

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
THURSDAY, APRIL 11, 2013
APPROVED MINUTES**

- PUBLIC MEETING -

Chair John Ellis called the Gambling Commission meeting to order at 1:35 pm. at the Tumwater Comfort Inn and Conference Center and introduced the members present.

MEMBERS PRESENT: **Chair John Chair Ellis**, Seattle
 Vice-Chair Mike Amos, Selah
 Commissioner Kelsey Gray, Spokane
 Commissioner Margarita Prentice, Seattle

STAFF: **David Trujillo**, Interim Director
 Mark Harris, Assistant Director – Field Operations
 Tina Griffin, Assistant Director – Licensing Operations
 Amy Hunter, Administrator – Communications & Legal
 Callie Castillo, Assistant Attorney General
 Michelle Rancour, Acting Executive Assistant

Agenda Review / Director’s Report:

David Trujillo, Interim Director, reported that Senator Conway’s appointment to the vacant ex-officio member position had been confirmed by the Lieutenant Governor. Senator Conway is representing the Senate democratic caucus. Interim Director Trujillo briefly reviewed the revised agendas, noting one staff requested change to hold a closed session at the end of today’s public meeting to discuss an Administrative Procedure Act issue with legal counsel. **Chair Ellis** approved the agenda changed. **Interim Director Trujillo** pointed out the additional material provided to the Commissioners, which included some news articles and a revised public house-banked card room report. He explained that council member David Bean, Puyallup Tribe of Indians, was scheduled to do a problem gambling presentation on Friday but was unable to make it. He will be on the agenda for the May Commission meeting. Interim Director Trujillo drew attention to the news article regarding the internet café arrests that occurred in Florida and Kansas. One of the Commission’s agents, Jim Dibble from Spokane, was sought out for his expertise in computers, gambling, and his internet experience in serving those search warrants.

Chair Ellis noted for the record that, as Chair of the Commission, he would be supervising the work Administrator Lisa Benavidez would be doing on behalf of the Commission during the recruiting process for the director position. Ms. Benavidez would continue to report to Interim Director Trujillo on all other items. Chair Ellis thought it was likely that recruiting process would

continue after his tenure ends in June, and the next Chair of the Commission would continue that supervisory role over Ms. Benavidez during her work on filling the director position only.

Options and Process for Filling Director Position

Lisa Benavidez, Administrator for the Human Resources and Training Division of the Washington State Gambling Commission, reported on the process that would be followed for permanently filling the vacant director position. She reviewed the draft recruitment announcement and position description and asked for the Commissioners support and buy-off on them. She asked if there were any questions about the information provided or any recommendations for change.

Chair Ellis asked if there were any comments on the position description; there were none. He pointed out the decision points that would need input or decisions from the Commission. He thought rather than having a separate motion on each of the seven different points, it might be more efficient to have discussion to the point of reaching a consensus and then move on to the next point. He would recap the consensus at the end of the discussion and have a motion to authorize Ms. Benavidez and her staff to proceed, pursuant to the agreements the Commissioners reached.

Ms. Benavidez briefly reviewed the information regarding a third-party recruiting firm versus using in-house personnel to recruit. Extensive research was done by staff on what a third-party recruiter would be able to do, how much it would cost, what the timeframes would be, and what their experiences were with recruiting for a position at an executive-level for a state agency. There are three firms on the state's master contract list. One of those firms has not recruited for an executive-level position; one last recruited for an executive-level position at the beginning of Governor Gregoire's second term; and the third firm, Karras Consulting, has recruited most of the positions in Governor Inslee's cabinet for executive-level director positions. Karras Consulting has a fairly extensive recruitment process they would follow, including tapping in to over 2,000 contacts they indicate they have for this level of position. They would do some of the culling of candidates and paring down the applications. Karras Consulting indicates it would be about a 90-110 day process. Based on the contract, their fee is 18 percent of the top salary for this position, which would be just over \$16,000. That does not include any fees the Commission would have to pay for advertising costs or any travel associated with bringing candidates in for interviews. Mr. Karras indicated he would be able to take the Commission on as a client.

The other consideration would be using internal Washington State Gambling Commission Human Resources (HR) staff to conduct the recruitment. Staff has already done a lot of the legwork on the recruitment announcement based on the position description that was just approved. The job announcement would be posted on Washington State's online recruiting system, which has access to several thousand candidates. A list of other sources staff would use for sourcing candidates was included in the agenda packets. The plan would be for HR staff to pare down the candidates that do not meet the minimum qualifications, experience, or education before moving them to the Commissioners for further consideration. Ms. Benavidez thought it would be a great learning opportunity for her staff to be involved at recruitment at this level.

Commissioner Gray noted the listing of places was not an exhaustive list and asked if staff would like to do this recruitment. **Ms. Benavidez** affirmed it was not an exhaustive list and that staff would like to take on this challenge. **Commissioner Gray** asked if Ms. Benavidez thought her staff would be able to get the announcement out to enough places, enough people, and a wide enough spread to get some good candidates. **Ms. Benavidez** affirmed. Her staff has gone out to different webpages to ensure staff would be able to post directly on them. Contact has been made with those organizations to confirm they would be willing to assist our staff to get the word out. If the Commission has other organizations they are aware of, HR staff can contact them. What HR does not have that Karras Consulting likely would have is contact with people that are currently looking for an executive-level position, but Ms. Benavidez did not think they would have the contacts with the regulatory agencies that the Gambling Commission has.

Chair Ellis thought it was interesting to compare the Commission's situation to the national search process the state of Massachusetts went through when they recruited Rick Day as their director of their gaming agency. They had contacted every conceivable organization in the country seeking names of qualified candidates and probably several unqualified organizations. They went through a list of more than 100 candidates before they ultimately settled on Rick Day, who is highly qualified for their position. The Gambling Commission has the advantage of starting with at least one very well qualified candidate, which reduces the need for such an exhaustive, expensive, and time consuming search as the state of Massachusetts went through when they were starting from scratch. **Commissioner Gray** said \$16,000 was not that high. **Chair Ellis** asked if Commissioner Gray would argue in favor of using a search firm. **Commissioner Gray** replied not necessarily. Her concern was that it would require more time from Commission members. The Commission members need to be willing to give the staff support in terms of where they can look and where they can advertise. Staff will do the initial screening, but there will need to be a committee, which at least some of the Commissioners would need to be on. It takes time; it is not a quick process.

Commissioner Prentice wondered why this was being done so elaborately. She admitted to being the one who said she did not want to too quickly hire someone, mainly because she had seen what the reaction was with the public when they think the organization's mind was made up and wonder why the position was not posted. Senator Prentice said she just wanted to be sure the position was advertised, not necessarily go through this big elaborate process. However, she liked the idea of having a combination of Commissioners and staff to decide what the Commission was going to screen for. Senator Prentice asked if what staff was looking for was to have some quick meetings; not a huge number of meetings. **Ms. Benavidez** responded that she has tried to outline some qualifications for this position that the Commission might be looking for, which can be decided on here. Then HR staff can begin working with Commissioners to get the process going so there would not be a lot more work to be done after reviewing the qualifications, the position description, and the job announcement. **Commissioner Gray** said that looked to be pretty well put together.

Chair Ellis commented on the state's online recruitment system, stating that when he learned Rick Day was probably leaving, he did a quick search to see what resources might be available and he was immediately directed to that system. He was quite impressed with the system, noting it

seemed like a very effective system. He provided a brief description of the system from his point of view. If he were a person looking for a job, this system gives the option to put in a number of criteria, such as the type of job the person is looking for, the location, the salary range, and other basic information. Then the system spits out a list of positions that are available in the state for various agencies, depending on the limitation of the search. He asked if it was widely relied upon by agencies as well as by applicants. **Ms. Benavidez** affirmed. When Governor Gregoire was in office, it was basically required that all state agencies use that system so candidates would have one central location to look for a state job and not have to go to each individual agency's webpage. It has tens of thousands, if not hundreds of thousands, of users on that site. When staff first used the online recruiting system for an agent position, in the first week to week-and-a-half staff had about 1,500 applicants. The system has been in use for several years, and people go there when they are looking for a job in the state of Washington at a state agency. **Commissioner Gray** asked if it was through the Department of Personnel. **Ms. Benavidez** affirmed, adding the old Department of Personnel is now the State Office of Human Resources Director.

Chair Ellis said he tended to favor using staff to conduct the search. He asked Commissioner Amos what he felt; whether it would be preferable to use an executive search firm. **Commissioner Amos** commented that he did not particularly care for Mr. Karras' services and suggested going with Ms. Benavidez and her staff. **Commissioner Ellis** indicated he was fine with having some of the Commissioners on a committee, but he did not want to go outside. **Commissioner Prentice** asked if Mr. Karras was the one who used to be a state employee. **Ms. Benavidez** replied that Dennis Karras was the former Director of the Department of Personnel.

Chair Ellis said the consensus was that the Commission should not use an executive search firm and instead should have the Gambling Commission HR staff be responsible for taking the lead on the search. He asked if there were any objections; there were none.

Ms. Benavidez explained she would go through the other decision points as a group, and then move through some decision-making from there. Staff looked at other regulatory agencies in the state to make sure the general language used for the recruitment announcement was not off base on what was required for the director position. Staff took that information and incorporated it into the draft recruitment announcement. Also in that recruitment announcement is a salary range from \$110,000 to \$132,000, which would allow for a 20 percent growth. That is still below the maximum salary range that was approved at last month's Commission meeting. When Director Day came on board in 2001, his salary was set at approximately \$106,000. The salary range was set a little bit higher than what he started at, but is still a little below the maximum range of consideration. Ms. Benavidez thought it was a fair representation of what the new director should receive in pay. The start date for posting the recruitment announcement is April 15. Ms. Benavidez recommended keeping the recruitment open for three weeks to allow interested parties to apply.

Chair Ellis asked if there were any comments on the general language in the seven-page job bulletin, the salary range of \$110,000 to \$132,000, and the three-week time period for applicants to respond starting on April 15. **Commissioner Amos** replied he had no questions and agreed with

the language. **Commissioner Gray** recommended extending the recruitment time frame an additional week. One of the things that staff may run into is that there are going to be additional places to advertise. Starting this as quickly as April 15 may not give staff time to find all of the places to advertise, so having an extra week or so would be a really good thing. **Ms. Benavidez** said she has been in HR for about 22 years and she has found that people will wait until the last minute to apply. So staff would probably see most of the applications come in at about two and a half weeks. She suggested opening the recruitment period for three weeks. Then if it looks like three weeks is not going to meet the Commission's needs, or it is taking staff longer to identify other recruitment sources, the end date could be extended in the online recruiting system. Staff can monitor the applicants' responses for about a week and a half and then extend that end date if it is felt the Commission is not getting the quality or number of candidates needed. **Commissioner Gray** agreed, recommending an additional two weeks if needed. **Chair Ellis approved the three-week recruitment time frame and authorized staff to use their discretion to extend the recruitment an extra two weeks.**

Chair Ellis asked if there were any comments on the salary range of \$110,000 to \$132,000; there were none.

