

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

- PUBLIC MEETING -

Chair Mike Amos called the Gambling Commission meeting to order at 10:20 a.m. at the Bellevue Red Lion and introduced the members present. He congratulated and welcomed Director David Trujillo to his first meeting as the Director.

MEMBERS PRESENT: **Chair Mike Amos**, Selah
 Commissioner Kelsey Gray, Seattle/Spokane
 Commissioner Margarita Prentice, Seattle
 Commissioner Chris Stearns, Auburn

STAFF: **David Trujillo**, 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, Administrative Assistant

Agenda Review/Director’s Report

Director Trujillo introduced Warren Oliver, Executive Director for the Muckleshoot Gaming Commission, who was seated in the audience. Although the study session went longer than scheduled, it was very successful and staff received some very good feedback. He briefly reviewed the agenda, noting staff was requesting the Default for Patrick Kincaid be moved to the August Commission meeting. **Chair Amos** agreed.

Staff Presentation on “My Account” Online Process (*PowerPoint Presentation*)

Assistant Director Griffin explained the agency’s online processes that have been implemented to make it easier for applicants, licensees, the tribal gaming agencies, and other stakeholders to do business with the Gambling Commission. One of the strategic plan projects that began in 2010 was to start making all application and licensing processes available online. In 2010, the online application for payment was offered. Since that time almost 6,000 online applications, totaling \$1.7 million, have been received. To date there are 18 license applications and processes offered online that can be submitted for payment. Some of the 2012 statistics on online activity:

- 58% of all commercial card room employees renewed online
- 35% of those paid with direct withdrawal from their bank accounts

- 19% of all commercial card room Change of Employer Applications was received online
- Fund Raising Event Applications were the most frequently submitted organizational application.

Last year, it was possible for all licensees to submit their Gambling Activity Reports online. In the last reporting period of 2012, 60 percent of all of those reports were received online. When licensees submit their information online, they are actually inputting that information directly into a licensing database, which eliminates manual processing by staff. That has also allowed staff to compile the information faster and get those reports out sooner. In August 2013, the plan is to make available the commercial renewals and start accepting the second half payments from nonprofit and commercial licensees. These two new processes are going to have a significant impact on licensees, with 18 percent of licensees now participating in the two-part payment plan and over 2,000 commercial licenses that will be able to be renewed online.

Around October 2012, staff took a break from implementing any new online applications and processes. It was felt that staff had enough experience and they wanted to pause and take a look at what had been done so far, assess what was being done, and look at the communication for putting things out and making it available online. Some things that were noticed during that pause included:

- Only 1 percent of the Class III gaming employees were being renewed online, possibly because of the way it had been presented and because it was not conducive to how the Tribes' accounting processes work. They would have to make a payment with each application. The Tribal Gaming Agencies (TGA) have to request payment through their accounting departments, so they lump a lot of applications and processes together.
- As new applications and processes were being made available, it was becoming cumbersome for licensees and applicants to find what they were looking for on the long list of online processes available on the agency website.
- It was made more difficult because there were different log-ins for the different processes.

In May of this year, "My Account" was developed and launched. Licensees have their own account and multiple users can log into the same account. Some of the features of "My Account" are the same, but it is also personalized for each type of license. The TGAs, the commercial licensees, and the nonprofit licensees will have their own accounts. Some aspects of "My Account" are the same for all of those license types, but some are individualized so they will not see the same information. The general public can set up a "My Account" as well, but their information will be quite limited because they don't have any licenses. As of June 18, there were 451 users, 62 of which were non-licensees. It is anticipated the users will go up in July because that is when licensees are supposed to be submitting their gambling activity reports. Some features of "My Account" include:

- Licensees will be able to submit their activity reports
- A new feature was added that allows them to view their previously submitted activity reports if they want to see some historical reference to what they've submitted in the past.

- A shopping cart feature was added to help with the TGAs accounting processes and with other licensees as well.
- Users can queue a bunch of applications into their shopping carts and make just one payment for all of those applications.
- Users are provided direct contact information for their agents.
- When new users log in for the first time, they are asked how they would like staff to communicate with them. They are also asked if they want to receive the Commission meeting information, rule change notices, and/or newsletters.
- A direct link to the Customer Feedback Form is provided.

