price and now it is raised; they just know that they are mad because it happens. Several of the key people in the state that have rooms have shared with him that they would probably put in the higher limit poker, but they do not want to upset their players by giving them something, have everyone get

comfortable, have them show up Sunday morning or whenever they play, and then all of a sudden tell them they cannot play anymore. They do not understand the reason why and the operators can explain to them until they are blue in the face, but it means nothing to the players; all they know is that something was taken away. If this becomes a permanent rule, Mr. Teeny suspected there would be more clubs put it in, just from what he has heard from other people. He said it was a long answer to a short question.

Representative Timm Ormsby explained he was a new member on the Commission and was just trying to understand a little bit better. If he understood correctly, the utilization rate was about 93 percent of the days. He asked what determines that rate; if it was demand. He asked for a little background. **Mr. Teeny** responded that the way he has set it up in his card room, knowing there is a limited amount of poker players compared to Blackjack players, he decided to figure out what would be the best day for a 30/60 game, which is generally the largest game played with this type of limit. He decided Monday would be a good day, so he ran it on Monday, which turned out very well. The reason why is because it started at 8:00 in the morning. Monday is one of the days that his card room shuts down within a 20-hour period. So the game would go from 8:00 a.m. until 4:00 a.m., and then it is over. He protects his customers. Because the limit is high, he wants to make sure everybody comes back again tomorrow. The next day was Tuesday, so he went to a 20/40 game because the demand was there. And from that point on, he just ran – the highest game he ran was the 15/30 Kill, as explained earlier. And then the demand got to be so great that he decided to put 20/40 in on Friday, but he does not have the luxury of shutting it off after a 20-hour day, so it goes 24 hours after that. And so he has been able to run games Friday, then it carries over to Saturday, and sometimes it carries over to Sunday. Management regulates those games. Instead of having six 20/40 games, he has one 20/40 game and then the next game will be a 10/20 game, or a 15/30 game. He tries to massage the room so it works for the majority of players. That is generally the reason why, but it is from all the years that he has been doing it and understanding his customer base of what he can or cannot do, and it works. If the demand gets to be big, he obviously will listen to his players and do what he needs to do. Mr. Teeny had a huge demand for 30/60 on Sundays, so he ran it on Sundays; it lasted for two Sundays. It affected both Sunday and Monday, so he stopped doing Sunday because he wanted to make that 30/60 game special. And by doing that, he has attracted players from as far away as Eugene to the south and Seattle to the north to come and play in the game.

Vice Chair Amos asked if there were any other questions or comments; there were none. He asked if AD Harris had anything to add. **Assistant Director Harris** replied no, unless the Commissioners had any additional questions. The action staff would like the Commission to take would be to make a motion to accept the recommendations of the report.

Chair Amos called for public comment; there was none.

Commissioner Rojecki made a motion seconded by **Commissioner Gray** to accept staff's recommendations as indicated in the report. *Vote was taken; the motion passed with three aye votes.*

Commissioner Rojecki asked when this program stops if the Commission does not receive a rule petition. **Director Day** replied December 31. **Commissioner Rojecki** asked if the Commission had to have something in place before December. **Director Day** affirmed that was correct. Since there is no Commission meeting in December, the Commission would have to have the petition in sufficient time to get it done by November. **Vice Chair Amos** added that Mr. Teeny had made a comment earlier that there would be a petition.

Approval of Minutes – April 12, 2012 Regular Meeting

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

New Licenses and Class III Certifications

Deputy Director Trujillo reported there were no unusual items noted and staff recommends the Commission approve all new licenses and Class III certifications listed on pages 1 through 16.

Commissioner Gray made a motion seconded by **Commissioner Rojecki** to approve the new licenses and Class III certifications listed on pages 1 through 16. *Vote taken; the motion passed with three aye votes.*

RULES UP FOR DISCUSSION

Petition From the Public: Rockland Ridge Corp. and Galaxy Gaming – Allowing “envy” and “share the wealth” “bonus features” to be connected to multiple tables of various card games in a house-banked card room.