Ms. Benavidez explained the supplemental questions outlined in the recruitment announcement do not show up immediately on the job announcement itself, but they are on a separate tab in the online recruiting system. The Gambling Commission is a law enforcement agency and there are specific requirements that have been set for special agents regarding past behaviors, which explains some of the supplemental questions.

Commissioner Gray suggested rewriting question number 5 to say "Would you be willing to complete" rather than "Have you completed" the Criminal Justice Training Commission (CJTC) 720 Hour Basic Law Enforcement Academy or its equivalent. There may be candidates that come from out of state or candidates that are not law enforcement, and so the question should be whether they would be willing to complete it. **Ms. Benavidez** replied that was another decision the Commission will need to make: whether the position is going to be a law enforcement position or not. It is not required in RCW and **Ms. Benavidez** was aware of two past directors that have not been law enforcement. It would just be another one of the evaluation criteria and would just be a plus if the applicant had completed the Law Enforcement Academy or had experience in law enforcement. **Commissioner Gray** suggested asking if the applicant had completed the academy, and then have a second question asking if they would be willing to complete the academy if they had not previously done so. **Commissioner Gray** was concerned that a candidate might read the question the way it is currently written and think they would not qualify if they had not completed the academy. **Ms. Benavidez** said she would make that change. **Commissioner Gray** indicated that question number 6 would depend on that answer. **Ms. Benavidez** affirmed, and asked Assistant Director Griffin whether her agents have powers of arrest, even though they have not gone through the Law Enforcement Academy. **Assistant Director Griffin** believed they could; they are special agents and commissioned law enforcement officers. **Ms. Benavidez** agreed. **Commissioner Gray** asked if that was true even though they had not gone through the CJTC. **Ms. Benavidez** affirmed. **Commissioner Amos** asked if they eventually do go through CJTC.

Assistant Director Griffin replied they have the choice to go through it or they need to stay in the Financial Investigations Unit. The reason for that was because in the late 1990s the agency was having quite a bit of difficulty retaining staff in the Financial Investigations Unit because it was looking for individuals that had more financial background. It seemed like once they went to the Law Enforcement Academy, they were picked up. So the requirement was changed so those agents hired directly into the Financial Investigations Unit would not to go to the Academy upon hiring, but could choose to go later. But they could not transfer to another division until they completed the Law Enforcement Academy. They do go through quite a bit of similar class training to what they would receive at the Academy, like law enforcement powers and duties.

Chair Ellis drew attention back to the basic question that Ms. Benavidez posed in the sixth issue; decide whether specific law enforcement experience is required. If the Commission is not going to require specific law enforcement experience and rely upon the model of past directors who have not had specific law enforcement experience, then it is probably not necessary to imply in supplemental question number 5 that the candidate may have to go through the Criminal Justice Training Commission. **Commissioner Gray** agreed. **Chair Ellis** thought the Commission needed to answer that question; do they want specific law enforcement experience. He said he could certainly see some advantages in that requirement. The person will be the head of a law enforcement agency and will have to interact, as Director Day did, with law enforcement agencies around the state as well as in other states and other countries. Chair Ellis thought it was a major advantage to have someone who can speak to people out in the law enforcement community. **Commissioner Gray** responded she could argue the other side. She read through all of the requirements in the position description and felt that it did not mean the candidate had to be a law enforcement officer in order to do the job outlined in the position description, the recruitment announcement, and the requirements under that. She agreed it might be advantageous to have someone who knows something about law enforcement since this is a law enforcement agency, but did not think it should be required because it was not written into the job announcement and job position description as to what the candidate needed to have. **Commissioner Prentice** said she would tend to agree with that statement. **Commissioner Amos** also agreed. He pointed out it was difficult to get positions in the Basic Law Enforcement Academy, so when there is a lot of hiring going on with other departments, agencies like Fish and Wildlife and Gambling take second fiddle before they get a chance to get a position at the Academy. He did not have a problem with the Director staying in the office and sending the Deputy Director or Assistant Director out to do it. **Chair Ellis** suggested making it clear in the questions that are directed towards prior law enforcement experience that attending the Criminal Justice Training Academy is not required but is simply a factor that would be taken into account during the process of assessing candidates. **Commissioner Prentice** agreed, adding it would be looked on favorably. **Commissioner Gray** agreed, adding that supplemental question number 6 might need to be rewritten too where it asks how long the applicant had been in law enforcement. **Chair Ellis** recommended that any questions in that area should emphasize that the law enforcement experience is not required per se, but is simply a factor. **Ms. Benavidez** confirmed that the language in the recruitment announcement would be changed to indicate that while it is not required, a preferred candidate would have that experience.

Commissioner Prentice thought the marijuana question needed to come out of the supplemental questions. **Commissioner Gray** agreed. **Commissioner Prentice** thought it was legal now. **Ms. Benavidez** replied it was legal; however, the requirements for Commission agents have not been changed. She did not know of any other law enforcement agency that had made that change. **Commissioner Gray** thought the standard was one year. **Ms. Benavidez** replied it was three years. **Commissioner Prentice** said it shows up for a long time. **Commissioner Gray** added there was no horseshoe yet, but there will be; there will be union questions. **Chair Ellis** asked if the Commission thought question number 13 should be eliminated. **Commissioner Gray** thought it should be eliminated and then the Commission would not have to deal with it. **Ms. Benavidez** explained the question was going to be asked of the candidates in the psychological and polygraph exams if the Commission chose to go forward with those exams. Even if the applicant indicates they have used marijuana maybe 5 or 10 years ago for recreational purposes, it is not necessarily something that would eliminate them as a candidate. But it is a way for the Commission to determine whether the candidates have been truthful or not; whether they are deceptive in the polygraph exam.

Commissioner Amos agreed, adding if they have used it, mark yes. We there would still be a problem in this state because of the way that election went. He had a problem with that and suggested leaving the question. **Commissioner Prentice** agreed. She recalled it was John McKay, the former U.S. attorney, who was behind it. She had asked him that specifically because under the Harrison Narcotic Act she said it was not a narcotic anyway. She thought Mr. McKay wanted to bring this to a head, but it is kind of in limbo. **Commissioner Amos** agreed it was currently in limbo. **Commissioner Gray** said she would go along with whatever the rest of the Commissioners decided, but her opinion was that the question should be eliminated because the law is in limbo and the Commission does not know what is being done with it now. They do not know the potential lawsuit that could come out of it, and the Commission does not want to be the first case. **Ms. Benavidez** explained that it has not been legal for the past three years, which is what the question asks. So if they have used marijuana in the past three years, it was likely illegal at that time. **Commissioner Prentice** pointed out there was also medicinal use. **Ms. Benavidez** responded that recreational use has only been legal since June.

Chair Ellis indicated the consensus was to keep the question. **Commissioner Gray** affirmed, saying she would go along with the consensus.

Ms. Benavidez explained the psychological and polygraph exams are currently required of all candidates for special agent positions. Since, in reality, the director position is the highest special agent level in the Gambling Commission, she recommended those examinations be required for this position as well. **Commissioner Gray** thought it was important. **Commissioner Amos** agreed.

Commissioner Gray made a motion seconded by **Commissioner Prentice** to authorize staff to proceed with the internal recruitment process as presented using the position description, the general language including the salary range, a recruitment timeframe of three weeks with authority to extend the timeframe by two additional weeks if necessary, approving the supplemental

questions as discussed and amended, asking whether the candidate has law enforcement experience but not requiring it, and using the psychological and polygraph examinations. *Vote was taken; the motion passed with four aye votes.*

Ms. Benavidez explained the advertising resources outlines local, regional, and national sources to recruit. It is not an exhaustive list, but are the ones she confirmed where a job announcement could be posted, or where they will help staff get the information out. If the Commissioners have any additional places they can recommend, they can either provide them now or send Ms. Benavidez an email.

Commissioner Gray asked if Ms. Benavidez planned to notify Washington State Association of Counties (WSAC) and Association of Washington Cities (AWC). **Ms. Benavidez** affirmed. **Commissioner Gray** suggested posting the announcement on Craigslist also. **Ms. Benavidez** replied staff would certainly do that. **Commissioner Gray** said she may have some other ones that she had previously used for law enforcement. **Ms. Benavidez** thanked her. **Ms. Benavidez** offered her HR staff to assist in the internal project team process and asked if any of the Commissioners might be interested in being on the project team or had any recommendations on other people they might recommend to be in the panel process that will need to be established. The panel will determine what the recruitment selection process will be, how to pare down the candidates, what the interview questions will be like, what the timeline is, and will sit in on interviews. **Commissioner Gray** suggested members of stakeholder groups, for instance a tribal person or someone from the card rooms, or one of each. She did not know whether that was something the Commission would want to do or not; it was just a thought.

Commissioner Amos asked if something like that was done when Rick Day was picked out of Montana for the director position. **Ms. Benavidez** replied that she was not sure who exactly was on the panel Rick Day was plucked out of Montana, but she thought the Commissioners were. The documents from the 2001 hire did not speak specifically about the interview panel. Executive Search Services, which was housed in the Department of Personnel, put candidates together in three different groups: an A group, a B group, and a C group. The A group were those candidates the Executive Search Service staff felt were going to be the top candidates that the Commissioners should consider. The B group were marginal candidates that the recruitment staff felt they may not have seen something the Commissioners would have. And the C group were those that did not meet the requirements of the position. Ms. Benavidez thought that from there the Commissioners were on the panel but she was not sure if HR staff were involved or other stakeholders.

Commissioner Gray thought there should be Commissioners on the panel. **Chair Ellis** asked if Commissioner Gray was interested in being on the panel. **Commissioner Gray** asked if there would be about a month before the applications would be in. **Ms. Benavidez** affirmed. **Commissioner Gray** agreed to be on the panel. **Ms. Benavidez** said the timeline has not been finalized yet. The recruitment would begin on April 15 and all of the applications should be in by mid-May. The Commissioners need to determine whether they want the initial review of applications to be done only by Human Resources staff before that information is provided to the Commissioners so they have a smaller batch to consider. Ms. Benavidez hoped to get a good

candidate pool, but hopefully not 1,500 like were received for the agents. **Commissioner Gray** thought it would be important to have HR review the applications for minimum qualifications. **Commissioner Amos** agreed. **Commissioner Gray** thought the grouping was also a good idea. **Chair Ellis** agreed. He asked if Ms. Benavidez was in a position to carry forward the process of developing a proposal for what the project team should look like, including addressing the question of whether stakeholders should be involved. **Ms. Benavidez** recommended having at least two HR staff and at least two Commissioners on the panel. One stakeholder would be ideal, but stakeholders are going to have competing interests, so two might be better.

