

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
THURSDAY, JANUARY 10, 2013
APPROVED MINUTES**

- PUBLIC MEETING -

Chair John Ellis called the Gambling Commission meeting to order at 1:35 p.m. at the Tumwater Comfort Inn and Conference Center. He indicated there were significant changes made to the agenda, which Director Day would review. Chair Ellis introduced the members present.

MEMBERS PRESENT: **Chair John Ellis**, Seattle
 Vice-Chair Mike Amos, Selah
 Commissioner Michael Reichert, Maple Valley
 Commissioner Margarita Prentice, Seattle
 Senator Jerome Delvin, Pasco
 Representative Gary Alexander, Olympia

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

Director Rick Day identified additional material that was provided to the Commissioners: a letter from DigiDeal Corporation in support of a proposed rule change that will take place tomorrow; a letter from attorneys for Valley Technologies pertaining to the rules on tomorrow's agenda; a G2E report from Administrator Paul Dasaro of the Electronic Gambling Lab; and a revised Thursday agenda. Director Day pointed out some requested agenda changes, which Chair Ellis approved. Because of some scheduling confusion, the *Remand for Determination of Whether ZDI Equipment is a Gambling Device* will be the first item on Thursday's agenda. The Special Olympics had some trouble rescheduling, so they will be heard after the oral arguments for the ZDI matter or when their representatives arrive. Then the two other hearings, the *Petition for Review* and the *Motion to Vacate the Default Order* will be heard. Director Day pointed out there would not be an executive session at the end of Thursday's meeting. He briefly reviewed Friday's agenda, pointing out a staff request to hold over to the February Commission meeting final action on Item #16 regarding background checks, as referenced in the letter from Valley Technologies.

Chair Ellis asked if the other Commissioners were okay with that request, which they were, so he approved holding the petition over to the February Commission meeting.

Director Day reported there would be an executive session at the end of Friday's meeting to discuss pending investigations, tribal negotiations, and litigation.

Chair Ellis agreed and asked if there were any questions of Director Day; there were none.

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

Remand for Determination of Whether ZDI Equipment is a Gambling Device

Assistant Attorney General Stephanie Happold was present for the state, as well as **Attorney Joan Mell**, representing ZDI Gaming.

Assistant Attorney General Callie Castillo explained this was an adjudicative proceeding to review an Initial Order for the declaratory proceeding in the ZDI matter and that at the conclusion of the parties' arguments; the Commission would have an opportunity to go into a closed session to deliberate on that matter. She pointed out that, based on today's schedule, there was a possibility those deliberations would not be held until the end of today's meeting. The Commissioners could then deliberate and let the parties know by Order at the conclusion of their deliberations.

Chair Ellis agreed the agenda was subject to a number of contingencies. Originally, the plan was for the Commissioners to meet and discuss the matter immediately after the ZDI argument; however, if the Special Olympics representatives arrive in time, the meeting will shift directly to their presentation. Chair Ellis anticipated the Commissioners may start discussion of the ZDI issues in a closed session and would probably need to continue that discussion later, in which case it would come after he adjourned the meeting, and they would use the available remaining time that they had. He added that even that was complicated by the fact that Commissioner Amos needed to leave at 4:30 p.m. He explained that Commissioner Reichert, very unfortunately from all of their viewpoints, had submitted his resignation letter, effective Saturday, January 12. Given the fact that it was anticipated that it would take some time to resolve a Final Order concerning the ZDI matter after this week, Commissioner Reichert would not participate in the discussion of ZDI, or in the resolution of ZDI. When Commissioner Amos departs the meeting, there would no longer be a majority and the Commissioners would not be able to continue any discussion of ZDI.

Ms. Joan Mell said that introduction raised a few questions. She explained she also needed to leave right after the presentation because she had a conflicting schedule for the afternoon. She said it was her understanding that there would be no expectation that she needed to be available for presentation of a decision or any further deliberations that are a part of the public record that the Commissioners would be discussing the case in executive session. **Chair Ellis** agreed, noting it was technically a closed session, not an executive session. He added that he knew Ms.

Mell was going to be unavailable and he took that into account in planning the timing and the process.

Ms. Mell asked, with regard to Commissioner Reichert not being part of the decision-making process and/or playing a role at this point in time, if when his position was substituted would that not change the decision makers for this adjudicative decision that was being made here. She wanted to know if it had been decided whether the new person would be part of the deliberative process. She was not trying to suggest what way it was, she just needed to be well informed as to how that procedurally is going to move forward. **AAG Castillo** replied that no decision had been made with respect to whether the new Commissioner would be able to review the record, the hearing transcript, and the records proceeding, but that is certainly a possibility. **Ms. Mell** asked, given the fact that Commissioner Reichert was not making a decision, if he would be participating in the deliberations. She wanted to know if there was a decision that Commissioner Reichert would not participate in the closed door sessions and would not be present. **Chair Ellis** responded that the expectation was that Commissioner Reichert would not be present and would, unfortunately, not be able to participate in those discussions.

AAG Happold explained that Ms. Mell had something that she would like to address at this time.

Ms. Mell indicated there were two specific exceptions to the factual findings that she thought were inconsistent with the record. She had an objection to the order that was issued scheduling this hearing for today and setting forth factual Findings and Conclusions of Law. Also, she felt the Commission in its Order had too narrowly defined the scope of the Findings of Fact and Conclusions of Law of the trial. She said she wanted an opportunity to take exception to those findings for the record.

Chair Ellis asked Ms. Mell to identify the date of the Order she was referring to. **Ms. Mell** replied she received the Order on September 17, 2012, which was after the date of the hearing, so she did not have any opportunity to address those prior to the Court noting the matter up for today's hearing.

Chair Ellis indicated Ms. Mell's exceptions would be noted in the record. He asked if **AAG Happold** had any response to those points. **AAG Happold** replied she had not been aware of Ms. Mell's specific objections and had not had an opportunity to research them. **Chair Ellis** asked if she had enough of the detail from what Ms. Mell had just outlined to be able to respond to her points. **AAG Happold** affirmed she thought she had enough information. **Chair Ellis** suggested she submit her response to the Commission in one week. **AAG Happold** affirmed she would.

AAG Happold and Ms. Mell provided their arguments in the Remand for Determination of Whether ZDI Equipment is a Gambling Device. A recording and transcript of the hearing is available upon request.

At the conclusion of the arguments, **Chair Ellis** asked if there were any questions. He indicated the Commissioners would discuss this matter in closed session at the end of the meeting.

Commissioner Margarita Prentice felt the need to respond regarding her participation, or lack of participation, in the events that came before she became a regular Commissioner. She explained that she was a new member of the Senate when the friendly lawsuit was being discussed, but was not yet an ex-officio member of this Commission. Her only vote as an ex-officio member was on Tribal Compacts, so she played no role in making any decisions as far as ZDI was concerned. She explained her role had now changed and she was listening a lot more than she did in those days. Even though she was not part of the decision at that time, she recalled that she had agreed to be deposed. When Ms. Mell asked for her opinion, her reply was that she did not really care how it turned out because she would go along with whatever the Commission decided to do. Commissioner Prentice thought Ms. Mell should acknowledge that because she kept talking about integrity and fact, but Ms. Mell was not sticking to that herself. Commissioner Prentice said she really found that disturbing. She explained she would do her very best to listen very carefully to people, which is what she has always done, and as has been her history in the Senate.