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

Assistant Director Harris reported that at the February 12 Commission meeting, the Commissioners denied a similar request by the petitioners citing regulatory concerns. The petitioner submitted this new petition addressing the two areas they believed led to the denial of the petition. The petitioner’s new proposal uses staff’s alternative version from the February meeting as a starting point. Proposed amendments now include limiting the prizes to a fixed payout only and not odds based; requiring an electronic feature to be used on the tables to detect and record the player’s bonus wager; providing an alternative notification system for winning triggering events; and including a system of displaying all winning bonus hands. Outside of the additions, the current petition has the same impact as the last one. It still allows all players at a card room placing an envy and share the wealth wager to receive a prize, even if they are at a different table; defines envy and share the wealth as a bonus feature; allows other game features that do not require a separate wager to be considered a bonus feature; allows bonus features and progressive jackpots to be combined; defines what a separate game is; clarifies that card games and bonus features must be approved by the Director or the Director’s designee; and clarifies that prizes in a bonus feature are based on achieving a pre-determined specific hand. It also adds

language to clarify that the approved card games must be operated as documented on the agency website, that only one player may place a wager in a wagering area in mini-baccarat, and that licensees may connect progressive jackpots offered on the same game on multiple tables. The impacts listed in the rule summary are the same as they were in the previous petition. Staff contacted the Nevada Gaming Control Board where Galaxy Gaming's MegaShare equipment is being operated at one location and were told they have not had any issues with it.

The equipment the petitioner intends to use to implement these changes had been requested to be reviewed by staff and has been submitted to the Electronic Gambling Lab, although the review has not yet started. Resource impacts are the same as in the previous petition, with the addition of one feature, which is staff may receive an increased number of requests for equipment approvals designed to monitor and facilitate the new features. An alternative to WAC 230-15-040 is included in the agenda packets, which includes some changes in subsections (8), (9), and (10) for clarification purposes. It does not change the intent of those three sections. Historically, the Commission has limited the number of games played within a hand of card games and has not allowed different card games to be connected. This proposal would allow bonus features to be connected and tied to progressive jackpots. The Commission may wish to consider whether the proposal is consistent with the legislative intent of RCW 9.46.010.

Vice Chair Amos asked if there were any questions; there were none. He called for public comment.

Mr. M.J. Durkan, representing the Muckleshoot Tribe, distributed an article produced by KING 5 news that was on the news last week and which has some bearing on the issue to be talked about. He said he would wrap that back in rather quickly in a minute. The problem here is card room employees playing cards on the job; in other words, skills that are playing in the card rooms. This particular case obviously is in court and the outcome of that decision is not yet known. Mr. Durkan thought, after talking with some people he knows that work in card rooms and some of the rumors that are going on, the issues were about how many employees play in a given day, are there more employees playing than customers, do customers know who the skills are, and are they well identified. When that is tied into these progressive jackpots, when employees win a progressive jackpot, what message does that send to the public in terms of the integrity of the game? He has been told that employees that win progressive jackpots on the job are required to split those with management. Although he has no proof of that, Mr. Durkan thought the Gambling Commission needs to investigate this issue to know how many employees are playing on the job. An emergency rule may be needed to forbid this until such time as the Legislature has a chance to take a look at it. Liquor employees are certainly not allowed to drink on the job. He did not think Costco would let them do that. The question is should employees be allowed to play in a game where they can win these large jackpots when they are working. Mr. Durkan thought the answer to that was no. He requested the Commission take a look at that issue thoroughly, find out what is going on in this case, and if it is prevalent out there, if it is happening a lot, where does it go, and where does it lead, because he thought there were some stones that needed to be turned over in this particular area.

As it relates to this issue that is being talked about today with the linked games that are not of similar nature, jackpots that are growing, this is where corruption can come into the gambling

game. Mr. Durkan said he was not saying it was there, but he thought the Commission needed to take a look at what is going on. He thought this application was premature; the equipment has not been tested; the equipment should be tested, certified, and reviewed by Gambling Commission staff and the Laboratory. The Commission has an applicant that is up for penalties; he asked whether there should be a hearing first on the applicant to see if the petitioner is even going to have a license in six months. Mr. Durkan asked the Commission to set this petition aside and first look at the equipment to see if it is viable and works and is fair; have the enforcement hearing on the applicant to see if some of the things that are in the agenda packets are true or not true.