Assistant Attorney General Callie Castillo cautioned that, if there were going to be more than one Commissioner participating in that process, the meetings would have to be public or at least made available to the public. **Commissioner Gray** thought it would not require a public meeting if there were only two Commissioners. **AAG Castillo** explained that because those two Commissioners would be making decisions on behalf of the full governing body, it would have to be a public decision. **Chair Ellis** understood that thinking, but asked what decisions this group would be making besides preparing a list of candidates. **Ms. Benavidez** responded the group would be finalizing a list of candidates, the interview questions, and the timeline. **Commissioner Gray** asked if it would work if the two Commissioners on that group only gave their opinion but did not participate in the decision. **AAG Castillo** responded that she would have to think about that question from a legal perspective and get back to the Commission, but her initial reaction is that it would still violate the Open Public Meetings Act. **Chair Ellis** added it would raise a question about why the Commissioners were there. **Commissioners Gray and Prentice** thought it would be for advice.

Ms. Hunter suggested it might be helpful to have staff find out more about the past panel and, in particular, talk to past-Commission Chair George Orr who may recall whether there were any stakeholders on that panel. **Chair Ellis** agreed. **Commissioner Gray** suggested also finding out how many Commissioners were on that panel.

AAG Castillo explained that the Open Public Meetings Act says when it general decisions are being made about the position, the qualifications that are going to apply to everybody, then it has to be an open public meeting. If any committee of the governing body makes those decisions, they have to be made in public or available to the public. If the committee is actually evaluating a specific candidate, for instance if there was a team considering the actual applications, under the Open Public Meetings Act that would be closed.

Commissioner Gray asked if that meant that if there were two Commissioners on the panel, they could do the evaluation of the individual candidates and participate in that, but they could not participate in other decisions about the process; they would have to separate the two functions. **AAG Castillo** affirmed. **Commissioner Gray** said they have done some of the general process, so there could be two Commissioners on this panel. She would like to see two Commissioners on the panel.

Ms. Hunter said staff could contact the former director also because he would probably be able to recall who was on the interview panel. She thought the interviews occurred during the Yakima Commission meeting and was pretty sure it was just the Commissioners on that panel. **Chair Ellis** thought Mr. Day would probably be glad to compare it to the Massachusetts process in which even the candidate interviews were conducted in open public meetings.

Chair Ellis directed staff to gather more information about how other agencies have handled the job of putting together project teams in these kinds of situations. He knew the Governor's Office has done it frequently for a number of positions, including recently during the Gregoire administration for the Director of Parks and other positions.

Chair Ellis asked if either Commissioner Amos or Commissioner Prentice would like to participate if it is decided to have two Commissioners involved. **Commissioner Amos** affirmed he would be willing to participate. **Chair Ellis** confirmed that Commissioners Amos and Gray would be the two Commissioners on the panel. By the May meeting he hoped Ms. Benavidez would be able to flesh out and present any issues concerning the details of how the project team would work and be able to go from there. That should be timely enough with the recommended time period for receiving the initial applications. **Ms. Benavidez** affirmed that should be sufficient.

Chair Ellis thanked Ms. Benavidez and her staff for the work they have done.

Legislative Update

Ms. Hunter reported the next legislative cutoff is Wednesday, April 17, for bills to make it out of the opposite house. The last day of the regular 105-day session is scheduled to be on Sunday, April 28. There are two bills that are still alive that have direct impacts on the Commission.

- Engrossed Substitute Senate Bill 5723 is the bill authorizing charities or nonprofit organizations whose primary purpose is serving individuals with intellectual disabilities to conduct enhanced raffles. Denny Eliason has spoken to the Commission at a couple Commission meetings on behalf of Special Olympics of Washington. The requests for approval of these raffles would come before the Commission. There could be up to four raffles in a year; two that could be approved in Eastern Washington and two in Western Washington. The grand prize could be up to \$5 million and tickets could be sold for up to \$250. The current limit is \$100. This bill would authorize call centers if they were licensed by the Commission, which is not currently allowed for regular raffles. Consultants could also be licensed by the Commission and hired by these organizations to help them. The Lieutenant Governor ruled the bill was an expansion of gambling when it was on the Senate floor, so it required the 60 percent vote. The bill made it to the House and got out of Committee. There were two amendments made by the Committee. One added that order forms could be printed from the organization's website. The other amendment changes the due date of the Commission's report to the Legislature. There was an error and the report date should have been changed to December 2016; instead, the expiration date of the bill was changed. This will likely be fixed with a floor amendment, so the report would be due in December 2016

with the idea that the bill would expire in June 2017. Ms. Hunter thanked Special Agent Donna Khanhasa for her help with the bill and fiscal notes this session.

- Engrossed Substitute House Bill 1403 and Engrossed Second Substitute Senate Bill 5680 are companion bills that are both still alive and are both currently in rules. These are the bills that deal with Business Licensing Services. They add the Gambling Commission to a list of agencies that have to fully participate with Business Licensing Services (BLS). “Fully participate” means that staff will let the Department of Revenue, who administers that program, know who the agency coordinator is for the Gambling Commission. Staff will also provide them with a list of the different business licenses, a description of what the license allows, and how long the license is good for. This does not mean that the Gambling Commission would necessarily be participating in BLS, but that all of that information will be provided to BLS. One of the amendments being made as the bill was going through was to make it very clear that providing this information does not mean an agency is participating. Both the agency and the Department of Revenue would need to agree that the agency was participating. This bill was a result of an audit that had been done by the State Auditor’s Office. They were looking at how easy it was for people to go to websites and figure out the application process. One of the results of the audit was that it was not that easy, and so this bill was kind of a fix towards that – to get applications in the same spot so people know where to go. The House Bill passed by a unanimous 97-0 vote. The bill is now in Senate Rules. The Senate passed their version of the bill by a unanimous 47-0 vote and it is now in House rules. Although the bills are identical, because they got amended in different ways, if a bill passes it will be going back to the other house for concurrence.
- SGA 9158 – The confirmation hearing for Commissioner Prentice was on March 18. The committee also took executive action with a do confirm recommendation. That is also out of Senate Rules and is waiting for a vote by the full Senate. It has been on the confirmation calendar for a couple of weeks now.
- SGA 9106 – The confirmation hearing for Commissioner Gray was on April 1. Executive action was also taken on her confirmation, which is now in Senate rules. The normal cutoff dates do not apply to confirmation hearings, so they can be voted on up until the last minute. If a Commissioner is not confirmed, they continue to serve unless the Governor pulls back the confirmations.
- House Bill 1014 is still alive, although it was amended in the Senate. This bill makes the Friday after Thanksgiving, which is already a state holiday, Native American Heritage Day. The bill did pass the House early on and had some technical, non-substantive amendments put on it. If the bill makes it out of the Senate, it will have to go back to the House for concurrence.
- Statewide Budget Bill – The Senate’s version of the budget started with Governor Gregoire’s budget that was introduced early on and then the Senate made changes to it. There are no fund transfers in the budget and the 3 percent temporary salary reduction would be restored effective July 1. The budget also adds a new longevity step for General Service employees if certain requirements are met. It also adds a 1 percent salary increase effective July 1, 2014, if certain requirements have been met, including if the state economy is in better shape. Because

the Gambling Commission is a non-appropriated agency, it does not get money from the general fund to pay for those increases, but those costs have been planned for in the budgeting process. There are no provisions for continuing the freeze on exempt employees' salaries, which affects all of our agents. There is a slight decrease in the employer contribution portion for insurance benefit premiums, which means the employee's contribution will likely go up. The bill passed the Senate and the House Ways and Means Committee has been hearing the bill. Representative Hunter, the Chair of that Committee in the House, had a striking amendment making changes for education and some other areas.

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

Approval of the Minutes – March 14 Commission Meeting

Chair Ellis indicated the last line of the minutes implies that in the normal fashion after an executive session the Commissioners returned to the public meeting and immediately adjourned, but that did not happen in this case because of the Skipwith hearing. He suggested changing the last line of the minutes to read that "Chair Ellis adjourned the meeting at 11:59 a.m." And then at the end of the executive session on page 9 of the minutes, under the Petition for Review before the current reference to Chair Ellis, add a sentence that says "At 11:45 a.m. the public meeting was reconvened," which will make it clear that the proceedings relating to Mr. Skipwith's petition occurred during the public meeting. He asked if there were any other comments, changes, or concerns about that language; there were none.

Commissioner Gray made a motion seconded by Commissioner Amos to approve the minutes from the March 14, 2013, Commission meeting as amended. The vote was taken; the motion passed with four aye votes.

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

New Licenses and Class III Certifications

Assistant Director Griffin explained the revised House-Banked Public Card Room Report on the goldenrod paper shows the number of licensed and operating house-banked card rooms has diminished by two; down to 55 licensed and operating house-banked card rooms. Most of the house-banked card room licensees renew at the end of each quarter, so the March 31 renewal quarter was just concluded and two of the licensees did not renew.

Commissioner Prentice asked who those two were. **Assistant Director Griffin** responded that Blue Mountain Casino in Walla Walla chose not to renew their house-banked card room and downgraded their public card room license to a class F with two tables. Maverick's Casino and Saloon in Cle Elum chose not to renew their house-banked card room license, but did renew their pull-tab license.

Assistant Director Griffin pointed out the pre-licensing report for Ditronics Financial Services in Las Vegas who are seeking licensure as a class D manufacturer. They manufacture ticket

redemption kiosks that would be placed in the Washington State Tribal casinos. Staff conducted a pre-licensing investigation which included an onsite review of their manufacturing process, as well as the financial and criminal investigations that are done both onsite at the facility as well as in-house. Staff did not notice any unusual items to draw the Commission's attention to and recommends approval of all the new licenses and class III certifications listed on pages 1 through 16.

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

Commissioner Gray made a motion seconded by **Commissioner Prentice** to approve the new licenses and class III certifications listed on pages 1 through 16. The vote was taken; the motion passed with four aye votes.

Defaults:

Kakada Norng, Class III Employee, Revocation

Ms. Hunter reported that Kakada Norng worked at the Muckleshoot Casino and that the Tribe has since terminated her. In January, Ms. Norng was charged with theft of a motor vehicle, which is a felony. The charge is pending and stems from an incident where she allegedly stole a vehicle and drove to the Emerald Queen Casino. At the end of January, then Deputy Director David Trujillo issued charges to her. The charges were personally served to her husband at their residence, and the charges notified Ms. Norng that failing to respond would result in an entry of a default order. She did not respond, so Ms. Norng has waived her right to a hearing and staff would recommend the Commission revoke Kakada Norng's certification. At this point, Ms. Norng does not appear to be working in a position that would require a gambling license.

Commissioner Gray asked whether Ms. Norng had responded at all. She was charged, but not convicted. **Ms. Hunter** affirmed that she had not responded and that she had not been convicted at this point. **Commissioner Gray** responded she would have liked to have heard from Ms. Norng because she has not been convicted of the charge. **Commissioner Prentice** pointed out it was Ms. Norng's choice and she obviously chose not to come. **Commissioner Gray** agreed there was not much the Commission could do.

Chair Ellis asked if Ms. Kakada Norng or anyone on her behalf was present to address this issue before the Commission; no one stepped forward so Ms. Norng has chosen not to respond to the charges.