On the day “My Account” went live, staff was contacted by someone from the Office of the Chief Information Officer. They are responsible for coordinating the Washington Business “One Stop Share Point” site, which is a “My Account” for the state. An Executive Order by Christine Gregoire directed the Office of Chief Information Officer to set up a “One Stop Share Point” site. Businesses in the state of Washington would log into that site and be able to access the various state agencies where they do business, or have regulation with, into their “My Account.” This person contacted staff and then met with the team members who included Director Trujillo, Information Technology Division (ITD) staff, and AD Griffin. He is in the midst of starting the development for the state site and wanted to know what staff took into consideration during the development process. Staff has agreed to work with this person as he moves forward with that process for the state. Assistant Director Griffin asked if there were any questions.

Commissioner Prentice said that, as a previous legislator, it really impressed her to see people work together like that; it is truly a change. She congratulated staff, adding it made her very proud.

Assistant Director Griffin gave a demonstration of “My Account” that can be accessed through the agency’s public website (www.wsgc.wa.gov).

Chair Amos asked if the card room employee would log in by the license number. **Assistant Director Griffin** replied there is not a “My Account” set up for card room employees yet. To renew their license online, they would get a PIN number from their renewal form and type that in number. A lot of house-banked card rooms renew their employees’ licenses themselves. It is set up so the card rooms can log in to “My Account” and renew their card room employees’ licenses and make the payments. Some places do payroll deductions for the payment.

Commissioner Stearns asked if AD Griffin had any sense of the cost savings this provides the Commission. **Assistant Director Griffin** replied that when she became Assistant Director in January 2010, the Licensing Division was allotted 40.5 FTEs. Today it is down to 32 FTEs through attrition, but those positions have not had to be filled. As more information is added online, staff is not getting as many phone calls and the information goes directly into the database when it is entered into the online system, so there is no secondary keying of information. The Business Office still has to take care of the money, but it is also a faster process, especially with renewals. The renewals are currently printed and mailed, so the next step being looked at is for

the licensee to be able to print their own licenses. With 60 percent of the activity reports being submitted online, that information is being keyed directly into the database. That is over 2,000 forms that do not have to be manually keyed into the system and that also eliminates potential errors.

Chair Amos asked if there were any other questions; there were none. He thanked AD Griffin for her report.

Budget Update (*PowerPoint Presentation*)

Ms. Judy Pittelkau, Business Operations Division Administrator, introduced Mr. Cam Dightman who would be helping with the PowerPoint presentation. She provided an update on the agency's current financial status, the history of gambling receipts, the current and expected trends for licensees, and the sources of revenue. The landscape of gambling has changed between fiscal years (FY) 1996 and 2012. Net gambling receipts are the amounts wagered less the amounts paid out as prizes. In FY96 punchboard/pull-tabs had the largest percentage of total net gambling receipts. House-banked card rooms were introduced by 2000, and by FY04 the total net gambling receipts for punchboard/pull-tabs had declined about 75 percent from FY96. Between FY96 and FY12, the share of total net gambling receipts for punchboard/pull-tabs had declined by about 93 percent. There was a steady decline of about 15 percent of the total number of licensees since 2008. The most significant declines have been in licenses for punchboards/pull-tabs, house-banked card rooms, and card room employees.

The Gambling Commission is non-appropriated and does not receive any funds from the General Fund. Almost 70 percent of the Commission's revenue is attributable to license and certification activity, and the remainder comes from a variety of other sources. Total revenue has declined about 19 percent over the past five fiscal years. The largest expenditures are for salaries and benefits. Since FY04, budgeted FTEs have been reduced by about 21 percent; however, in view of the declining number of licenses and Gambling Commission revenue, the actual number of FTEs has continued to be reduced below budgeted estimates. Over the past seven years, the actual FTEs have averaged about ten lower than the budgeted amount, which has been done through attrition by not filling positions as staff have left. In 2009, federal seizure funds were received that have helped to support certain operating expenditures. The \$11.7 million in seizure funds has covered qualified law enforcement costs. In the current biennium, FY14 and FY15, approximately \$4.6 million in seizure funds will be used for qualified law enforcement costs, at which time those funds are expected to be used up. Because of the seizure funds, the Commission has been able to sustain a 19 percent decline in Gambling Revolving Fund revenue without a fee increase since 2008.