Mr. Rob Saucier, representing Galaxy Gaming, one of the co-petitioners, said that was a hard act to follow. He said he was not aware of the article, and that it was not an issue that was really before this Commission at this time with his petition. Clearly the decision whether or not to allow employees to participate in gambling is a separate decision by this Commission. Mr. Saucier said he would tell the Commission that, from what he understood, that had to do with using on-duty employees in a poker arrangement where they were used to help start games. As far as he knew, in house-banked games they do not have any on-duty employees playing the games. But again, that is not a part of his petition; that is a separate issue and he wanted to keep that separate. Mr. Saucier wanted to respond by saying that AD Harris was correct; their equipment was submitted to the Electronic Gambling Lab – it was actually in the Lab awaiting this Commission filing of the petition last month, which occurred. Immediately following that, the equipment was put in queue in the Lab. The last that he had heard from the Lab, they will begin testing this month. Mr. Saucier did not expect to come to the Commission until he knew the Lab had certified the equipment would do what he claims it does. He said the equipment has been working flawlessly in Nevada and in California, and so he had no reason to believe that it would not pass the test here as well. But if there is an issue, he will work that out. He will not ask this Commission to vote on something until he knows if there are any little bugs that need to be taken care of. He will get them taken care of before he comes back to the Commission. Finally, at this morning's study session, one of the questions he was asked was if there were any regulatory concerns other than those concerns that the equipment is designed to address. And the answer was no. Not that there couldn't be something that comes to mind later and, if so, he would address that. Again, Mr. Saucier said he did not intend to bring this forward to the Commission for a final vote until he knew all regulatory concerns had been adequately addressed, and that the equipment had been certified. With that, he also wanted to thank the Chairman for allowing the rescheduling because he had a flight in less than an hour.

Vice Chair Amos asked if there were any questions of Mr. Saucier or further public comment; there were none. He asked if there was any action the Commission was required to take at this time. **Assistant Director Harris** explained the rule was just up for discussion, so no action was needed on the Commission's part. He added, on the area of card room employees playing on-duty, that is not a house-banked issue; it is a poker issue. As Mr. Saucier said, the employees usually play in the games just to keep the games going. A minimum number of players is needed for a poker game to operate, so they usually have one or more employees in the poker game just to keep it going. In a house-banked game, the players are playing against the house and an employee is not needed to keep a house-banked game going.

Vice Chair Amos asked if the other three players at the table knew that the other player sitting next to them was an employee. **Assistant Director Harris** affirmed, explaining they would usually have a name tag on while they were playing. Also, the rule requires that a sign be posted at the table saying if someone wanted the operator to point out the card room employees that are on-duty, they would point them out. **Commissioner Rojecki** asked if that was silent in law, or if it was specifically allowed. **Assistant Director Harris** asked if he was referring to card room employees can play. **Commissioner Rojecki** affirmed. **Assistant Director Harris** replied he did not think it was addressed in an RCW, but is addressed in WAC rules as far as game starters. He added that the documentation has to be done, and they have to have the sign posted or the name tags – also what happens regarding PSJs and such.

Commissioner Gray asked what happened when employees are playing and they win. **Assistant Director Harris** asked if she was referring to when they win the pot in poker. **Commissioner Gray** affirmed. **Assistant Director Harris** replied it was then their pot. **Commissioner Gray** asked if they share that with the employer. **Assistant Director Harris** replied no, not that he knew of. **Commissioner Gray** said they are not supposed to. **Assistant Director Harris** affirmed. They are paid to play and if they win the pot, it is theirs. **Director Day** asked how that works if there is a player-supported jackpot involved and they win. **Assistant Director Harris** replied that off-duty employees can win a player-supported jackpot just like a regular player, but on-duty employees cannot. It is the same with supervisors, managers, and owners.