Chair Ellis thanked Commissioner Prentice and concluded the ZDI hearing.

Petition for Review: Sean Skipwith, Card Room Employee, Revocation

Assistant Attorney General Stephanie Happold was present for the State, as well as **Petitioner Sean Skipwith** representing himself.

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

At the conclusion of the arguments, **Chair Ellis** asked if there were any questions. At 2:40 p.m. the Commission took a break for staff and Ms. Happold to consult with each other. Chair Ellis recalled the public meeting at 2:50 p.m.

AAG Happold explained that staff has made a proposal that this matter be continued to the March Commission meeting. Ms. Happold said she had talked with Mr. Skipwith who agreed with this solution. During this time, Mr. Skipwith will provide staff the proper paperwork documenting the bankruptcy and the terms, and staff will work with Mr. Skipwith to resolve this. It will then be addressed at the March Commission meeting.

Chair Ellis asked Mr. Skipwith if that was satisfactory to him. **Mr. Skipwith** affirmed.

Chair Ellis stated that, unless any of the Commissioners objected to that approach, the matter would be continued to the March Commission meeting.

Motion to Vacate Default Order: Delia A. Jones, Class III Employee, Revocation

Chair Ellis asked if Delia Jones was present; no one came forward. He asked for a recommendation from AAG Happold on how to proceed at this point, given Ms. Jones' apparent default.

AAG Happold requested the Commissioners review the record and do a quick order on the merits of the case, instead of simply doing a default order. She offered to give a brief oral presentation. She asked if the Commissioners would prefer to just look at the briefing material in the agenda packet and look at the administrative process that has already happened, and make their decision based on the facts in the record.

Chair Ellis asked if Commissioners Amos or Reichert had any objection to taking that approach and making a determination on the Jones' matter on the basis of the record before them.

Commissioner Amos responded that was perfect; **Commissioner Reichert** replied that was fine. **Chair Ellis** said they would assume that Commissioner Prentice, who was not present to object, would agree. That is the approach the Commission will take on this matter.

- PUBLIC MEETING -

Legislative Proposal from Special Olympics Washington

Chair Ellis asked if Ms Hunter had anything that needed to be said in connection with this legislative proposal before the representatives of the Special Olympics step forward.

Ms. Hunter replied that the legislative memorandum notes that staff thought that given the changes that would be proposed in state law for this type of enhanced raffle, the request should come to the Commission. Staff felt the Commission should be aware of proposal and give their approval of it before staff began to work on any technical language. The Commissioners can direct staff to work on that legislation, without binding them to being in support of it or anything else.

Chair Ellis said he appreciated that, and invited the representatives of the Special Olympics to step forward and identify themselves for the record.

Mr. Denny Eliason, present in a volunteer capacity and also in his capacity as a board member emeritus of Special Olympics, thanked the Commission for taking time to hear their proposal. He introduced Mr. Robert Kunold, Chair of the Board of Special Olympics, who will briefly introduce the Commission to Special Olympics and what brought them to this meeting. Mr. Eliason also introduced Mr. Steve Wright, Vice President for Marketing for Special Olympics who will briefly outline the concept of house raffles and the concept they would like the Commission to consider. Mr. Eliason said he would finish with a discussion of what the Special Olympics would like to propose to the Commission.

Chair Ellis indicated that, given today's agenda, it would be helpful if they could limit their presentations overall to about 15 minutes. He said the Commission would certainly be glad to hear what Mr. Kunold had to say.

Mr. Robert Kunold, Jr., managing partner of Foster Pepper and immediate past chair of the board of Special Olympics, Washington, stated there were two things he wanted to go over before Mr. Wright described the raffle. Mr. Kunold thought most people knew what Special Olympics was, but wanted to give a little more background about what they are doing, who they are, and to describe why what they are proposing is important to them. Special Olympics, Washington, has been active in the state of Washington since the mid-1970s. They are an athletic organization that currently has about 10,000 athletes in their program. They provide athletic opportunities for persons with intellectual disabilities. The organization offers about 13 sports year around, including: basketball, swimming, soccer, skiing, bowling, and a variety of other sports. The organization itself has about 22 staff and a \$4 million budget. Although they are primarily focused on athletics, the organization does more than that. For example, the organization has a healthy athletes program where they offer health screenings for their athletes at the events. Many of their athletes come from poor families, so they try to help them. The organization has leadership programs where some of their athletes become ambassadors of the organization. The organization teaches those athletes public speaking skills, which is really neat to watch. Their programs, particularly the statewide programs, have a social aspect to it. Many of their athletes do not get many social opportunities, so it becomes an important part of their lives, together with the athletic events. But they are an athletic organization at their core and it is very important to their athletes to get the lessons that everyone else gets from athletes. Everyone who has kids knows how important it is as their kids are developing to learn things like how to play by the rules, how to win and lose, how to get along with the teammates, and subordinate their own interests to the team. Their athletes do not get that many chances to learn those lessons, so the organization's athletic programs are a great way for that to happen. It is also the joy and confidence people get from doing athletics.

Mr. Kunold said he did not know how many of the Commission had ever seen a Special Olympics event, but it is a great event. He personalized it by saying he has three boys, all of whom are active in athletics. The youngest has Down Syndrome and grew up watching his older brothers play various sports like football, wrestling, etc., and he wanted to do what they were doing just like any other kid. When his son gets involved in Special Olympics, he thinks he is doing the same thing his brothers are doing. The level of competition may not be quite so high, but it is a wonderful event, and when he scores a soccer goal, it is like he just won the World Cup. Anyone who has ever seen those events knows what he was talking about.

This is an important program for the organization. Ten thousand athletes is a relatively small percentage of their potential athlete base probably about 10 to 20 percent. They have a huge population of people who could be participating and who are not. Looking at the demographics, which have actually become skewed over time, many of their athletes are actually older. If someone attended one of their summer games, they would look at the athletes and think: "gee, there are a lot of people who are around 30 or 40 years old and not that many who are under 20."

The organization is trying to solve those two problems by focusing on getting more young people involved in the organization. They have been approaching the school districts who have the athlete base and who know who the athletes are and that have some facilities but do not have a lot of financial resources. The organization has been approaching the school districts and offering to help support new soccer leagues within school districts. They started with the Seattle School District, which was a bit of a hurdle to get started. It is well known that school districts do not have a lot of resources, but eventually the organization managed to get a pilot program going just a few years ago. In just a couple of years, the organization has already managed to get just about every elementary school, middle school, and high school in the Seattle School District with a Special Olympics soccer program, which has added hundreds of athletes. The organization is now approaching a variety of other school districts, focusing on the larger ones: Tacoma, Bellingham, Spokane, and Vancouver. The organization now has the template and it works; it is having success and its athlete base is growing quickly and the organization needs the resources to help support that.