Commissioner Amos made a motion seconded by **Commissioner Prentice** to revoke Kakada Norng's Class III Employee Certification. The vote was taken; the motion passed with three aye votes. *Commissioner Gray abstained.*

Orlando K. Sullivan, Card Room Employee, Revocation

Ms. Hunter reported that Orlando Sullivan was a former card room employee who had three things going on at the time the charges were issued to him. Mr. Sullivan had two active warrants,

a pending criminal charge for fourth degree domestic violence that he did not disclose to Commission staff, and he owed over \$3,300 for court ordered fines and fees from some traffic related offenses that had been sent to collections. Mr. Sullivan had made four payments since December 2012 totaling almost \$600. In February, then Director Day issued charges to Mr. Sullivan by certified and regular mail. The certified mail card came back with a signature that appeared to be Mr. Sullivan's. Commission staff left a message for Mr. Sullivan reminding him that he needed to respond by March 14, which was the deadline to request a hearing. Mr. Sullivan did not respond to the charges, so staff would recommend that the Commission revoke his license. At this point, Mr. Sullivan does not appear to be working in a position that would require a gambling license.

Chair Ellis asked if, given the fact that Mr. Sullivan did make a \$600 payment on his court ordered fines and fees, this was a situation where if he was not subject to any court ordered fines and fees that staff would normally be seeking revocation simply because of his pending criminal charge for fourth degree domestic assault. **Assistant Director Griffin** replied that these charges did not involve just the fines and fees. At the time the charges were issued, Mr. Sullivan had a pending assault four, as well as two active warrants. Typically when staff finds active warrants, the person is given an opportunity to clear those warrants. Mr. Sullivan has more owing on the fines and fees, but staff only looked at the fines and fees that were in collections as posing a threat to the effective regulation of gambling based on the fact that Mr. Sullivan was not adhering to the Judge's decision, and was therefore in collections. It was sent forward for revocation because of all the circumstances combined.

Chair Ellis said that was a good answer. He asked if there were any other questions; there were none. He asked if Orlando K. Sullivan or anyone on his behalf was present; no one stepped forward.

Commissioner Amos made a motion seconded by **Commissioner Prentice** that the Commission revoke Orlando K. Sullivan's Card Room Employee License. The vote was taken; the motion passed with four aye votes.

- PUBLIC MEETING -

Chair Ellis called for a ten minute break at 3:00 p.m. and then reconvened the meeting.

Update on Washington State's Problem Gambling Program

Ms. Cheryl Wilcox, the Problem Gambling Program Manager for the State of Washington, reported that she only started in October 2012 so this was a fairly new program for her; although, she did work with the program for a couple of years back in 2007 and 2008. This program started in 2005. By RCW, the oversight of the program was placed within the Department of Social and Health Services. At that time it was the Division of Alcohol and Substance Abuse. The program's funding is by RCW and is about \$724,000 a year, compared with Maryland that has over \$3 million per year for their Problem Gambling Program. Without collaborating with others, this program would not be able to do what it does. The program is successful because of the Problem

Gambling Advisory Committee and the Evergreen Council on Problem Gambling (ECPG) who have made it possible for small amounts of money to make larger impacts. Evergreen Council puts forward some money toward advertising, and Ms. Wilcox can put forward some money toward advertising, and together they get a lot more bang for their buck. The program received \$40,000 in this biennium from the Tribes. Most of that money has gone straight into treatment.

The mission of the program is to promote strategies to support healthy lifestyles by preventing problem and pathological gambling, and support recovery from recurrent gambling behaviors that place individuals, families, and communities at risk. Ms. Wilcox said she tries to collaborate with the groups that are already working on this issue so that she does not duplicate their efforts or try to recreate the wheel. Evergreen Council already does an outstanding job on training and outreach so there was no reason for Ms. Wilcox personally to do that again, so she basically contracts with them.

(Chair Ellis asked a question from the audience that was not picked up by the recorder).

Ms. Wilcox affirmed, noting that both programs had ads on KOMO4 that aired the same day. One of her biggest responsibility is credentialing of the agencies, because they have to first become certified before they can contract with the state to provide problem gambling treatment. Ms. Wilcox goes out and views the agencies, does all of their certification, approves them to contract with the state if they have qualified staff, have an ADA accessible facility, and other things related to problem gambling. She contracts with those providers and monitors the quality of services they are providing, how many services they are providing to each client, and then gathers data to evaluate the program. Currently there are 25 providers, of which the state has contracts with 20 and the other 5 contract directly through the Evergreen Council. In the state program, there are 507 individuals with an average number of sessions at about 28. A lot of people come in and have one or two sessions and then decide they really cannot quit gambling. There is a very high rate of clients who re-enroll. They may relapse for a year and then come back in to treatment. Of the primary population the program serves, almost 50 percent are women over 40.

Ms. Wilcox displayed a map showing where the providers and clients were located. Providers are desperately needed in the top part of the state on the eastside. Ms. Wilcox hoped to be successful in getting a provider in Okanogan and in Chelan. They also need another provider in the lower east side. Some of their clients drive 2 hours to receive treatment; some clients have been approved to receive treatment over the telephone because transportation is just too big of an issue for them. So expanding the number of qualified treatment providers is a big area of need. Ms. Wilcox has been working with the Problem Gambling Advisory Committee or the Evergreen Council on most of these. They are trying to increase the level of training for the treatment providers, which was pretty lacking when Ms. Wilcox started the program. Some providers did not have any degree and were basically coming in with no experience and deciding to treat a problem gambler. That has been changed so that people can get quality services. It is the industry's money through a B & O tax that is going to the treatment and the state should get a quality service, plus the people deserve quality treatment. Ms. Wilcox has currently been monitoring all of their agencies, which has been very eye-opening. She has been out to seven in

the last couple of months and has another 13 to go in the next two months. Everyone is very passionate about serving problem gamblers, so it is not for lack of heart and desire that some of the providers do not meet all of the qualifications. They are very open and passionate on getting the needed training and meeting the requirements to serve problem gamblers. And the more they serve them, the more they see the need, and then see their own need to increase their skills.

Evergreen Council has just completed a mailing to all of the currently certified mental health and chemical dependency agencies in the state encouraging them to attend the National Conference and get some training to become more qualified and to provide better services. Ms. Wilcox has one awareness campaign going on now, and is also working with Evergreen Council on another one possibly coming out in May that will try to reach the primary population of women over 40.

Currently only outpatient treatment is available in Washington State, but there are a lot of clients who need more than just outpatient treatment once a week; they need three to four times a week and sometimes five times a week. Ms. Wilcox is working on that with Evergreen Council to try to enhance the services they offer. One of the grants she worked on recently was to provide recovery support to clients, such as clients who were in treatment and were pursuing their recovery, but then had barriers like transportation. For example, because there is no provider in Bellingham, one man takes a bus from Bellingham to a provider in Burlington for treatment, but he does not have enough transportation money to get from one bus stop to the next stop so he can get to the clinic. Ms. Wilcox would like the program to provide that type of basic need to get them to treatment and to keep them in treatment. That type of barrier needs to be removed so they can engage in their treatment and recovery.

Chair Ellis commented that it made perfect sense, that it was a shame when somebody was motivated to seek treatment and was already undertaking that kind of trip to have a barrier that would be so inexpensive to overcome.

Commissioner Gray was curious about the 40 percent of women. **Ms. Wilcox** said it was 49 percent women. **Commissioner Gray** asked what it was for those over the age of 60. **Ms. Wilcox** replied that, from that 49 percent of women, it was 10 percent for those over the age of 65.

Commissioner Prentice commented that those who really need to have in-patient care had a very familiar ring. It seemed like when she came in, they were sent to Nevada for care. She asked if that was still being done, whether Ms. Wilcox has made any kind of move, or searched around to see if there was any place they could go to in the state. **Ms. Wilcox** replied they were currently working on that. There is a research project underway to look at available resources and look at increasing them. Evergreen Council currently contracts with three residential providers, but they are all out of state.

(Ms. Maureen Greeley commented from the audience; it was not picked up by the recorder).

Ms. Dolores Chiechi, on behalf of the Problem Gambling Advisory Committee, reported she has been involved in this committee since its inception. A copy of her biography that described a lot

of things she had been involved in with the issue of problem gambling was included in the agenda packets. In the RCW that created the program, it also instilled the Problem Gambling Advisory Committee to assist the state in managing, designing, and evaluating the effectiveness of the program. The Committee was also to assure that persons who worked within the industry, or licensees, may also access the program by way of services so that no one from the industry who had an issue with problem gambling was excluded from accessing the program and the money to pay for treatment. It also includes persons knowledgeable in the field of problem and pathological gambling, people representing tribal gambling, privately owned non-tribal gambling, and the Washington State Lottery. They have built an outstanding group of partners that sit at the table. This is an issue that Ms. Chiechi has seen bring everyone to the table; they can all agree there is an issue out there that they can all make an impact in rectifying, or at least providing the services that the people out there who may have an issue with gambling can access.

The Committee has treatment providers in the room, individuals with the recovering community, representatives from the Evergreen Council, Washington Indian Gaming Association, tribal treatment centers, Washington State Lottery, the Horse Racing Commission, and Ms. Chiechi as the representative for the Recreational Gaming Association (RGA). Some of the committee members are in the room; Maureen Greeley with the Evergreen Council, and Rebecca Kaldor with the Washington Indian Gaming Association. Ellie Lorenz who will be presenting next month from the Tulalip Tribe, and the Chief of Police of the City of Lakewood are also members on the Committee. So they get a lot of different perspectives that sit at the table to have conversations. As Ms. Wilcox mentioned, she has only been the Program Manager since October, so the Committee sat for over a year without a Program Manager. The individual in the position before resigned and went to a different location. The Committee was instrumental in keeping attention on the issue. Since Ms. Wilcox has come on board, there has been a great collaborative nature with the State, the Council and the Committee in working towards what is best for the problem gamblers, their families, and the community, which the Committee is very encouraged with.

In February 2012, the Committee met and presented a recommendation to the State Program suggesting they contract out the program to a private entity and take it out of state government, which was adopted. There were only two no votes for that recommendation. The state went through the Request for Proposal (RFP) question, the Request for Qualifications (RFQ) question, and determined that the sole source contract would be implemented. Hopefully that will take place starting July 1 with the Evergreen Council. Ms. Wilcox had talked about the collaborative, not duplicating, efforts which take place now, but it is going to be starting again with contracts in place starting in July.

The Problem Gambling Advisory Committee (PGAC) submitted a letter to the Director of Division of Behavioral Health & Recovery (DBHR) and commended Ms. Wilcox for her proactive position and the passion she brings to the position, along with her willingness to collaborate with other entities that already do the services that the state was attempting to duplicate. Ms. Chiechi was very encouraged that they were going to be spending all of the funds from the B & O tax and the tribal donations they receive, and are going to be putting that together with the money the Evergreen Council receives primarily from Tribal Compact Agreements. She was really

encouraged with the amount they were able to pool together and working towards a common goal. Evergreen Council has had a help line in place for decades. The state wanted to create a segment in its mental health help line that was for problem gamblers, so Ms. Wilcox explained to them that they were in the process of trying to merge the two help lines. They want to remove the problem gambling issue from the state's help line and put it back into the Evergreen Council's help line, which is where a lot of people know to call.