Mr. Greg Norris explained that he manages the Black Pearl, which is a new card room that just has poker. He said he has listened to the talk about house-banked games versus nonhouse-banked games and he would love to clarify a little bit so the Commission has a good understanding of poker versus nonpoker. The employees at his card room, and any card room in Spokane he has worked in, play in the poker games. Number one, they play with their own money. Some of it is self-preservation. An employee in a card room has come in for their 8-hour shift and the game gets short – there are 7 players, or 6 players, or 5 players and pretty soon the players do not like to play in the short games and they will go home – and the employee showed up for their shift where they feed their kids and their wife and they have nobody to deal to, they are a minimum wage employee and are not going to make any money on that shift, so the self-preservation is employees quickly learn if they play in the games, they are going to have more customers to deal to, more of a regular business, and will continue to build their income. There are a couple things that do not happen. They never play with house money; they only play with their own money. If they win money while they are on shift, they get to keep it. If they lose money when they are on shift, they lose money. The employees understand this. Now it is up to the person or the personality – they typically play very conservatively, just kind of fill the seat and keep the game going. That is the general concept. The house does not force them to do it, and by no means are they forced to share money with anybody. In most of the rooms that Mr. Norris was aware of, and in his room specifically, if the employees are on the clock and they hit any kind of jackpot, they are not eligible for the jackpot. In that case, it actually benefits the customers. By the rules of the game, the jackpot needs to be paid and it is divided between the customers that are in the game. So in those cases, the customers actually love to see the employees hit the jackpot, because now they are all benefiting. It has actually increased their odds and increased their pleasure in the game because they are earning something that is theirs; it

is called the player-supported jackpot. All the players put money into it. Coincidentally, the employee that is on the clock is also putting money into it because the money goes into it when the pot is won. When the pot is pushed to somebody, \$1 is dropped into this jackpot. They do not push the pot and say “oh, that was an employee that won it, we’re going to give him that dollar back.” They drop it in the jackpot anyway. The employee’s money goes in there, just like everybody else’s. But if they happen to hit it when they are on the clock, all the other players benefit. They are pretty aware of this. A lot of comments are heard from the players, “God, we love to tip that employee, or we love to give him the jackpot, or we want to see him win” because it is kind of a small community. But that is kind of how a poker room operates. And as a self-preservation mode in these small rooms that are around here, the employees are hired from a player base; they love the game, they like poker, and they are encouraged to help their game if it needs it. Again, it is not forced, but it happens frequently. That is how the jackpots work. Mr. Norris could, in no way, see any correlation to what is being talked about with this progressive jackpot with Pai Gow games and Blackjack games. They are completely independent of these employees playing in poker games versus what is being proposed on the Galaxy Gaming side of things. They are not connected in any way. Mr. Norris hoped that educated the Commission a little bit about how card rooms operate.

Director Day pointed out the Commission probably recalls that they actually denied filing a petition just last month relative to player-supported jackpots and employees wanting to participate in the jackpot.

Senator Prentice asked if this was the issue that did not get a second. **Director Day** replied the Galaxy Gaming petition was before the Commission. It has changed a little bit to bring in electronic verification, so there is a piece of it that is different in an attempt to address some regulatory issues. But, other than that, this is a similar petition. **Senator Prentice** was wondering because all she heard was Mr. Saucier would deal with any objections the staff or Commission has. She asked if it was possible to say no, and have no be accepted. That was what she was wondering - should the Commission have waited and everybody voted no. **Vice Chair Amos** asked if her question was in regards to Rockland. **Senator Prentice** affirmed. **Vice Chair Amos** explained that issue died on a 2/2 vote the last time, not a majority vote; it was tied. He thought there were then two amendments brought up by staff. **Assistant Director Harris** replied there was an amended version. **Vice Chair Amos** said it now goes back on the hopper of discussion and then the Commission will end up voting on it in two months. **Assistant Director Harris** clarified it would depend on when the Electronic Gambling Lab reported. **Vice Chair Amos** agreed – when the Lab reports what the deal is in regards to their investigation of the table.

Assistant Attorney General Jerry Ackerman said he would, hopefully, shed light and not muddy the waters further in answering Senator Prentice’s question. As he recalled, the procedural history here, the prior Galaxy Gaming/Rockland petition failed because there was not a majority to file it for further discussion. So that petition basically died at that point. Subsequently, Galaxy and Rockland came forward with a second petition, which was similar but had some changes from the first petition. The Commission then accepted that petition for filing. And today is just for a hearing on the petition that is up for discussion at this point – it would be up for final action in July. **Director Day** clarified it would be up for final action in July, but the

testing is likely not to be complete. **AAG Ackerman** agreed. It could be up in July, but probably will be subsequent to the July meeting. He thought the short answer to the question would be that even when a petition fails, a new petition can be brought forward. The fact that a prior petition failed does not foreclose a later petition. That is what is here today – a second petition following the one that was not filed in February.