As the organization looked at other Special Olympic organizations around the U.S., one of the most successful fundraising programs has been a raffle program. Many organizations are raising a half million to a million dollars through these raffles, which would make a big difference to them. That could be as much as a 25 percent increase in resources, so the organization wanted to pursue this. From their standpoint it is a win/win; the school districts get to help support a population that they have difficulty supporting without having to spend a lot of money and the Special Olympics get a whole new group of athletes and get to expand its programs. But most importantly for the athletes, they get to be involved in athletic competitions at a young age and they will continue to stay involved until they are 50 or 60 years old. So for the athletes, this is an opportunity to get actively involved in something that they will enjoy the rest of their lives. The organization really views this as important and this fundraising opportunity can really make a big difference to a lot of their athletes.

Mr. Steve Wright thanked the Commission and reported that, in general, the idea of a house raffle is to find a house worth \$2 or \$3 million and raffle it off with the proceeds going to Special Olympics Washington. There is some history of success here. The idea came to them through Special Olympics Southern California, who has had three successful raffles over the past three years and have netted over \$2.4 million. There are a number of states that allow these and where raffles are actually taking place, including Maryland, Colorado, Florida, Mississippi, Indiana, and California. Some of the nonprofits that are benefiting from this are the Boys and Girls Clubs, Ronald McDonald House charities, St. Jude's, United Way, and Special Olympics. Briefly, the raffle works like this: The house is actually not purchased but is leased for up to six months with an option to buy at the end. A consultant works with the homeowner that has a house on the market, a high value house that might have been sitting there for awhile. They work out a compromise to take that house off the market for six months or so and the organization would pay them somewhere between \$75,000 and \$100,000. It is the ticket sales that make it successful, so the organization publicizes the ticket sales and the raffle through the standard means: television, newspapers, and online. Tickets are sold through an inbound only call center. That call center is not making any outbound calls, just inbound calls selling tickets.

As tickets are sold, the call center takes the original ticket, puts it right into the raffle drum, and then sends a receipt letter to the purchaser that includes the numbers of their raffle tickets. The organization could possibly have some incentive drawings that would help sell tickets earlier, including “refer a friend” or “multi-ticket” drawings. Perhaps people could buy a number of tickets at one time and get a discount. The organization has looked through many different scenarios in Washington and they believe they would need to sell about 12,000 tickets to break even, but they believe they could sell much more than that. If they sell 50,000 tickets through these scenarios, the grand prize would become activated: the house. If they do not sell 50,000 tickets, then the grand prize would be a cash amount, which is typically either 50 percent of the net proceeds paid as an annuity over 20 years or a lump-sum payment. The winner can choose at that point. Mr. Wright said they definitely believe in transparency. This would be subject to an independent audit, which he believed everybody would agree was important.

Mr. Eliason thanked the Commission for hearing about this proposal and Special Olympics. He also thanked Director Day and his staff for the preliminary discussions they have had on this issue. He did sit down with Director Day’s staff, and it became very clear when they worked through the details of this type of concept that the statutes and subsequent regulations never contemplated a raffle on this scale. So, what the organization is proposing to the Commission and to all interested parties is that they sit down and cooperatively work out legislation that would authorize these types of enhanced raffles. Mr. Eliason said the Commission has a handout regarding this concept, and some of the tenets of that legislation are on page three of that handout. The process that the organization is proposing is that they will work with legislators to get authorization to draft legislation, which they expect can be done as early as next week. Once the organization gets draft legislation based on the concepts within the document that the Commission has, they will sit down with Commission staff, with Commissioners given whatever level of interest they have in this issue, and work through the details to again make sure they are completely comfortable with this concept. The organization will do the same with interested parties, many of whom are in the audience today. The organization has done extensive outreach to date and wants to do more to again try and come up with a consensus proposal in this regard. Mr. Eliason said they envision that every raffle would come before the Commission or Commission staff for approval, so working with them to make sure the statutes work and the subsequent regulations work is something that the organization is very interested in. Mr. Eliason thanked the Commission and offered to answer any questions.

Chair Ellis asked if Mr. Eliason and staff were specifically asking for the Commission’s direction as to whether staff should work with his organization to get the legislation passed. He asked if Mr. Eliason had a specific idea as to what role he would like the Commission and staff to play. There are agency request bills and there are bills where agencies provide knowledgeable input to assist stakeholders in an industry with legislation. **Mr. Eliason** replied he thought the organization was fully prepared to take the responsibility at getting the bill drafted in a form they believe is technically sound. At that point, they would like to work with the Commission and staff to make sure that everyone agrees it is a concept they could oversee in an appropriate manner. And then also gather input from the Commission on additions or deletions from the draft that they believe are thoughtful from a public policy standpoint. The organization will

certainly entertain those and likely adopt whatever direction the Commission would like to go. It is very important to the organization that it moves forward. These are high dollar, high value propositions, so as raffles come before the Commission and staff, they will have to make sense. There will have to be an appropriate structure around them to make sure the public is protected, that the 501(c)(3) is also protected, and that indeed it has an opportunity to succeed. **Chair Ellis** asked if Mr. Eliason was basically looking for agency assistance as opposed to any form of an agency request bill. **Mr. Eliason** affirmed that was correct.

Chair Ellis asked if there were any questions; there were none. He asked if there was a motion as to whether the Commission should direct the Commission staff to assist in accomplishing this legislation.

Commissioner Prentice made a motion seconded by Commissioner Amos that the Commission direct the agency staff to work together primarily to see if it is feasible.

Commissioner Prentice warned Mr. Eliason that it has been difficult to get even really puny raffles through the Legislature, so this is going to take a lot of work. It is far from a slam dunk, and in the spirit of full disclosure, she noted that she has known Denny Eliason for years and has worked with him, and she directed him to come to this meeting. Commissioner Prentice said she would just see if it can be successful, but it is not a done deal. She thought there would have to be some decisions made. She did not want to hamstring it here, but just wanted to be really cautious about it.

Director Day asked for clarification, noting that the document says the Special Olympics would be responsible to get a sponsor and draft the bill. **Mr. Eliason** affirmed that was correct.

Director Day replied acceptable. **Mr. Eliason** agreed. **Commissioner Prentice** agreed. **Chair Ellis** added he thought that was consistent with the motion. **Mr. Eliason** said the Commission should have a draft probably by the end of next week. **Chair Ellis** said that would be fine. **Chair Ellis** asked if there was any further discussion of the motion.

The vote was taken; the motion passed with four aye votes.

Chair Ellis said he looked forward to this relationship and, hopefully, legislation down the road.

Chair Ellis indicated that, unless any of the Commissioners or Director Day had a different idea, it would be appropriate to defer until tomorrow items that do not need to be dealt with today. There would be a quorum tomorrow with Chair Ellis and Commissioners Prentice and Reichert, so there would be no need at this point to approve the minutes or the new licenses and Class III certifications. Chair Ellis thought they should address the default at this point, since it was noted for hearing today. Then the public would have an opportunity, if they wish, to address the Commission on any topic. After public comments, the meeting will be adjourned for the day and the Commissioners, along with counsel, will have a closed discussion of the ZDI matter.

AAG Castillo added they would also discuss the Delia Jones matter. **Chair Ellis** agreed there was no reason not to decide that today. He asked if there were any comments or questions about that approach; there were none.