The Committee meets quarterly to make a great use of everyone's time. They are in and out in an hour-and-a-half to two hours, so everybody feels their time on that Committee is well spent and that their recommendations are taken to heart and action is moving forward. Part of the support that Ms. Chiechi's organization gave to this issue was to make sure the industry and those paying the tax have a say in how the money gets spent and make sure it is kept in the problem gambling arena and not siphoned off to another area. Ms. Chiechi felt very strongly about this issue and was thankful that she had been chosen as the Chair for the Committee for the number of years she has served.

Chair Ellis asked if there were any questions; there were none. He thanked Ms. Chiechi and Ms. Wilcox for bringing the Commission up-to-date on where the programs stand. He said the work that has been accomplished is impressive, particularly given the relative lack of resources in view of the magnitude of the problem.

Other Business/General Discussion/Comments From the Public

Chair Ellis opened the meeting for other business, general discussion, comments from the public. He asked if there was anyone who would like to address the Commission on any pertinent topic; no one stepped forward.

Adjourn

Chair Ellis concluded the public meeting at 3:35 p.m. and announced the Commission would be going into a closed session to discuss with counsel the Administrative Procedures Act. He asked that everyone who was not involved in the closed session to clear the room.

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
FRIDAY, APRIL 12, 2013
APPROVED MINUTES**

Chair John Ellis called the Gambling Commission meeting to order at 9:30 a.m. at the Tumwater Comfort Inn and Conference Center and introduced the members present.

MEMBERS PRESENT: **Chair John Chair Ellis**, Seattle
 Vice-Chair Mike Amos, Selah
 Commissioner Margarita Prentice, Seattle
 Commissioner Kelsey Gray, Spokane

STAFF: **David Trujillo**, Interim Director
 Mark Harris, Assistant Director – Field Operations
 Tina Griffin, Assistant Director – Licensing Operations
 Amy Hunter, Administrator – Communications & Legal
 Callie Castillo, Assistant Attorney General
 Michelle Rancour, Acting Executive Assistant

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

Rules Up For Final Action

Staff Proposed Rule Change: Licensees must submit new and updated documents within 30 days

Amendatory Section: WAC 230-06-080 – Reporting changes to application information and submit updated documents and information

Assistant Director Griffin pointed out an error on the agenda where it lists the change to WAC 230-03-065, reporting changes to application information and submit updated documents and information. The rule before the Commission to be changed is WAC 230-06-080. Staff is requesting this rule change to provide clarity because the timeline to report or submit new or updated documents was omitted during the Rule Simplification Process (RSP). Prior to the RSP, the rule had the specific reporting timeline for providing new or updated documents. Subsection (1) of the current rule gives licensees 30 days to provide changes to the application. Subsection (2) lists all of the new or updated documents that need to be provided to the Commission, such as Articles of Incorporation, Bylaws, loans, leases, cash contributions, and any other agreements that affect the gambling activity but there was no reporting timeline noted in the rule. This rule

proposal simply adds the 30 days to subsection (2) so it is clear for everybody. Staff recommends an effective date of July 1, 2013.

Chair Ellis asked if there were any questions; there were none. He asked if there was anyone in the audience who would like to address this proposed rule change; no one stepped forward.

Commissioner Gray made a motion seconded by **Commissioner Prentice** to approve for final action the proposed amendment to WAC 230-06-080 - reporting changes to application information, with an effective date of July 1, 2013. *The vote was taken; the motion passed with four aye votes.*

Staff Proposed Rule Change: No longer require spouses of officers of charitable or nonprofit organizations or spouses of officers or board members of publicly-traded entities, to undergo background checks

- a) **Amendatory Section: WAC 230-03-065** – Spouses must also be qualified
- b) **Amendatory Section: WAC 230-03-045** – Defining substantial interest holder

Assistant Director Griffin reported that the tan-colored insert contains the most recent language that staff would like the Commission to consider for the rule. The change in language since the printing of the rule included in the agenda packet is highlighted in yellow. Currently, rules require spouses of officers of charitable or nonprofit organizations, applicants, owners and substantial interest holders of gaming establishments to meet the same qualifications as applicants and licensees that hold a gambling license. The process to determine qualification includes fingerprinting and conducting national criminal history background investigations. Staff is proposing to amend the rules to make it clear that spouses of charitable/nonprofit organizations and spouses of officers and board members of public-traded entities and subsidiaries of public-traded entities would no longer be considered substantial interest holders by the mere fact that they are a spouse. Therefore, they would not need to meet the same qualifications for licensure unless the spouse has actual or potential influence over the management or operation of the gambling activity. If they have actual or potential influence over the gambling activity, they would meet the definition of substantial interest holder and staff would fingerprint and conduct the background investigation.

Staff contacted or reviewed the regulations of five other state gambling agencies and none of them require the same qualifications of spouses. It is anticipated that it will reduce processing times for these affected organizations because getting the fingerprints can sometimes result in a very timely process. Staff also anticipates a reduced cost to the agency because those fingerprints would not be submitted for review. Staff sees little to no risk by removing this requirement for these individuals to be qualified. Providing an exception for those spouses would not reduce the effectiveness of the regulatory program because these individuals have little or no decision-making power or influence over the management of the gambling activity. In January, when the rule proposal came to the Commission, staff did work with Mr. Abell from Williams Kastner who represents Bally's. Mr. Abell, through Williams Kastner, had asked to work with staff to make some further amendments to the language, so over the past few months staff has worked with him.

Mr. Abell is in the audience to answer any questions. Staff recommends final action with an effective date of 31 days after filing.

Chair Ellis asked for clarification that the proposed change to WAC 230-03-065(2) is a technical change well within the scope of the original petition so there is no issue about a need to refile the petition to accommodate this new language. **Ms. Hunter** replied she was pretty sure that staff looked at that a couple of weeks ago and felt okay with how it has been worded. She hoped she was not getting it confused with another filing that was done. Unfortunately, she did not have that information with her, but thought it would be okay for the Commission to proceed with it. **Chair Ellis** also thought it would be okay, but said he was not an expert in APA law. Since the original language applied to publicly-traded entities, and all that is proposed is to expand that to subsidiaries of publicly-traded entities, it seemed that no one who might be interested in this proposal would be concerned about that change. He suggested that under the circumstances they go ahead and proceed and, in the extremely unlikely event it is discovered there was a problem, the Commission would correct it down the road.

Chair Ellis asked if there were any questions; there were none. He asked if Mr. Abell would like to come forward.

Mr. Hunter Abell, on behalf of Bally Technologies, said he had little to add to the summary offered by staff, except to thank them for their collaboration in working with him and his client over the past couple of months on this proposed change to the Washington Administrative regulations. He explained this grew out of a concern by his client, Bally Technologies, that in a difficult economy it could be difficult to find individuals willing to step up and take positions of corporate leadership in an organization. And this added burden on the spouses made it increasingly unlikely they would be able to find qualified, willing individuals to take these positions on. So that was where the origin of the concern about this particular rule came from and that was why over the course of the past couple months he has been working collaboratively with the WSGC staff on a proposed way to address this.

Chair Ellis thanked Mr. Abell and asked if any of the members of the Commission had questions of him; there were none. He called for public comment; no one stepped forward.

Commissioner Amos made a motion seconded by **Commissioner Prentice** to approve for final action the changes to WAC 230-03-065 and WAC 230-03-045, as presented by staff, with an effective date of 31 days from filing. **Chair Ellis** asked if the motion included the proposed change to the original petition, subsection (2), adding the subsidiary of a publicly-traded entity to that subsection. **Commissioner Amos** affirmed that was correct. **Commissioner Prentice** seconded the addition to the motion. *The vote was taken; the motion passed with four aye votes.*

Demonstration by Rockland Ridge Corporation and Galaxy Gaming

Chair Ellis asked if Mr. Tull and his client, Mr. Saucier, were requesting an opportunity to give a demonstration of their system. **Mr. Robert Tull** replied absolutely. They look forward to having the Commission see an example of how this feature could be added and operated under strict

regulatory controls. He said it was up to Chair Ellis whether he wanted to take a recess or just commence with the demonstration. **Chair Ellis** replied the agenda was fairly today, and suggested they go ahead and have the demonstration without recessing the meeting. **Mr. Tull** explained that Mr. Gary Saul from Rockland Ridge and Mr. Rob Saucier from Galaxy would be conducting the demonstration.

Interim Director Trujillo explained that the Commission could include the demonstration as part of the formal meeting or take a break. If the Commission takes a break, it gives people the opportunity to leave the audience and come forward, and for Commissioners and staff to go forward.

Commissioner Prentice asked if she could just suggest that the Commission was able to do that and go ahead with the demonstration.

Chair Ellis said any members of the audience or Commissioners who would like to get closer to the demonstration were welcome to come forward. And at the same time the Commission can continue on with the meeting.

Mr. Tull thought it was critical that the Commissioners get closer so they can see the demonstration. He understood that conversations would not be recorded. Maybe that had been some of the history, but he thought that the small crowd today comprised of people who were at the meetings frequently, including himself, and would probably not misbehave during this more casual arrangement. **Chair Ellis** agreed, adding that he thought they were getting close to being at risk of spending more than ten minutes discussing the procedure for a demonstration that will take ten minutes.

Chair Ellis called for a break at 9:45 a.m. for Rockland Ridge and Galaxy Gaming to demonstrate how their “Envy” and “Share the Wealth” system that would be covered by this proposed rule change would work. He reconvened the Public Meeting at 10:00 a.m.

Petition From the Public: Rockland Ridge Corporation and Galaxy Gaming - Allowing “envy” and “share the wealth” bonus features to be connected to multiple tables with the same 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 Mark Harris explained that Rockland Ridge was a licensed gambling service supplier and Galaxy Gaming was a licensed manufacturer. The petitioner has removed language allowing the connection over multiple game types from the petition. The current version of the proposed rule limits the shared prize to fixed payouts only (not odds based). It requires electronic features that were presented in the demonstration to detect and record the player’s bonus wager, provides a visual alert notification system for winning triggering events, and includes a system for displaying all winning bonus hands. It also allows players in the card room placing “envy” and “share the wealth” wagers to receive a prize, even if they are playing on a different table of the

same game type. It defines “envy” and “share the wealth” as bonus features and allows other game features that do not require a separate wager to be considered a bonus feature. It allows bonus features and progressive jackpots to be combined, which means a prize on an “envy” or “share the wealth” could be a progressive jackpot as opposed to a straight payout. Currently there can be a progressive jackpot on a game and an “envy” payout on a game, but they are not connected together as the same payout. It defines what a separate game is, clarifies that card games and bonus features must be approved by the Director or the Director’s designee, clarifies that prizes and bonus features are based on achieving a pre-determined specific hand, adds language to clarify that approved card games must be operated as documented on the agency website, clarifies that only one player may place a wager per wager area in the game of mini-baccarat, clarifies that licensees may connect progressive jackpots offered in the same card game on multiple tables, and requires that the visual alert notification is visible by the dealer, players, and the surveillance room. It also requires card room’s internal controls to document how winners will be paid.