Petition From the Public: ShuffleMaster, Inc. – Allowing carryover pots for house-banked card games

a) Amendatory Section: WAC 230-15-040 Requirements for authorized card games

Assistant Director Harris explained that a carryover pot is an optional pot that accumulates as the dealer and participating players contribute to the pot. The winner is not necessarily determined in one game, as there is a minimum qualifying hand to win. The pot cannot be carried over for more than ten games and participants must include at least one player and the dealer competing for the highest winning hand. The individual game rules will determine how the pot is distributed; what percentage goes where. The current WAC rule requires that players' win or loss be determined during the single course of a card game. The petitioner's proposal creates an exception to this for a carryover pot and it will be up to the licensees to ensure the pot is not carried over more than ten times. The petitioner indicated that Washington would be the first state where they would introduce the game with a carryover pot. One resource impact would be that additional card games with the feature would likely have to be submitted for approval. Staff may receive complaints from players that more than ten rounds went by before the funds were awarded, or that the funds were awarded incorrectly. Included in the agenda packet is staff proposed Amendment #1 that adds language to clarify that if the pot is not won after ten games, it will be divided among the players and the dealer or, if the game rules allow it, just the players. The petitioner said they would be fine with this clarification. The petitioner is not present today.

Vice Chair Amos asked if there were nine guys playing at a table that is going to have this progressive pot – **Assistant Director Harris** clarified it is not progressive, but just carries over. **Vice Chair Amos** agreed. So they are playing ten games; they get to the ninth game and one guy is not in, he is out of there – no, let's go six games – he leaves for two games, comes back, and is still putting his whatever in there. At the end of the tenth game and nobody wins it, does that guy get a split of that or does he have to be in for the whole ten games? **Assistant Director Harris** replied that would be the part that is included in the game rules for the individual game. **Vice Chair Amos** asked if the game rules were from the establishment. **Assistant Director Harris** replied it could also be from the manufacturer. They could put in the game rules that if players were out for a hand and then wanted to get back in, they would have to contribute the extra dollar back into that pot to put them back at the level they were. Or they could have in the game rules that once a player is out, they are out, and just the rest of the people would continue in it.

Commissioner Gray asked if it could be in the game rules that if they started game 1, 2, 3, 4, 5, and a player came in at game 5, they would not be able to play. **Assistant Director Harris** replied that would depend on how it was worded in the game rules, but that could be an option.

Commissioner Gray asked if the Commission would not have anything to say about that. **Assistant Director Harris** affirmed. It is not a mandatory wager; it is an optional wager, so if the game rules said a player could not participate, that person would not be placing that additional wager. It would go into the carryover pot. The new player could still play the main game, but just not participate in that part of the game until that pot was won, and then they could come in at that point. So it is not a forced wager, but is an optional wager.

Director Day asked for clarification that the game rules for the Cincy pot is something that staff approve. **Assistant Director Harris** affirmed that staff would approve the game rules as they would be submitted.

Commissioner Gray asked if the Commission approves this petition, after it is up for discussion, would the game rules come back to the Commission for approval? **Assistant Director Harris** replied the game rules would come to the Commission staff. The Director's designee would review the game rules and verify they meet the requirements of the WAC rules and the RCW, and then it would go through the approval process. **Director Day** added that ShuffleMaster does have proposed game rules in the agenda packet. Item number 8 says players must continue to make a Cincy Pot bet each round to remain eligible, which is the rule that would allow a player to be eligible for that particular pot. It is optional; the player does not have to play it at all; it is not part of the main game. Their proposed rules at this time would say that the players need to bet every round.

Vice Chair Amos asked if there were any other questions or public comment; there was none.