Chair Ellis said that he regretted not mentioning that he was also leaping over Administrator Dasaro's presentation on the G2E Conference. He assumed that Mr. Dasaro would be able to make his presentation on Friday morning, early on the agenda. **Mr. Paul Dasaro** affirmed. **Chair Ellis** thanked Mr. Dasaro for being present and apologized it was not more productive for him.

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

Default: Kevin Davis, Class III Certification, Revocation

Ms. Hunter reported that Mr. Davis has a Class III certification and was previously working at the Nooksack River Casino. He is not working there any longer, but the Commission issues the certification and the Tribe issues the license. Unless the Commission takes action against the certification, Mr. Davis could transfer to a card room. That is why these actions are brought to the Commission, even if the licensee is not working, and also to mirror the action the Tribe has taken. Mr. Davis was charged with several different felonies, including First Degree Burglary, stemming from an incident where he forced his way into a former girlfriend's home, damaged her property, and assaulted her. The Tribe has suspended his license. The Director issued charges to Mr. Davis by certified and regular mail. The certified mail came back as undeliverable, but the regular mail was not returned, so staff presumes that Mr. Davis did receive them. The charges notified him that not responding would result in the entry of a default order revoking his certification. Mr. Davis did not respond, so staff are requesting the Commissioners revoke his certification.

Commissioner Amos asked if Mr. Davis was out of jail when staff went to get the paperwork to him. **Ms. Hunter** replied everything was done by mail, not personally served. She asked if Commissioner Amos was thinking that perhaps Mr. Davis was actually incarcerated and that was why he did not respond. **Commissioner Amos** responded that First Degree Burglary and two counts of Second Degree Assault are three serious felonies, so Mr. Davis probably should have still been in custody. **Ms. Hunter** replied she knew Mr. Davis had a court proceeding on November 19, but she did not have an answer to Commissioner Amos' question. She said that the Commissioners could choose to delay the default until she could get those answers. **Commissioner Amos** replied there was no need to delay it.

Chair Ellis asked if there were any questions; there were none. He asked if Mr. Kevin Davis or a representative was present; no one has stepped forward.

Commissioner Amos made a motion seconded by Commissioner Prentice that the Commission revoke Kevin Davis' Class III Certification. The vote was taken; the motion passed with four aye votes.

Ms. Hunter added that she suspected Mr. Davis was out of jail based on page three, fact seven, that says Mr. Davis had made bond on October 19 and these charges were issued on November 9. **Chair Ellis** thanked Ms. Hunter for that addition.

- PUBLIC MEETING -

Other Business/General Discussion/Comments from the Public

Chair Ellis opened the meeting to other business and called for public comment.

Mr. Larry Phill said he wanted to address a gambling promotion that the Hollywood Casino and the Royal Casino had – or they are having it right now. He has played it before and then just recently they told him he could not play it, and he felt that was a form of discrimination. In the gambling laws, WAC 230-06-030 says during promotions – it is a promotion law – it says must give all players equal opportunity to participate. After he played once, the next day he went in and they said: “well I’m sorry but you can’t play.” In doing that, it kind of leads to corruption. Mr. Phill asked how come they were not letting him play and they were letting all these other people play and he was playing the same way they were playing.

Chair Ellis asked if they gave him any explanation as to why they were excluding him. **Mr. Phill** responded not really, but maybe because he won money the one time he played. But that was the whole thing, they are trying to give away all this money. They said something about his skill level, but he was playing the same way everybody else was playing. Mr. Phill had one of their advertisements about the promotion that has all the rules if the Commission would like to see it. This is all money that has been built up in a jackpot contributed by the public and the players, which he was one of the players, and it just does not seem right. The Commission’s mission says to protect the public and make sure that gambling is legal and honest, conducting a fair program. Mr. Phill said he did not see how it works out. He sees the public all pitches in and all the money builds up and they try to give it away, so Mr. Phill did not know why they were telling him that he could not play. He thought that some sort of ruling should be made on that, especially when it is right in the WACs, the bylaws, must give all players equal opportunity to participate.

Chair Ellis asked Director Day if there was any action that Commission staff may be able to take in response to Mr. Phill’s issue. **Director Day** asked Mr. Phill if he had contacted a local Gambling Commission agent. **Mr. Phill** affirmed he contacted the local Commission agent in the Everett/ Shoreline area. He left messages with Darcy. **Director Day** asked if she had gotten back to Mr. Phill at this point. **Mr. Phill** replied she did not get back to him yet, but he left her a message in detail about what his concern was. **Director Day** thought the best course of action was for staff to close the loop with Agent Axon and see what she is doing in this process. He asked for a copy of what Mr. Phill had available and for his contact numbers. **Mr. Phill** affirmed he would give Director Day his phone number.

Assistant Director Mark Harris said he had some information on this.

Director Day asked if AD Harris was already on top of this matter. **Assistant Director Harris** affirmed. **Director Day** responded that AD Harris could refer the information to his staff and go from there. **Assistant Director Harris** agreed that would work. **Director Day** informed Chair Ellis that there would probably be no determination based on the limited facts received, but he would definitely refer it back through AD Harris and his enforcement staff who would review the information and provide a report back to Director Day. **Chair Ellis** agreed and thanked Director Day. **Mr. Phill** added that he would like some sort of clarification on this. **Director Day** replied staff would get back to him one way or the other. **Mr. Phill** agreed.

Assistant Director Harris indicated that he had already followed-up with the agent and the manager on it. He asked if Director Day wanted him to provide the information to the Commissioners now or wait. A determination was already made. **Director Day** replied he would like to take a look at this information, go back through it, and make sure everyone is all on the same page with the facts presented here today. **Assistant Director Harris** agreed. **Director Day** thanked AD Harris.

Chair Ellis indicated he may ask for the resolution at the next meeting. He asked if there was anyone else in the audience who would like to address the Commission; no one stepped forward.

Director Day pointed out the items for Friday's agenda: the Director's report; Administrator Dasaro's G2E conference update; a brief legislative update from Ms. Hunter; approval of the minutes and the new licenses and Class III certifications; and the rule petitions.

Chair Ellis agreed that was his plan, unless any of the Commissioners thought there was some other order of business that would be more efficient. **Commissioner Reichert** noted that he would need to leave by about 12:30 p.m., which would cause a quorum problem. He asked if the meeting was starting at 9:30 a.m. **Chair Ellis** affirmed. He thought everything should be covered by 11:00 a.m. or 11:30 a.m. The only question he had would be any issues that may be raised during the executive session after the public meeting, but he did not know if Commissioner Reichert's participation in that was going to be vital or not. **Director Day** responded he thought it probably would not be vital. **AAG Castillo** pointed out they would lose their quorum for the executive session as well. **Commissioner Reichert** agreed, losing the quorum was what he was concerned about. **Director Day** was not really concerned about a quorum problem because one rule was being held over, so he thought the meeting would be all right with time overall.

Adjourn

Chair Ellis reminded everyone that Friday's meeting would begin at 9:30 a.m. with those items that were identified earlier being taken first on the agenda, and then they will proceed with the other items on the agenda. He adjourned the meeting at 3:20 p.m.