One of the primary reasons to maintain an adequate working capital balance of approximately \$2.2 million is that revenues are cyclical while expenditures are relatively flat. The peaks in September, December, and March are when licenses expire at the end of calendar quarters. During the other eight months of a fiscal year when revenues are lower than the expenditures, it is important to have the adequate working capital balance to help ensure the agency is able to cover its obligations. The working capital balance declined significantly between FY02 and FY05 when

the Legislature directed three transfers from the Gambling Revolving Fund to the State General Fund in the amount of \$4.95 million. There have not been any other transfers since that time. In FY08 a fee increase was implemented and in FY09 the Commission began receiving the seizure funds. During FY14 and FY15 as the seizure funds are used and revenues are less than expenses, the working capital balance may fall below OFM's recommendation. From FY10 through FY13, an average of \$1.8 million has been spent from seizure funds each year. It is anticipated that seizure funds will be used up by the end of FY15. The expenses that have been paid by the seizure funds will have to revert back to being paid by the Gambling Revolving Fund. Without additional revenue, staff levels will have to be reduced below what is necessary to adequately perform the Commission's mission to protect the public by ensuring that gambling is legal and honest.

Gambling Revolving Fund revenues are cyclical and are expected to decrease, but expenses are expected to increase in the 2013-2015 biennium by approximately \$1.6 million. Staff is recommending the Commission consider a fee increase, which has not been done since 2008.

Chair Amos asked what year the Legislature took \$4.95 million out of the Gambling Revolving Fund. **Ms. Pittelkau** replied it was \$2 million in FY02, \$495,000 in FY03, and \$2.5 million in FY04.

Chair Amos asked if there were any other questions; there were none. He thanked Ms. Pittelkau for her presentation.

Legislative Update

Update on 2013 Legislative Session

Ms. Amy Hunter provided an update on the close-out of the 2013 session, the legislative team's activities during the session and activities in the fall of 2012, and the agency request legislation process for 2014.

The Legislature adjourned on June 29 after a second special session. Ms. Hunter explained that at the August Commission meeting she would provide a recap of the bills that passed to let the Commission know about some of the agency implementation that will need to be done.

The statewide budget bill did not include any specific fund transfers. The budget restores the 3 percent temporary salary reduction that began two years ago, which was basically a two-year pay cut for state employees. The budget did not have any provisions to continue the freeze on exempt employees' salaries, which included the special agents who are exempt. The budget added a new longevity step increase for state employees if certain criteria were met. The budget also adds a 1 percent salary increase on July 1, 2014, if the state is in a better position overall money-wise. The budget also decreased the funding rate for the employer's portion of insurance, which means the employee's portion will probably increase.

2014 Legislative Team's Activities

Ms. Hunter reported that, in addition to herself, the members of the legislative team include Director Dave Trujillo, Assistant Director Mark Harris, Assistant Director Tina Griffin, Human Resources Administrator Lisa Benavidez, Business Operations Administrator Judy Pittelkau, and Staff Attorney Arlene Dennistoun. Ms. Hunter explained that she acts as the Commission's legislative liaison, but it is definitely a team effort. During the 2013 session and the end of 2012, two electronic newsletters were issued to legislators. The newsletter is an outreach program that was started several years ago to remind the legislators what the Commission is working on. The Gambling Commission is a small agency and is not over at the Legislature all the time, so it was important to have something to give the legislators. Staff had about ten meetings with legislators, with the main focus being on meeting with members of the newly created House Government Accountability and Oversight Committee. Former Director Rick Day and Ms. Hunter gave a PowerPoint presentation to that Committee providing an overview of what the Commission does.

There were about 2,000 bills introduced in this legislative session. Each morning staff would look at the list of bills to determine if any of the bills needed to be looked at more closely or if they needed to be tracked. Of the 2,000 bills, the Team tracked about 100 because of their possible impacts to the Commission. Staff prepared 15 fiscal notes, which was quite an increase from the 4 fiscal notes prepared the previous year. Fiscal notes are usually due three days after staff receives them, so there was a quick turnaround time. Team members testified at about six hearings, attended about 20 hearings and work sessions, and listened to about 10 more on TVW. The Team sent 4 emails about the budget and prepared a weekly newsletter to update staff about the legislation.