Legislative Report

Ms. Amy Hunter reported staff does not foresee putting forward any agency request legislation for 2013. If the Commissioners have an idea they want staff to pursue, Ms. Hunter would of course look into that more. As far as legislation goes, the main thing staff are busy with right now is working on implementing the laws that passed in the 2012 session. The attachment goes over the ones that staff thought had agency impact and had additional things that needed to be done. Two of those will require rule changes. Senate Bill 6465 deals with members only raffles. That should be a very small rule change. Staff anticipates the rule proposal will be up for discussion and possible filing at the July meeting. Staff is anticipating that a rule change for modifying background check provisions is more complicated than a three-word rule change and will probably be before the Commission at the August meeting. The laws go into effect on June 7, so the Commission will have to follow what the laws say at that point, which staff are very well aware of. If the Commission has any comments or suggestions as they look at the different items that are planned for implementation, please let staff know. Ms. Hunter gave a quick recap of the Legislative Team's activities for the 2012 session.

- Had about 48 meetings with legislators, both in the fall and during session.
- Tracked about 200 of the 1,350 bills that were introduced. The bills can range from things that would change rule making, to requirements about gun safes. So there are a lot of bills that come through that could actually impact the agency.

- Went to about 20 hearings and work sessions. Some of those work sessions were held last interim about retrocession. Deputy Director Trujillo and Assistant Director Lies went to a couple of those meetings, including one that was in Yakima. The Commission supported the bill dealing with government-to-government relationships.
- Spent time communicating with staff to ensure they are not surprised to find out a week later, for example, that there was a bill introduced to consolidate the Gambling Commission with another agency.

Representative Timm Ormsby thought there had been some discussion about potential agency request legislation involving the agent's salary schedule. He asked if Ms. Hunter could give him a recap of what was being talked about, and then anything that may or may not have happened during the course of the legislative session. **Ms. Hunter** replied that she had a little bit of that bill summarized at the top of page two of the memo (HB 2670). It is a very important issue for leadership and for the 27 agents that are in the exempt classification. They are in a type of category that all of the employees that have had their salaries frozen for the last several years have been in. Then, on top of that, last July 1 all staff started a 3 percent salary reduction. The Commission did request agency-request legislation, but that was denied by the Governor's Office. However, Representative Hudgins, who has many house-banked card rooms in his district, was interested in the issue. When staff are out doing our work in the fall, they have not heard back yet from the Governor's Office about bills, so they brief all legislators about any issues, making it very clear that they do not know if the Governor's Office will approve the request. That is what staff told Representative Hudgins when they met with him, but he felt it was an important issue and went ahead and introduced House Bill 2670. There was a hearing on the bill, which provided a good opportunity for staff to let legislators know more about the issue. The freeze on exempt employees is scheduled to go off on June 29, 2013. Because of that, staff really did not talk much internally about doing agency request legislation for 2013. The Director convened a team to look at a number of things related to special agent compensation, including whether this exempt classification is the best classification.

Director Day explained there were a couple things connected with it. The legislation, of course, did not go anywhere in the process. Staff want to be prepared to move the agents up to the proper step increment they should be at and the proper endorsement if the freeze goes off as planned, as well as the 3% reduction that is also supposed to expire the end of June 2013. So those two things will be in the proposals under the Commission's budget. And then the Team is trying to develop an overall longer term plan to satisfy retention problems.

Representative Ormsby asked, just anecdotally or trend wise, what staff have seen. He noted that Deputy Director Trujillo had brought up the fact that the Police Chief in La Center was a former special agent. Representative Ormsby asked about the retention issue, specifically as it relates to compensation, that Director Day has either noticed trend wise or anecdotally as far as being able to retain valuable agents with the knowledge. **Director Day** responded that the trend continues. He was concerned that another agent will be leaving, and about being able to make those corrections. Of course, with retirement changes for people new to state government that will be something staff will have to see what the impact is on the agency's ability to retain people as well.

Other Business/General Discussion/Comments From the Public

Vice-Chair Amos opened the meeting to other business, general discussion, and comments from the public. No one stepped forward.

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

Vice-Chair Amos called for an Executive Session at 2:30 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

Vice-Chair Amos called the meeting back to order at 3:55 p.m. and immediately adjourned.

Minutes prepared by

Gail Grate, Executive Assistant