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Director Day reported that Commissioner Reichert had tendered his resignation effective January 12. Chair Ellis and Director Day recognized him for his service on the Commission and presented him with a letter from the Commissioners and a Certificate. **Chair Ellis** thanked Commissioner Reichert for his time and effort, adding that the Commission and staff have benefited from the leadership, experience, and counsel he brought to the Commission.

G2E Conference Update

Mr. Paul Dasaro, Administrator of the Electronic Gambling Lab (EGL), reported that staff attended the 2012 Global Gaming Expo and Conference (G2E) in Las Vegas from October 2-4, 2012. One of the major topics at the conference was the legalization of iGaming in the United States. Several conference panels focused on this issue, specifically on the American Gaming Association's regulatory reform. Panelists discussed various difficulties with implementation. The potential legalization of iGaming was part of the training sessions relating to tribal gaming, and various state and federal legislative proposals for iGaming affecting the tribes were discussed. Several panels focused on the subject of the American Gaming Association's regulatory reform. In regards to gaming technology, cloud technology in the casino world generally refers to the physical location of the computer servers that manage machines on the

gaming floor. In Washington and other jurisdictions, these servers reside within the gaming facility. Cloud technology allows the servers to be physically located anywhere in the world. The primary benefit is cost savings, but one of the major issues to be addressed is security, and servers located outside the facility with data being transmitted through the internet creates potential security issues which do not currently exist when everything is located inside the casino. Other emerging trends include progressive table games, gaming chips with radio tracking devices, optical card recognition, and virtual gaming chips. Mobile gaming is the catch-all phrase used to describe gambling technology that resides in hand-held devices or even a player's cell phone. Mobile gaming is allowed in Nevada and other jurisdictions and the technology allows players to gamble from locations on the property but not on the casino floor. As smart phones become more popular, there will definitely be a convergence between mobile gaming and iGaming. Some countries that allow iGaming have already begun merging those two technologies. Staff attended training sessions, which covered the many different types of cheating, fraud schemes, and highlighted dealer fraud, false jackpots, surveillance collusion, technology flaws, cage scams, and player point tracking fraud.

Mr. Dasaro reported that staff reviewed manufacturers' new technology and new games, and discussed current and upcoming equipment submissions to Washington. They also attended some meetings with other companies who are interested in becoming licensees of Washington State Gambling Commission. They also discussed rules and petitions and various businesses that staff are dealing with. Some of the emerging trends that staff saw during those discussions included an expanded convergence of bonusing and promotion technology with existing approved gambling equipment and various types of table game technology. Electronic table game chips were demonstrated, as well as various remote access solutions, which is remote access into the gaming equipment from some external source for management purposes. Staff also had the opportunity to tour the testing facility of BMM Test Labs, a major private test lab in Nevada, which is one of our licensees. They just built a new testing facility, so it was very interesting for staff to see how those companies are doing their work. The Gambling Commission is a customer there, so it is good to see how they are doing everything. It was very enlightening.

Chair Ellis asked how similar the procedures and technology that Mr. Dasaro's staff were using compared to an operation like BMM. He said the Gambling Lab was not only a customer, and not a competitor, but is doing some of the similar things. **Mr. Dasaro** replied that staff has found that the goals of the private test labs are to simply look at whatever the standard is. In most cases for EGL it is Appendix X2, which is the technical standard for how Tribal Lottery Systems (TLS) are supposed to operate. BMM private test labs job is to look at that compliance and make sure that whatever the product that was submitted meets that compliance. If it does, then they issue a certification document. EGL has some similar processes in terms of when staff does its testing, but EGL's goal is different because staff are looking at identifying security risks, developing internal checklists for verifying that equipment in the field, developing internal control recommendation documents for commission and tribal staff for preparing training and those kinds of things. But overall, in terms of the testing process and the individual procedures that are used, they are surprisingly similar; just the goals are different.

Chair Ellis asked if Mr. Dasaro was saying that the private independent testing labs would not necessarily be testing it with regard to the security features on a proposed Tribal Lottery System –not necessarily a TLS machine specific to this state, but that could be used as an example. **Mr. Dasaro** replied that, from his discussions and previous experience with them, the private independent testing labs are looking at whether the component, or device, or system, meet the technical standards. **Chair Ellis** asked if in EGL’s case, it either meets X2 or it doesn’t. **Mr. Dasaro** affirmed that was correct; if there was an existing security risk that was presented by that system, that would not be grounds for the private testing labs to not certify it. When EGL staff see a system that has a huge security hole that would need to be addressed through some kind of internal controls, staff would recommend that to the tribes and to our regulatory staff.

Mr. Dasaro reported that every year Gambling Commission staff goes to the conference and the Nevada Gaming Commission holds a roundtable of state technical regulators. It is always a good opportunity to meet with other state technical regulatory staff and talk about the different common issues that are being faced with the industry. There were nine states in attendance at this conference, plus representatives from the Province of Ontario, and even Singapore was there. The use of private testing labs was discussed because that has increased over the last several years with the economy the way it is. Several states, including Nevada and New Jersey, have begun to implement systems similar to Washington State as far as using a private testing lab to do a large amount of testing and then having the state be responsible for overall regulation and overall approval. Nevada only began implementing that within the past year, so they were concerned about some aspects of it; namely efficiency. Apparently, when they first began implementing it, the number of approvals from the private testing lab was much smaller than what had been coming out of the state lab, so they are working on that. And there were also concerns about the quality of the independent lab testing and how to hold those private test labs to standards of efficiency and doing what it is supposed to be doing. Issues regarding how to verify live gambling equipment was also discussed because of the different ways to do that and how to establish common technical standards. Internet gaming was a big topic of discussion since Nevada is moving forward with that process. The Nevada technical regulators seemed to be relatively confident that when they do finally begin their internet gambling that it will be secure, it will prevent underage gamblers from participating, and it will prevent people who are not located inside the state of Nevada from gambling. There was a lot of discussion on the technical side of that.

Chair Ellis asked if Mr. Dasaro knew whether they were making any effort to build in a way of checking to see whether people might be overly intoxicated when they are gambling. **Mr. Dasaro** responded that had not been discussed, but it is a really good question. It would be very difficult to do that from a technical standpoint because some people will bet all over the place. Apparently, they do have some controls in place, which can either limit the amount of money that people are betting or the frequency with which they bet. Mr. Dasaro knew there were procedures in place in Nevada that prevent people from immediately withdrawing their money from their account after they win. But he did not believe there was any formalized or technical method to identify that. **Chair Ellis** said there was no system of hitting the wrong key three

times in a row and having the screen freeze. **Mr. Dasaro** affirmed that was correct. Washington is one of the few states in the country that actually has a statute that makes gambling over the internet a felony. He said he brought that up during the discussions with Nevada to make it clear that their rules for ensuring that people are only gambling from within the borders of the Nevada are as strong as it can be. Nevada was pretty confident that it was, but **Mr. Dasaro** was not as convinced. **Representative Alexander** asked if Nevada's government had any impact by the internet gambling; if there was a fee or tax that goes with it. **Mr. Dasaro** replied absolutely, but he was not sure of the actual percentage, but they get somewhere between 6 and 9 percent of net receipts that are directly collected for Nevada taxes. They do get a very sizable percentage of the income from that gambling activity.