Also included in the agenda packets is an updated comparison chart dated March 2013 to show that the different game types was removed, so it is the same game only. The May 2012 comparison chart was also included in the agenda packets. After the July 2012 Commission meeting, the petitioners submitted their equipment to the Electronic Gaming Lab (EGL) to be reviewed. The equipment was determined to match the petitioner’s April 2012 petition. The equipment has not been approved by the Director or the Director’s designee, and it has not been reviewed against any changes made to the petition after that date. So the equipment has not been tested for the removal of the multiple game type option.

The complexity of the various bonus features and connected tables may increase the risks for additional complaints; however, that risk may be mitigated based on the frequency of the jackpot. So the less frequently it occurs, the less frequently staff would get a complaint from somebody saying they had possibly won it. There are a few resource impacts, including the staff time that would be required to review and inspect the equipment that is installed in the card rooms prior to it being approved. Staff will need to be trained on the new systems; staff time will be required to approve changes, in addition to card games. If the petition goes through, more card game operators may wish to put changes into their game rules that would allow these types of features, which staff would have to review. The Gambling Commission does get reimbursed for that cost, but it still is a time drain from other things staff could do. Staff may receive more requests to change the game rules; complaints may be received from players that believe they qualify for one of the winning hands and staff would have to investigate that complaint; and an increased number of requests may be received for equipment approvals to be reviewed if other manufacturers want to present a system like that. But the Gambling Commission is also reimbursed for those investigative costs.

The proposal would increase the number and types of bonus features allowed in a card game; will allow bonus features to be tied to progressive jackpots; and will allow “envy” and “share the wealth” bonus features to be connected over multiple tables of the same game type. The

Commission may wish to consider whether the proposal is consistent with the legislative intent of RCW 9.46.010.

Staff would recommend that final action be taken on WAC 230-15-040 and WAC 230-15-685. If the Commission approves the petition, the petitioner requests an effective date of 31 days from adoption. Staff would recommend an effective date of July 1, 2013, based on the resource impacts and staff training.

Chair Ellis asked if the staff actually inspect equipment onsite in card rooms as well as in the Electronic Gaming Lab. He indicated his question was not intended to be pro or con to this proposal, but was a question that had never occurred to him before. When talking about the staff time that is required to review and inspect equipment, he knew the Gambling Commission Lab inspects equipment and ensures that it works as it should, as it has done to some extent with the equipment previously demonstrated, but wondered about onsite inspections. **Assistant Director Harris** affirmed, explaining that prior to the equipment being operated, staff would go out and verify that it was hooked up and operating as it should be. Staff also verifies that it was the correct version of the software and that the equipment was being used with the correct version. That is done initially, and then an inspection procedure would be established that staff would go out, probably once a year, to verify it is still the same version of the equipment and nothing has been changed or modified. **Chair Ellis** asked if it was like an annual elevator inspection, so to speak. **Assistant Director Harris** affirmed.

Chair Ellis called on Mr. Tull and Mr. Saucier.

Mr. Robert Tull said it has been a very interesting evolution. The packet is probably at least as complex a record as he has seen in rule making over the years, just because of the evolution this has taken. What he thought it pointed to was that the Commission, the industry, and the staff understands that Galaxy Gaming and Rockland Ridge were going to try to do this in this state. They have a pretty good reputation, going back to the beginning. This state's Commission and its practices have been used as models across the country from time-to-time as gambling has expanded in other jurisdictions. So by participating in this for the past couple of years, Mr. Tull felt reinforced that they would always fulfill that first section of the Statute where it talks about the public policy of the state of Washington: to keep the criminal element out of gambling, and to promote social welfare by limiting the nature and scope of gambling activities, and by strict regulation and control.

This process and this particular petition illustrate that where there were initial concerns about a significant change in the way certain things were done linking different card rooms across the state, which caused the Commission to say it was not ready to do this; it just was not time. Mr. Tull said they went back to the drawing board and suggested confining it to a single card room, which is the rule that was brought forward.

At the very beginning, the rule was designed to be fairly generic. It would not tie it a specific set of technologies. That was causing a little bit of confusion because it required the staff,

Commission, and the public to imagine what the technology would be. So it was then decided that they would specifically focus on the mandatory features, which resulted in the next rule proposal, which was still suggesting multiple games in the same card room. The mixture that would create caused concerns to be raised about the complexity. Mr. Tull thought the staff comment that there could be a few more complaints went back to one of the very first staff reports when they were talking about a much more complicated type of system. The technology is designed to make sure they do not have those controversies and to provide a way to resolve them if they ever do occur. Mr. Tull saw a steady progression over the past couple of years where the technology has been further and further defined. It has been constructed, more or less, as a model. That model has gone through the Lab and it has been determined that it can and will do the things that the proposed rule calls for.

This latest change to take out multiple games and stick with single games will have to be studied as part of any normal submission. These are demonstration models; the actual technology that would be put to work in this state, upon the effective date of the rule change, would have to pass muster showing how the single game limitations would work in connection with everything else. Mr. Saucier will go through the chart that he has put together that I think is very consistent with the staff's chart. Mr. Tull hoped the Commission would be satisfied that Mr. Tull has in fact, with Commission guidance and direction, both positive and negative, that they have achieved the type of rule evolution that is consistent with the goals of the APA and the Statute.

The effective date originally requested was 30 days, but Mr. Tull was in complete agreement with the staff of an effective of July 1, 2013. There is enough work that has to be done that he would happily accept the staff's recommendation in that regard. Upon approval they would get on with the rest of the testing and all of the other work that it will take to bring this product into the marketplace. Mr. Tull said that, unless anyone has a question of him, he would have Mr. Saucier come up and go through a few of these things. Hopefully he can answer any of the Commission's questions. They would then like to have the audience make any comments or ask any questions they may have, and then have an opportunity to respond quickly at the end. He asked if there were any questions for him right now; there were none.

Mr. Robert Saucier, the CEO of Galaxy Gaming, showed a PowerPoint presentation, explaining he wanted to go through a couple of the technical bold points in terms of what the proposed rule was designed to do and also what it was designed not to do. The first slide showed a list of all the items that were currently prohibited by the state, that were defined by rule, and that were in the current rule. There was no change to the current rule. The one exception was that carryover jackpots are allowed, which was something the Commission approved just a few months ago. The proposed rule has no affect on that. His original position was married with the language of the approved rule because their original petition actually preceded the carryover jackpot petition.

The housekeeping changes shown on the next slide may be because of the Rule Simplification Process and some of it may be just because there has been over a decade of practice, but there were a number of items that were either not in this rule or maybe the practice of the industry may have conflicted with the rule. Separate games was partially defined but now it has a clear definition in

the rule. Bonus features like “envy” and “share the wealth” were believed to be understood by the industry but never really defined in rule, so that definition was included. The rules for operating the “envy” and “share the wealth” bonus features also were not included in the rule and now they are clear as to how they should be operated. Bonus features is a generic catch-all term, and “envy” and “share the wealth” are two types of bonus features, so they need to be approved the Director or his designee. That has been typical, but the rule has been silent. Multiple tables connected to a common progressive jackpot has been done since the very beginning, but it has never been put into the rule; it has just been assumed that it was allowed. Multiple bonus features allowed in a game have been allowed, but the rule has been silent to that. Progressive jackpots combined with bonus features may be combined in the same game. They are looking to make one of the bonus features a progressive jackpot, which is the distinction there. When a player is playing two hands, one of their hands can actually be envious of the other. That is something that is allowed, but the rule has been silent to that. The mini-baccarat rules are something that Mr. Saucier did not really have an interest in, but they have worked with staff to try to incorporate all these housekeeping changes and added some clarification for mini-baccarat.

The slide titled “Modified Features” depicts the two changes Mr. Saucier was looking for, other than the housekeeping changes outlined. Bonus features allowed across multiple tables was allowed in the state at some time prior. Currently, the rule is silent on it, but it is prohibited by practice, and Mr. Saucier was asking that it be allowed across multiple tables of the exact same game. The current rule is silent for the type of prize allowed for bonus features. Fixed and odds-based payouts are allowed, but progressive jackpots have been prohibited by practice. This change allows fixed payouts and progressive jackpots only, but odds-based payouts are prohibited. Last year when that came before this Commission, there was a request that odds-based payouts not be allowed. Some enhanced regulatory controls were incorporated based upon Commission feedback. The mechanism is required to detect and record player’s wagers, which prevents a late wager and prevents cheating which is otherwise known as past-posting. This only applies to the bonus features that are spread across the two games; it does not apply to existing progressive jackpots as they are now. Those rules have not changed, because it was not his intention to change that. However if this proves to be successful, it would be an enhanced regulatory feature; staff may come back and want that additional security on progressive jackpots. The features include. They use the little lights as an alert notification system that provides immediate visual notification of the winning triggering event not only so that everybody in the establishment would instantly know, but also surveillance would have an instant visual indication that something occurred. So if there was any question, they would be able to roll back the videotapes and see exactly what happened and when it was declared. A lock-out mechanism is used to accurately display all winning wagers, or players, so a person cannot place their wager late after the lock-out has occurred. And finally, none of this occurs without internal controls being submitted that have to detail all the methods and the equipment.

The proposed rule does not approve the equipment presented today, but was just provided for a demonstration. Before any equipment may be used, it will have to be submitted to the Electronic Gambling Lab, and then is tested and eventually approved by the Director or their designee. Mr. Saucier asked if there were any questions on the technical aspect of this rule proposal.

Chair Ellis thanked Mr. Saucier for the presentation and asked if there were any questions; there were none. He asked if there were any members of the audience that would like to address this petition.

Mr. MJ Durkan, representing the Muckleshoot Tribe, stated that after consulting with the Muckleshoot Legal Department, they believe this proposal as put forward was an expansion of gambling in Washington State as defined in RCW 90.46.010. In the agenda packets are two letters from legislative leaders, who are very different obviously in terms of parties and characteristics, that also believe this measure is an expansion of gaming as defined in RCW. Mr. Durkan said the Commission has broad powers and is able to increase wager limits and things of that nature. In the past, he has measured these different proposals on Lieutenant Governor rulings, which determine what is or is not an expansion of gambling. Mr. Durkan brought to the Commission's attention the most recent ruling by the Lieutenant Governor on the mega raffles, which this Commission has brought forward to the Legislature. Both Houses did pass the mega raffle rule, but they did so with a super majority because the Lieutenant Governor ruled at the time in essence that by increasing the amount of the prize in the raffle, the mega raffle was not an expansion of gaming. But because there are other ingredients in the proposed bill; i.e., the ability to use call centers, the ability to use credit cards, and the increase of the raffle prize, in combination those measures did constitute an expansion of gaming in Washington State, and therefore his ruling required a super majority, which was met and the raffle bill moved forward.