2014 Agency Request Legislation

Ms. Hunter reported she had received what is called the Checklist and the Process for 2014 from the Governor's Office a week after the 2013 session adjourned. As she discusses the 2014 legislation, that checklist and the process will be used. It lists all of the things that need to be done to submit agency request legislation, plus it includes a deadline date of September 15, which is after the September Commission meeting. In the past if staff had ideas for agency request legislation it was presented to the Commission at the July meeting. If the Commission was interested in having the idea pursued further, staff would work on that checklist process in August and September, and then the Commission would have final approval of the package at the September meeting. That would give staff a little more time to work on it because it is rather extensive. The checklist process is pretty close to what it was in 2012.

A chart was included in the handouts that show the history of fee increases. The last fee increase was in 2008. Staff feels the need to pursue a fee increase during the 2014 legislative session, with the idea that if received favorably by the Legislature, it would be effective June 30, 2014. Because of Initiative 960 that passed in 2007, an agency has to first seek legislative approval to increase its fees. Before that initiative passed, the Commission could approve a fee increase by passing a set of rules in the public meeting. It did not involve the Legislature. The fiscal growth factor has increased since 2008 by 23.7 percent. After researching what other agencies have done for fee increases, staff is proposing a 5 percent fee increase; although staff is not looking for a vote, per

se, at this meeting – just a thumbs up and whatever discussion the Commission wants to have about this. Staff would like a thumbs up to work on this checklist and the pieces that would be involved, which would be reaching out to the stakeholders and letting them know more about the proposal. Ms. Hunter said she would bring a draft to the August meeting of what that packet looks like. It would not be finalized then, but Ms. Hunter felt it was important to bring the draft to the Commission for their comments before the September meeting. If the Commission wants staff to pursue this, the fee rules would be brought to the September meeting as part of the rule making process, which would also allow for public input. That is input that staff could pass on to the Legislature as they are looking at a bill, assuming the Governor’s Office approves it.

As part of the agency request process, staff puts together the information and sends it to the Governor’s Office. If the Governor’s Office says the Commission may not submit it as request legislation, then it is not done as request legislation. A member of the Legislature can introduce a bill on their own, but it would not go forward as request legislation at that point. If fee rules are put on the Commission agenda, staff would recommend the Commission take public comment on the rules, and then at the November meeting staff would recommend the Commission put the process on hold and see what happens with the legislative process. If the Legislature approves the Commission to do a fee increase, staff would bring those rules to the Commission for more of a final discussion and final vote probably at the April and May meetings. The rules do not have to be on the agenda in September, but it seems like a good way to have that public input and gather that additional information. Staff is working on the language itself, which is not in the agenda packet. Ms. Hunter thought it would be quite short and would probably just say the Commission may increase its fees by 5 percent effective “x” date. She did not think the bill language would be that interesting, but she would bring it to the August meeting for the Commission to see. Assuming, that is, that the Commission gives the thumbs up based on what they have heard about the financial situation and if they feel that staff needs to at least begin this next step of looking at a fee increase.

Commissioner Prentice suggested pointing out the information in the presentation by Assistant Director Griffin that showed that the Commission was modernizing and very efficiently using all of its business procedures so that it is made known that people are not using pencil and paper. She said she was impressed by the efficiency of it and thought it was certainly going to be cost cutting or cost saving. She suggested pointing out that the Commission is already working at that, adding it would be one argument to use. **Ms. Hunter** said she appreciated that comment because it was a very good reminder. She thought that was part of why, after much discussion, staff feels the need to ask for a fee increase at this point. Ms. Hunter thought that the close management of funds, the modernizing that staff has been working on for years, the seizure funds, and monitoring whether a position needs to be filled when someone leaves the agency all combine to show why the Commission was not at this point last year or five years ago.

Commissioner Gray asked which licensees would be paying the proposed 5 percent increase. **Ms. Hunter** replied it would most likely be an across-the-board fee increase. The rules will be brought before the Commission and if they have an interest in doing more of a dissection of that and said they did not want to increase this fee but want to increase the other one, the Commission would be able to do that under their rule making authority.