Director Day asked if it was correct that it was a fairly significant change; that Nevada actually changed their process with their lab to something similar to what Washington does – the private lab does the certification and then their gambling lab follows-up. **Mr. Dasaro** affirmed. Originally, since the establishment of electronic gambling in Nevada, they have had a state lab that did all the testing and approved all the gambling equipment in the state. Then legislation was introduced a year or two ago that allowed manufacturers to utilize private labs to do the bulk of the testing, which was pushed through. The state lab is still in existence and is still responsible for final approval of most gambling technology and for making sure the independent labs are doing what it is they are supposed to be doing. So they are still involved in that process, but it has definitely become much similar to what is done in Washington. **Director Day** said the notes in the file were interesting, noting **Mr. Dasaro** was pretty neutral in his comments, but he thought the data said the Nevada lab was concerned because the productivity had actually dropped by about half since they changed. **Mr. Dasaro** replied that was initially what they found when they first implemented that process, then their regulators worked with the private labs to try to improve their efficiency. Part of the problem for the private labs was that all of a sudden they had to go from certain staffing levels to massive increases in staff. They were basically trying to play catch-up with the law because all of a sudden they had this huge influx of business that they had never experienced before. **Mr. Dasaro** thought that eventually they would catch-up and get to the point where they have at least the level of productivity in terms of their approvals that the Nevada State lab has, but it was going to take awhile. **Director Day** said it does bring up the question and asked if EGL staff have seen any delay in approvals. **Mr. Dasaro** replied no, not through Washington State because they have themselves pretty segmented as far as the sections within the private labs that are working on Washington State products. **Mr. Dasaro** added that, as far as he knew, those people have not been diverted to Nevada. **Director Day** pointed out that on page nine of the memorandum prepared by Melissa Valencia, lead testing engineer, she goes through the results of the survey and mentioned that from 18 people that are involved in the industry how confident they are with the various areas of internet gambling, including fraud, money laundering, and underage gambling. It is an interesting survey for the Commission to look at.

Chair Ellis thanked **Mr. Dasaro** for his presentation.

Legislative Update

Ms. Hunter reported she did not have much of an update beyond the report that was provided in the agenda packet for a report. The legislative session will start on Monday, January 14 for 105 days because it is a budget year. The Gambling Commission does not have any agency request legislation for 2013, so the main focus will be responding to bills, working on the confirmation process for Commissioners Gray and Prentice to get them confirmed, and then for a potential new appointee to the Commission. There have been some changes with the committees that hear gambling bills. The House went through a reorganization of the committees and created the Government Accountability and Oversight Committee that will be hearing gambling bills. It will be chaired by Representative Chris Hurst, a former police officer and someone that staff has worked with in the past. Representative Hurst served on Commerce and Labor many years ago, and more recently he served on the House State Government and Tribal Affairs Committee, which hear gambling bills. Ex-officio member, Representative Gary Alexander, will also be on the newly created committee. It looks like about four members on the committee will be familiar with gambling issues because of their past positions on committees. Staff has been asked to a hearing on Tuesday, January 15, to give what Ms. Hunter calls Gambling 101 Overview. Director Day and Ms. Hunter will be presenting that in the afternoon. As far as Ms. Hunter knows, in the Senate the gambling bills will still go to the Labor, Commerce, and Consumer Protection Committee, which is expected to be chaired by Republican Senator Jane'a Holmquist Newbry instead of Senator Kohl-Welles. Staff has worked with both of them for many years, and they have been on that committee for several years. Over 60 bills have been pre-filed, but none of those are gambling related or have direct impacts on the Commission.

Ms. Hunter went over the legislative process that has been used for many years to make sure it still met the needs of the Commission. Normally, if there is a hearing on a gambling-related bill and the Commissioners have not had a chance to look at it because of the timing of Commission meetings, when Ms. Hunter comments on it, she would only be testifying on technical aspects of the bill. She always makes it clear that the members are a part-time Commission and have not met yet to take a position on the bill. Past committees have been very interested in the Commissioners' position, so Ms. Hunter would continue to bring bills forward to them. If staff recommends a position on the bill, Ms. Hunter would go over that during the legislative report. If the Commission supports a bill, staff would typically work with the Chair of the Commission on a letter of support, and then would turn that into a position letter and post that on the agency website. The Commission would normally take a formal vote if they want to support a bill. They have followed a similar process if the Commission is against a bill or is in support of the current law instead. If staff recommends a neutral position, normally there is not a vote and Ms. Hunter just looks for a nodding of the Commissioners' heads, or indication the Commission would like to talk about it more. That is the process that staff would propose following, unless the Commissioners have a different approach. It is a flexible approach that can be changed if something happens and the Commissioners want to change the process at the February meeting.

Chair Ellis asked if any of the Commissioners or Ex-Officio Members thought that staff should take a different approach.

Representative Alexander said he thought that was a responsible position. He wanted to share with the Commission that he would be proposing a bill next year that he hoped he could use the same process that the Special Olympics group used in sharing with staff to make sure the technical aspects are all in place. The bill basically is a lottery game that is dedicated to support FFA and 4H youth programs that are being impacted adversely in the county fairs and in training programs at our horseracing operations. That money would be dedicated to support training for youth programs and to assure that those programs continue to receive funding as they are basically being removed from general fund consideration. Representative Alexander said he would bring that bill forward and would appreciate any comments from the Commission and staff. **Chair Ellis** replied it sounded like a worthy project and asked if there were any other comments concerning the procedures that Ms. Hunter outlined; there were none. The Commission and Ex-Officio Members supported the process as Ms. Hunter described it.

Approval of Minutes – November 15, 2012 Regular Commission Meeting

Chair Ellis asked if there were any comments or changes to the minutes as they were submitted; there were none.

Commissioner Prentice made a motion seconded by **Commissioner Reichert** to approve the minutes from the November 15, 2012, Commission meeting as submitted. *Vote was taken; the motion passed with three aye votes.*

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

New Licenses and Class III Certifications

Deputy Director Trujillo reported that, in addition to the list of New Licenses and Class III Certifications is a House-Banked Card Room Pre-Licensing Report for the Black Pearl in Spokane. They will be licensed as a house-banked card room if the Commission approves their application. The House-Banked Card Room Report shows there are 58 house-banked card rooms currently licensed and operating. Since the November 27 run date of that list, the Oak Tree in Woodland has closed, as well as Aces in Arlington.

Chair Ellis noted that apparently their effort to take advantage of the higher limits for Texas Hold 'em was unsuccessful in being able to keep their business open. **Deputy Director Trujillo** agreed. He reported that staff recommends approval all house-banked card room applications and Class III certifications listed on pages 1 through 25.

Chair Ellis asked if the Emerald Downs application was still pending. **Deputy Director Trujillo** affirmed it was still pending. **Commissioner Prentice** asked what the Emerald Downs was applying for. **Deputy Director Trujillo** replied they have applied for a house-banked public card room.

Commissioner Prentice made a motion seconded by Commissioner Reichert to approve the new licenses and Class III certifications listed on pages 1 through 25. Vote taken; the motion passed with three aye votes.