In this proposal, there are a number of different things going on. There is the increased number of types of bonus features that are allowed in a card game, there is an "envy" bonus tied to a progressive jackpot, and the tables are tied together. So individually each of those may not be an expansion of gaming, but it is the belief of the Muckleshoot Legal Department that when those measures are combined together, they reach that threshold as outlined in the Lieutenant Governor's ruling. Mr. Durkan put forth that the Commission respectfully turn this proposal down.

Chair Ellis thanked Mr. Durkan and asked if there were any questions; there were none. He asked if there was anyone else in the audience that would like to address this petition; no one stepped forward. He offered Mr. Tull time to make a very short comment.

Mr. Tull said the Commission's patience has been much appreciated over the process. He thought, though, that Mr. Durkan and the Muckleshoot legal staff were in stark disagreement with Jerry Ackerman on this exact issue. The Commission may recall, and the minutes in the agenda packet clearly reflect, that Mr. Ackerman said this was not an expansion of gambling, not in the legal sense. Now that assumes that an expansion of gambling is actually a test within the Statute. As discussed at previous meetings, and as Mr. Ackerman was responding a year ago, the Commission does not have the power to expand gambling. What was being talked about today was an enhancement of the attractiveness of a particular feature of a particular game. It does not add more spaces and it does not add more players. It allows people, if they want to, to make an additional side bet, which is frankly an additional sizzle. A card room or a tribal casino that changes its carpet does so for, among other reasons, to make the facility more attractive and to

have more business. They increase the area and equipment because they want to be able to increase their business. If there was a threshold, if there was a test, if this Commission set out to not expand gambling, that would be seen in the Statute, but it is not there. And secondly, there would be some sort of definition. Mr. Tull said that Mr. Saucier had talked to the legislators who wrote the letters that Mr. Durkan mentioned. And –

Chair Ellis interrupted to say the Commission has the letters and he thought more hearsay testimony about what those legislators may have told Mr. Saucier and the hearsay that Mr. Durkan has presented only goes so far, since neither of those letters takes the position that this proposal does involve an expansion of gambling. The letters simply request more time for the Legislature to address the questions they think are presented by the petitions, and the Legislature has had that time.

Mr. Tull replied he would not flog that further then, and thanked Chair Ellis for his clarification. Mr. Tull said it then comes down to the fact that over a period of a long stretch, 12 months or 24 months depending on how it is counted, this has been narrowed down so that the strict regulation and control, which is clearly part of the intent and part of the purpose and history of this agency, is being achieved. As Mr. Saucier alluded, it may be that once this is successfully implemented, if adopted, the staff may decide that they want to increase the requirements for technology on other types of games, just because it will reduce the opportunity for other players to cheat the house. So technology this has been a thing that this agency has tried to stay up with in its entire history. The current Commissioners and their predecessors have allowed certain technological changes in small doses. Mr. Tull explained he originally asked for a big change but is now asking for a very small change. Those changes have been tempered by the specific comments and suggestions. He said Mr. Durkan had suggested taking a look at the equipment to make sure it could work and staff is satisfied that it could. He asked the Commission to please adopt this rule proposal and have it be effective, according to the staff's recommendation, July 1. He asked if Mr. Saucier wanted to make one final remark.

Chair Ellis asked if there were any questions; there were none. He offered Mr. Saucier the opportunity for one final remark.

Mr. Saucier replied he had nothing really. The issue regarding the legislators' letters was already addressed. He said he did meet with both of them and they did actually probe him about House Bill 1295. He had a number of lengthy discussions with them about that, so he thought they were in good shape there.

Chair Ellis asked if AD Harris had any comments in response to the points that have been made. **Assistant Director Harris** replied he did not. **Chair Ellis** asked if there were any questions of AD Harris.

Commissioner Gray indicated the references in most of this have been to house-banked card rooms, and asked if this would also apply to the Tribes; if they would also have the opportunity to do so. **Assistant Director Harris** replied he believed so, that once it is authorized in the state, the

Tribes could use that also. **Interim Director Trujillo** affirmed that was correct. Once it is authorized for one, it will be authorized for all.

Commissioner Amos made a motion seconded by **Commissioner Gray** that the Commission approve the amendments to WAC 230-15-040 and WAC 230-15-685 with an effective date of July 1, 2013.

Chair Ellis asked if there was any discussion of the motion.

Commissioner Amos replied he has looked at this for the better part of a year now and was concerned. He appreciated Chair Ellis' comments in regards to Representative DeBolt's and Representative Hunt's comments back in November. Since they have not come forward with anything else in regards to that initial letter, he said he did not put any credence in their request whatsoever. If they were going to do something, it should have been done long before now. They wanted the Commission to wait on the vote in November, which they did, and nothing else has come up. The staff has worked with these gentlemen to get changes done and he thought it should be approved.

Commissioner Prentice disagreed. In terms of the letters from the legislators, she was sure they were not aware of all the changes that were proposed today. There is no way the legislators would know about those changes, so there is no way for them to have reacted to them. She noted that the Commission was certainly not the center of their universe either. She said she has been uncomfortable about this proposal for a number of months. Commissioner Prentice thought that, of all of the things to worry about, all of the concerns about honesty and all the procedures that have been built in, and she thought that was kind of sloppy, including the comment that this was going to be an enhancement of the attractiveness of the game. Commissioner Prentice said she has been around this scene for a long time and remembered doing a number of hearings throughout the state about how people felt about the level of the current gambling activity. For some people, the level of gambling was more than they really wanted to see, but they did not want gambling to be increased. Commissioner Prentice did not see that there was this hunger out there for a lot of gambling. She said she keeps asking herself who wants this, who was really asking for it, and was there a public demand for it. Granted, there is going to be more attractive technology, but there was nothing in this proposal that made Senator Prentice any more comfortable than she has been for a long time. She did not know that there was a necessity for it in our state. Commissioner Prentice said no one has come to her, even though it has been discussed for a long time.

Commissioner Gray replied that she has also watched this, read this, and tried to keep up with what was going on in this. She said that some of her thoughts have changed over the time period. One of the things she had observed was that staff has worked very closely with these folks, who have been willing to make the changes the staff has suggested. It was reduced from multiple games to one game; they have had the machines looked at, that kind of thing. She thought the petitioners had worked hard to make this comply with both the Commission staff and the intent of the Legislature. She also recalled Jerry Ackerman saying that he did not think this was an expansion of gambling, and thought that was an important piece that the Commission has to keep

in mind. There is the issue of fairness, and she believed both the tribes and card rooms could take advantage of this if they chose. She thought that time would tell whether the “envy” and “share the wealth” was used or becomes something that is useful or not. Commissioner Gray agreed with Commissioner Prentice and believed that the Commission was going to be looking more and more at technology, and the lock-out systems, and all of those kind of things because it is going to become more available. She thought the Commission ought to take advantage of the work that has been done and go ahead and approve this.

Chair Ellis stated his view was that, as the petitioners knew when this topic first arose, he was very concerned about the complexity of the system, which has now been simplified to some extent, which is a good thing. At the same time, it occurred to Chair Ellis that many of these gambling games are complex and it is incumbent on the people who play them to learn those complexities or they are going to lose money in the process. At the same time, he thought that Commissioner Prentice’s comment as to where the demand was for this technology is instructive. The Commission has gotten information that this type of system was being used in Nevada; although, apparently the casino that was using it has gone bankrupt so it is no longer being used. Apparently in California it was used by one casino, but there was very little evidence as to how successful it is. So, the Commission is kind of using a blank slate as to how significant this system is in terms of the consumer’s appreciation. Chair Ellis was concerned about the fairness of the system and what the relationship was between the amount of money that a player might win making an “envy” bet or a “share the wealth” bet versus the odds on those kinds of bets being successful. And from what he has seen from the one casino in California that is using the system, they have apparently only had one instance in which a winning hand occurred. And there was no one in the casino that had qualified to share the wealth in order to participate in the envy bet. So there was not much to go on there. Chair Ellis thought that when the Legislature in Washington approved the Gambling Act, they enacted a very conservative Statute. It was revised somewhat in the late 1990s to allow the non-tribal card rooms to compete with the developing tribal casinos. But at the same time, the Legislature has not given the Commission any further indication that they want Washington to be on the cutting edge of gambling technology. Chair Ellis felt that the Commission should be able to turn to states like Nevada and New Jersey and other states that have more robust gambling industries, so to speak, to see from those states’ experiences how gambling technology is working and improving, and what the pros and the cons are, but the Commission does not have any of that to rely upon. The comment from AD Harris about the staff training that would have to go into making sure the staff is familiar with how this system should work at the outset, but also the need for the annual reviews of how the system is working in the card rooms, it seemed that was going to entail some work. Chair Elis did not see the benefit or the payback to the Commission for that effort, so he was going to vote against the petition. He asked if there were any further comments or any further discussion; there was none.

The vote was taken; Commissioners Amos and Gray voted aye; Chair Ellis and Commissioner Prentice voted nay. The motion failed by a vote of two to two.

Assistant Director Harris requested the Commission consider approving only WAC 230-15-685, as it would only codify the current practice regarding connecting progressive jackpots offered on the same game over multiple tables in the same licensed location.

Chair Ellis asked AAG Castillo for a determination of whether the Commission was in a position to approve only a portion of the petition that has been presented. **AAG Castillo** responded that the Commission would actually need to revise the initial motion, because the initial motion was for amendments of both WACs, and that motion failed. So Chair Ellis would have to strike the motion that was made by Commissioner Amos and revote on it again. **Chair Ellis** asked for clarification that there is no petition before the Commission right now because they just denied it. **AAG Castillo** affirmed that was correct.

Commissioner Gray asked if they were looking for a motion for WAC 230-15-685. **AAG Castillo** clarified that, because the initial motion was for both amendments, and that failed, the Commission would have to undo that initial motion and start again. Or it would have to reopen the whole CR 101s and go forward with just WAC 230-15-685. **Commissioner Gray** asked how the Commission would do that.

Chair Ellis asked AD Harris how important he felt it was for the operators out there, since the Commission was addressing a staff proposal, for the Commission to adopt that amendatory section today. **Assistant Director Harris** replied that it is, basically, what the industry practice is and what staff has allowed; that the progressive jackpots on the same game type to be linked together. Whether it is allowed or prohibited is not addressed anywhere in a WAC rule. This amendment would clarify that it would be specifically authorized.

Chair Ellis understood. He asked if there was a motion that the Commission reconsider its decision on this petition.

Commissioner Gray made a motion seconded by **Commissioner Prentice** that the Commission reconsider its decision on this petition, approve amendatory section WAC 230-15-685 dealing with progressive jackpots, and deny the petition as to amendatory section WAC 230-15-040 regarding requirements for authorized card games. The effective date would be July 1, 2013. The vote was taken; the motion passed with four aye votes.