Chair Ellis explained they had now completed the Commission review of the items that were carried over from Thursday's agenda. He indicated the Commission would now move on to the list of Administrative Procedure Act Proceedings on the agenda.

Rules Up For Final Action

Petition from the Public: James Williams – Selling nonconsecutively numbered raffle tickets during the same event at the same location

a) Amendatory Section **WAC 230-11-010** Number tickets consecutively

Assistant Director Harris reported that James Williams is a volunteer that assists nonprofit organizations with raffles and fundraisers. The petitioner is requesting to allow charitable and nonprofit organizations to sell raffle tickets that are not consecutively numbered for raffles that take place during the same event at the same location, like a meeting or a conference. The intent would be to allow them to use up leftover theater-style raffle tickets that were not sold at a previous raffle instead of having to throw them away, which could result in gaps in the ticket numbering. The requirement that there be no duplicate tickets would still remain in effect, and the change would not apply to discounted pricing plans or bundled tickets, which are required to be consecutively numbered. WAC 230-11-010 requires tickets to be consecutively numbered, which means the numbers must successively follow each other without interruption. The use of consecutively numbered tickets is important for accounting and control purposes for large raffles where hundreds or thousands of tickets are sold over a long period of time and winners are not required to be present. Staff has worked with the petitioner to develop language to accomplish the intent of his rule change. The petitioner has stated that he supports the WAC changes presented in the rule summary.

Staff has minimal regulatory concerns if the nonconsecutively numbered tickets are used for raffles that take place at a single event and a ticket distribution log is used, which is part of the change staff made to the petition. Resource impacts would be minimal as it is not anticipated the change would affect a substantial number of licensees. Staff believes that some of those licensees that would be affected by the change would still keep using the consecutively numbered tickets for control purposes for their own use. Staff has received 13 pieces of correspondence supporting the change. There was one person opposing the change because of concerns with the gaps in the tickets and how to control it. Staff has since then added the information about the requirement to use a ticket distribution log. Staff recommends final action.

Chair Ellis clarified that the amendatory language to WAC 230-11-010 represents the language that staff developed while working with the petitioner, and the change is satisfactory to the petitioner. **Assistant Director Harris** affirmed that was correct.

Chair Ellis asked if there were any questions; there were none. He asked if the petitioner would like to step forward and identify himself.

Mr. James Williams said he did not have anything further to add, but was available to answer any additional questions concerning the recommended change.

Chair Ellis thanked Mr. Williams for coming and asked if there were any questions of him; there were none. He asked if there was any public comment on the proposed amendatory language; no one stepped forward.

Commissioner Prentice made a motion seconded by **Commissioner Reichert** to approve the amendatory section WAC 230-11-010 effective 31 days from filing. *The vote was taken; the motion passed with three aye votes.*

Commissioner Prentice asked if staff would be monitoring this rule change in case there were any problems. **Assistant Director Harris** affirmed monitoring would be done through either compliance inspections or records inspections.

Petition from the Public: Linda Bullard, Hawk's Prairie Casino – Paying out player-supported jackpot prizes

a) Amendatory Section **WAC 230-15-405** Paying out prizes on a player-supported jackpot

Deputy Director Trujillo reported that Ms. Linda Bullard is requesting the rule change so the dollar amount of up to \$5,000 is consistent with a similar prize rule and so that players may receive a larger payout without having to wait for a check to be issued, thus streamlining the process. Staff does not have any substantive regulatory or resource impact concerns and there have been no statements against this change. Staff recommends final action, with the proposed effective date of 31 days from filing.

Chair Ellis recalled that when Ms. Bullard originally made her presentation to the Commission, among other things she indicated that it could be cumbersome for a casino to have to issue a check for a payout in the range of \$2,500 to \$5,000 because that meant ensuring there was a corporate officer who was available to sign the check. **Deputy Director Trujillo** affirmed that was correct.

Chair Ellis asked if there were any questions; there were none. He asked if the petitioner would like to step forward and identify herself.

Ms. Linda Bullard, with Hawk's Prairie Casino, stated that Deputy Director Trujillo did a great job of explaining everything and he covered all the bases. She had nothing to add.

Chair Ellis asked if there were any questions of Ms. Bullard; there were none. He asked if there was any public comment; no one stepped forward.

Commissioner Prentice made a motion seconded by **Commissioner Reichert** to adopt the amendatory section WAC 230-15-405 to be effective in 31 days after filing. *The vote was taken; the motion passed with three aye votes.*

Petition from the Public: ShuffleMaster – Constructing external devices to card game equipment to conduct standard maintenance.

- a) New Section WAC 230-16-151 Gambling equipment connecting to external tools for standard maintenance

Deputy Director Trujillo reported that Bo Zarach is a Product and Compliance Analyst with ShuffleMaster. She was present, along with Leonard Faircloth, another representative, when this was filed for discussion in October. Ms. Zarach is proposing new language that would be contained in WAC 230-16-151. During the prior presentation, the petition was known as WAC 230-03-201, but staff has suggested the new WAC designation to better fit with the manufacturer rules. This new rule would allow a diagnostic tool to be connected in a limited fashion, for a limited purpose, to card shuffling devices and no-peek devices or similar type devices that have already been approved by the Gambling Commission. The rule limits the use of such a tool to a licensed manufacturer or distributor representative and defines that the temporary use is for standard maintenance. It also discusses the definition of standard maintenance and adds restrictions to the use of that external tool. Regulatory concerns are minimal. Staff acknowledges there would be some costs associated with implementation, such as creating forms, training, testing, and monitoring. Staff recommends final action with an effective date of 31 days after filing.

Chair Ellis asked whether the changes made by staff, including changing the WAC number and adding the header “gambling equipment,” changed the substance of the petition in any way. **Deputy Director Trujillo** replied they do not change the substance of the rule or the petition. The petitioner gave permission to go ahead with that change.

Commissioner Reichert asked if the the access log was an electronic or a paper log. **Deputy Director Trujillo** replied that had not been defined; it was just the creation of a log, whether paper or electronic. Staff would probably create a paper form first that could eventually be converted to an electronic format. Generally speaking, what staff initially talked about was the creation of a paper log.

Director Day asked if Deputy Director Trujillo had mentioned that these devices are tested and approved by the agency. **Deputy Director Trujillo** replied he had not mentioned that, adding that prior to the devices being used and deployed they would be tested and approved by staff.

Chair Ellis asked if there were any other questions; there were none. He asked if the petitioner would like to step forward.

Ms. Bo Zarach, from ShuffleMaster, explained the company had recently changed its name to Shuffle Entertainment, which commission staff knows about. She said she appreciated being able to be in this process of proposing this rule. The rule change will greatly assist her service

department and engineering team to move forward with a lot of the software versions that are currently available to get them submitted and worked through the Lab. The rules team and the Lab have been very helpful in assisting her with the process to get to where they are at this point, which she appreciated.

Chair Ellis said he assumed it was a change that other manufacturers may be able to take advantage of for routine maintenance testing. **Ms. Zarach** affirmed.

Chair Ellis asked if there were any questions; there were none. He asked if there was any public comment; no one stepped forward.