RULE UP FOR DISCUSSION AND POSSIBLE FILING

Staff Proposed Rule Change: Establishing a process for when staff withdraws gambling equipment approval

a) **New Section: WAC 230-06-052** – Withdrawing gambling equipment authorization

Assistant Director Griffin pointed out a typo on the agenda, which lists WAC 230-03-052, but the rule before the Commission is for WAC 230-06-052. The agenda packet materials reflect the correct WAC. AD Griffin reported that staff is requesting this new rule to outline a process for withdrawing authorization of gambling equipment. Currently there are rules in place that address the process for withdrawing authorization for card game approvals and the review and approval

process for gambling equipment. There are no rules that address withdrawing authorization of previously approved gambling equipment. This rule would provide a process that is similar to that of denying gambling equipment in the existing rule. The rule proposal would clarify and outline this process, which would be beneficial for licensees as well as for staff. Staff recommends filing this for further discussion.

Chair Ellis asked if there were any questions; there were none. He asked if there was anyone in the audience that would care to address this proposed rule change; no one stepped forward.

Commissioner Prentice made a motion seconded by **Commissioner Amos** that the Commission accept for filing and further discussion new section WAC 230-06-052. *The vote was taken; the motion passed with four aye votes.*

- PUBLIC MEETING -

Update on Puyallup Tribe of Indians' Problem Gambling Program

Chair Ellis understood that the Honorable David Bean was unable to attend this meeting to make his presentation on the Puyallup Tribe of Indians' Problem Gambling Program. **Interim Director Trujillo** affirmed, adding that staff anticipate Mr. Bean will make a presentation at the May Commission meeting.

Other Business/General Discussion/Comments from the Public

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

Ms. Dolores Chiechi, representing the Recreational Gaming Association (RGA), addressed the process that just took place with the rule petition that was brought forward by a member of the public, the diligent and great effort of staff to work with that petitioner, and the thoughtful process that the Commissioners went through in its decision. She said this was exactly the venue for that process and the RGA has concerns that House Bill 1295 is still alive. It is still a viable vehicle for discussion, interim planning, and work sessions, and she trusted that this Commission would take seriously the impact that the bill, if passed, would have not only on the industry, on the Legislature, on the Commission, its staff, and the agency as a whole. When thinking about the complex nature of understanding this game, this is exactly what the bill would take and put before the Legislature. They have 105 days in odd years and 60 days in even years, and are struggling to get a budget done in their 105 days to get out of town on time. Ms. Chiechi implored staff to communicate the concerns of the Commissioners to the legislators in keeping these decisions at this level. She thought they all understood the nature of a last minute letter that comes to the Commission and says "don't you dare, we're going to look at this," and then session goes through and it gets a blip of attention and the legislators move on to other things. The Commission meets on a regular basis and has thorough discussions and a greater understanding. The staff has even more of an understanding, but they do not have that resource in the Legislature.

Ms. Chiechi hoped that over the interim the RGA could work with staff. They also plan to work with the Legislature to compel them to understand the nature and the complexity of the gaming issues that come before this Commission and urge them not to remove that authority from the Commission to make these decisions. Ms. Chiechi thought the Statute was clear that the Commission has been given that authority, and until the Legislature repeals that authority, the Commission has the authority to make those decisions. She thanked Commissioner Amos for his comments. She thought they had time and they did not do it, so it was fully within his purview to make that determination. Ms. Chiechi said she did not want the opportunity to pass with what took place for the Commission to see and have the opportunity to present those comments today. She thanked the Commission for their attention.

Chair Ellis thanked Ms. Chiechi, adding he was sure the Commission all appreciated her comments and agreed with them. He did not know if there was any need for the Commission, perhaps at the May meeting, to authorize staff to take a more formal role opposing any attempt to continue with House Bill 1295. As the representative of staff and the Commission who would be involved in discussions with legislative staff and perhaps legislators on House Bill 1295 during the interim before the start of the next session, he asked if Ms. Hunter would feel any differently if the Commission had taken a stance opposing House Bill 1295 as opposed to the neutral with concerns stance the Commission currently has.

Ms. Hunter responded that, if that was the direction of the Commission, it would be helpful to have that type of a discussion and to have that type of a motion. She thought the legislators listen carefully to what the Commission's positions are, and "oppose" is simply a different position than "neutral with concerns." She thought it would be appropriate if the Commission was leaning in that way or if they just wanted to have that discussion and decide for sure how they were leaning. Ms. Hunter pointed out that this was only year one of the two-year legislative cycle, so House Bill 1295 would definitely be back next year. How the legislators react to it might be different, but Ms. Hunter suspected the bill would be heard. She added that she and Interim Director Trujillo did have a meeting a couple of weeks ago with Chair Hurst who now chairs the Government Accountability and Oversight Committee that the gambling bills go before. Gambling issues will be an interim issue that they consider.

Commissioner Prentice asked what the history was of this bill and if it was Representative Hunt's bill. She asked if he has talked to anybody about why the bill even came up. **Ms. Hunter** replied that did come up a little bit during the hearing. She met with him after the Commission got the letter. She contacted both Representative DeBolt's office and Representative Hunt's office to see if they wanted to meet about the letter before session started or around that time. Then former Director Day and Ms. Hunter did meet with Representative Hurst and Representative Hunt together to talk about it because at that point the committee had switched. She imagined that Representative Hunt was the one who wrote the letter because as of November, it was his committee that was still hearing gambling issues. It didn't switch until January. Ms. Hunter thought that part of it did have very much to do with this petition. It was her understanding that was the genesis for the bill.

Chair Ellis said he had watched the videotape of the hearing before the House Government Accountability and Oversight Committee and recalled that Mr. Durkan was the only person who spoke in favor of the bill. It was unclear whether he was representing the Muckleshoot Tribe formally in that context. One of the other legislators indicated that he understood that the Muckleshoot Tribe was behind the bill, so to speak. **Commissioner Prentice** recalled reading that.

Commissioner Gray asked if one of the options the Commission has now is to be able to look at House Bill 1295 again and say this was probably not something the Commission would agree to. She asked if the Commission could do that now. **Chair Ellis** replied they could or they could put it on the agenda for the May meeting. **Commissioner Gray** asked if the bill was dead now for this year. **Ms. Hunter** affirmed it was dead. **Commissioner Gray** suggested putting it on the agenda for the May Commission meeting.

Ms. Hunter explained she would have another legislative report at the May Commission meeting. If the Commission would like, Ms. Hunter would include a summary of the testimony on House Bill 1295, so the Commission would have that information to look at in advance. She thought a couple of the Commission has probably listened to the hearing, but in case they have not all heard it, she could make that be part of the legislative report, including any discussion. The bill was scheduled a couple of times for executive action but it did not actually come up for a vote. It had been on the agenda, but then they did not take action on it, which is always an indication that it was getting a fair amount of discussion. The bills do not usually get scheduled if they have no hope of getting out of the committee.

Commissioner Gray thought the Commission did need to take a more formal stand on House Bill 1295 – whether it is done this month or next month would depend on what staff would recommend.

Commissioner Amos asked if Representative Hurst was still working as a police officer. **Commissioner Prentice** was not sure, but she always thought of him in that context because he does have law and order mentality. She said she has watched him on TV and has been impressed with his approach, which is very thoughtful. She added that he is from Enumclaw. **Commissioner Amos** said he had worked with Representative Hurst quite a bit when Commissioner Amos was with WACOPS, so he thought he would have a discussion with Representative Hurst also.

Commissioner Prentice thought that whatever happens to the bill, the Commission could object enough so it would make people suspicious and it would not pass. But that is not really the issue. She thought the bill sprang from this feeling that the Commission was going to be wildly expanding gambling, but it has been pretty clear that the Commissioners were not doing that. It does not hurt to talk to the legislators, but if they do not understand what the Commission is about or the Commission does not understand their minds, she would rather not focus on a particular bill.

The legislators could say it was changed and not talk any more. The legislators need to understand the Commission a little better and what its role is.

Commissioner Amos thought the Commission definitely needed to do something, what with the stakeholders making comments like that.

Chair Ellis agreed. He recalled hearing Mr. Tull make some comments at the hearing when they were talking about the bill that were very similar to the ones that Ms. Chiechi just made about the desirability of having decisions made at this level rather than taking complex decisions to the Legislature. He may want to rethink that after today though. **Mr. Tull** said that was just to a reporter. **Chair Ellis** said he had read that news report as well. But as Ms. Hunter pointed out yesterday, the Representatives that are on that House committee are, in many instances, not ones that have previously dealt with gambling issues. There was some discussion during the hearing that there was a need for a study of gambling issues in connection with House Bill 1295. It was quite clear to Chair Ellis that most of the Representatives on the committee were unaware of the studies of gambling issues that have been done in recent years, such as the one done by the Joint House/Senate Committee.

Commissioner Prentice commented on how the Indian Gaming Regulatory Act (IGRA) changed the whole picture of gambling from being kind of modest about that and it exploded in some directions, and then when the Legislature tried to equalize it, gambling got a lot bigger. If someone was not in the middle of that, they would not really understand how this came about. Federal law was what was being reacted to and a lot of people do not even like to be reminded of that, but it is there and everyone has to live with it. **Chair Ellis** agreed, adding that it seemed to him that under the circumstances since there does not seem to be a need for emergency action on this topic, it would be best to discuss it in the context of an agenda item at the May meeting and get a little more background. Then the Commission could make a decision that would probably be the same as the decision they would make today.

Chair Ellis asked if there was anyone else in the audience who would like to address the Commission on any topic.

Mr. Rob Saucier promised to be very brief. He pointed out that in the petition process that his company went through for the past several years with staff – and there was a number of petitions and a lot of things to work out – the conversations that his team had with staff, the e-mails that went back and forth, and the little idiosyncrasies of getting this put together probably contained dozens and dozens of conversations and changes and things like that. As a result of that, the majority of everything that was in his petition had to do with housekeeping changes to provide clarity. Although he was saddened by the outcome today, Mr. Saucier would encourage this Commission to ask its staff to take some of the elements that provide clarity and have staff propose its own rule change.

Chair Ellis and **Commissioner Amos** thanked Mr. Saucier. **Chair Ellis** added he was sure staff would follow up on that to the extent there are important housekeeping changes and clarity that

should be made to the rules. He asked if there was anyone else who would like to address the Commission; no one stepped forward.

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

Chair Ellis called for a 10 minute break at 11:10 a.m. He announced that the Executive Session was expected to last approximately thirty minutes and at the end of the executive session the public meeting would be resumed solely for the purposes of adjourning. At 11:15 a.m. the Commission went into an Executive Session to discuss pending investigations, tribal negotiations, and litigation.

Adjourn

Chair Ellis adjourned the meeting at 11:30 a.m.

Minutes prepared by:
Gail Grate, Executive Assistant