Commissioner Reichert made a motion seconded by **Commissioner Prentice** to adopt the proposed new rule, WAC 230-16-151, with an effective date of 31 days from filing. *The vote was taken; the motion passed with three aye votes.*

Staff Proposed Rule Change: No longer require spouses of officers of charitable or nonprofit organizations, 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.

Chair Ellis explained this rule proposal was deferred until at least the February Commission meeting.

Rules Up For Discussion And Possible Filing

Staff Proposed Rule Change: Reinstating the use of electronic facsimiles of cards in “all” card games, not just “house-banked” card games

- a) Repealed Section **WAC 230-15-485** Electronic facsimiles of cards allowed
- b) New Section **WAC 230-15-116** Electronic facsimiles of cards allowed

Ms. Hunter reported this rule gets into the minutiae and details of what happens with the filings that are done with the Code Reviser’s office as rules are taken through the process. Staff made a filing error on this one, which was actually made several years ago but only recently caught. Now that it has been caught, staff needed to bring it back before the Commission. There is a way for an agency to do expedited rule making for limited exceptions, which the Commissioners are not usually involved in. As staff discussed this with Assistant Attorney General Castillo, it was felt that this met the requirements to go through that process, which is unfortunately why staff needs to go through the process with the Commission again.

Ms. Hunter explained there were two different rules on different topics, but the same rule was being changed on both. One rule passed in May of 2004 and a second rule passed in August of 2004. When staff did the second filing for the rule that passed in August of 2004, it neglected to include the language the Commissioners had passed in May of 2004, which was to allow

electronic facsimiles of cards to be used for all card games, not just house-banked games. Staff recommends this rule be moved from the house-banked card room section in the Rules Manual to the rules section that relates to all card games. Staff expects there will be minimal impact because this rule was passed several years ago. If the Commission chooses to file it and then chooses to take final action on it, staff requests that it be effective 31 days from filing. There was a letter of support from DigiDeal, who happened to be the original petitioner for the rule that was passed in May of 2004.

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

Mr. Don Evans, VP of Engineering at DigiDeal, said they were definitely in support of reinstating the rule back as it was.

Chair Ellis asked if this has had an impact on the games that Mr. Evans offers in the state. **Mr. Evans** replied there had been no impact as of yet.

Chair Ellis asked if there were any questions of Mr. Evans; there were none. He called for public comment; no one stepped forward.

Commissioner Prentice made a motion seconded by **Commissioner Reichert** that repealed section **WAC 230-15-485** and new section **WAC 230-15-116** be accepted for filing for further discussion. *The vote was taken; the motion passed with three aye votes.*

- PUBLIC MEETING -

Other Business/General Discussion/Comments from the Public

Chair Ellis opened the meeting for other business and public comment.

Mr. Victor Mena, Chief Operating Officer of Washington Gold Casinos, stated that yesterday there were some public statements made by some players of a couple of the card rooms that were very concerned that one of his promotions was not being offered to them. Mr. Mena wanted to assure the Commission staff, which he had worked very closely with on this, that these players were identified through a network as actual card counters and they were backed off because of that fact.

Chair Ellis clarified that it was one individual, Mr. Phill, who came during the general business session yesterday and made such a complaint. **Mr. Mena** affirmed, stating that he wanted to at least shed some light as to the decision that was made from management. Essentially, it was a distribution of funds that they were doing at the card room. The players were asked if they wanted to participate; they could flat bet, which would keep the bets consistent on the Blackjack style games, and that was not their intention. The network that was used for identifying these players is one where there are over 500 gaming professionals that participate to identify these

types of structured or advantage type players. So with that information, that was the reasoning the card room backed them off.

Chair Ellis stated that Mr. Phill had described the WAC, but Chair Ellis said he had not gone back to look at the WAC itself. Perhaps Mr. Mena or AD Harris could explain whether the intent of the WAC, which seemed to be to permit all players to participate in a game, has the flexibility built into it to allow the casino to make that kind of a distinction and to exclude certain players from participating. **Assistant Director Harris** replied that Mr. Phill was referring to the gambling promotion WAC. What was being done was not a gambling promotion. The card room discontinued a progressive jackpot on one type of game and transferred it to another game. When a jackpot is discontinued, there are three options: move it to another game, offer a tournament, or donate it to Problem Gambling. So the card room just moved the jackpot to another game. It was a jackpot offered on a Spanish 21 game instead of a Fortune Pai Gow game, so it was not even a gambling promotion, which is what was referred to yesterday.

Chair Ellis asked if there was no question about the ability of the operator to exclude certain players from participating. **Assistant Director Harris** replied that, based on the agent's follow-up with the Attorney General's office, the card room has the right to refuse service to anybody. If there is a question about it being discriminatory, there is a process the player can go through with the Attorney General's office. The agent did not give the information to the individual that testified, Mr. Phill, but to the individual that was with him in the audience yesterday. **Chair Ellis** said that certainly seemed reasonable. **Commissioner Reichert** asked if there was a follow-up investigation that AD Harris was looking at. **Assistant Director Harris** replied he was not, because card counting is not illegal in the state of Washington.

Chair Ellis asked if there was anyone else in the audience who would like to address the Commission on any topic; no one stepped forward. He thanked everyone for attending and said he hoped to see many of them at the next meeting on February 14 and, potentially, the 15th at this same location. He suggested they check the Commission website to see whether the meeting was going to be a one-day or a two-day meeting.

Senator Jerome Delvin said he was elected last year as a Benton County Commissioner, so his term in the Senate would end February 2 or 3. He said there were two people interested from the Republican caucus in serving as an ex-officio member: Steve Litzow and Ann Rivers, so someone should be appointed soon. He thanked all the staff that he has gotten to know for their professionalism and due diligence when it comes to the issues before the board. He said it has been interesting and rewarding for him sitting there and learning. Senator Delvin said he may be petitioning the new Governor to serve on one of the new vacancies as a Commissioner on the gambling board. So, if the Governor so allows, Senator Delvin said he may be back.

Chair Ellis replied that it seems to be the popular thing to do. He said the Commission certainly has appreciated the work that Senator Delvin has done. Chair Ellis recalled that Senator Delvin had been instrumental in assisting the passage of at least one piece of general legislation, as well as another piece of legislation, which was the confirmation of Chair Ellis' appointment to the

Commission. The Commission certainly has appreciated Senator Delvin's contributions and insights on the policy ramifications of some of the things the Commission has done over the years. Chair Ellis hoped to see Senator Delvin again soon.

Director Day added that, on behalf of staff, he would like to wish Senator Delvin the best as he moves on to a different Commission and thanked him for his cooperation and help over the past years. Director Day reminded Chair Ellis of the executive session for pending investigations, tribal negotiations, and litigation that was planned. **Chair Ellis** agreed.

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

Chair Ellis explained the Commission would recess for that executive session in a moment and would resume the public meeting in approximately an hour, unless more time was needed, solely for the purposes of adjourning today's meeting. He asked if there was any other business; there was none. At 10:36 a.m. Chair Ellis called for a ten minute break before going into the executive session. He asked that everyone who would not be attending the executive session to clear the room in ten minutes.

Adjourn

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

Minutes prepared by:

Gail Grate, Executive Assistant