Commissioner Stearns asked if staff had considered any alternatives to 5 percent. **Ms. Hunter** affirmed, adding staff considered higher amounts like 6 percent and 7 percent. Past fee increases have ranged from a low of 3.2 percent up to a high of 5.8 percent. Some of that had to do with a different initiative that was on the books at the time that only allowed the Commission to increase fees based on the fiscal growth factor.

Chair Amos asked what a Card Room Employee pays for a license for a year. **Assistant Director Griffin's** response was inaudible. **Chair Amos** asked what the increase would be on the \$158 renewal using the proposed 5 percent increase. **Assistant Director Griffin** replied it would increase by \$7. **Chair Amos** asked what it would be for a house-banked card room. **Assistant Director Griffin** replied the average would be approximately \$1,500 when looking at the numbers for a license fee increase of 5 percent. What she recalled seeing was that it was about \$480,000 a fiscal year overall in terms of what a 5 percent fee increase would look like.

Director Trujillo indicated he thought that was pretty close to being accurate. He explained that one of the previous fee increases did not include charitable or nonprofit organizations, so that would have been an example where the fee increase was not applied across the board. **Ms. Hunter** affirmed that was correct, pointing out it was noted on the chart; charitable organizations were excluded in the 2002 increase. Ms. Hunter recalled that a couple years ago when the Commission had a petition to decrease the charitable fees by 50 percent, staff went through a series of presentations to explain what was done in that arena. So if there is an interest in not increasing the fees across the board, it would be good to consider looking at staff's work in those areas because it was very illuminating to see that a lot of work is done in the charitable arena. Ms. Hunter was sure that the individuals did not feel their fees were low, but there was a lot of work to be done for the different things that occur there.

Chair Amos asked approximately how many positions would be lost if the Commission decided that 5 percent was too much because of what is going on. He said he knew they were not talking specifics. **Ms. Hunter** replied it was probably going to be about five to six positions.

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

Approval of Minutes – May 9, 2013 Regular Commission Meeting

Chair Amos asked if there were any suggestions or changes to the May minutes; there were none.

Commissioner Gray made a motion seconded by **Commissioner Prentice** to approve the minutes from the May 9, 2013 Commission meeting as submitted. *The vote was taken; the motion passed with three aye votes.* **Commissioner Stearns** abstained.

Approval of Minutes – June 19, 2013 Special Commission Meeting

Chair Amos asked if there were any changes to the minutes from the June special meeting; there were none.

Commissioner Gray made a motion seconded by **Commissioner Prentice** to approve the minutes from the June 19, 2013 Special Commission meeting as presented. *The vote was taken; the motion passed with four aye votes.*

Other Business/General Discussion/Comments From the Public

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

Ms. Dolores Chiechi, representing the Recreational Gaming Association (RGA), welcomed Director David Trujillo to his new position. She was pleased to have him at the helm. She explained she wanted to speak to the agency request legislation. She thought what the Commissioners may also need to look at is perhaps robbing Peter to pay Paul. If the Commission increases the fees and loses five more facilities or five more licensees, and the employees go away, it may be a wash with the amount that is being increased to replace those monies. She asked the Commission to take a look at that. She knew the Commission was being very thoughtful about the decline the industry has been seeing. The RGA feels the pain from the industry because for the last five years they have had to let employees go, cut costs, and they do not get to sell a \$1.00 chip for \$1.25 to increase the revenue that the members have in their facilities. She asked the Commission to be very thoughtful about the impact that it has. The RGA has not met as an organization to take a position, so she wanted to be clear that she was not standing up here opposing that, but was just asking the Commission to be careful in their consideration as they move forward.

Chair Amos thanked Ms. Chiechi and asked if anyone else in the audience would like to speak; no one stepped forward.

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

New Licenses and Class III Certifications

Assistant Director Griffin reported there were some changes to the House-Banked Card Room Report since May. On June 11 a new application was received for a 15-table house-banked card room at the old Lucky Dragonz location. The new application is also called Lucky Dragonz as well. There are currently 53 open licensed house-banked card rooms, which is down from 55 in May. The Element in Oak Harbor closed their doors in mid-May, which impacted 14 house-banked card room employees. Ringo's Little Vegas in Spokane closed in early June, which impacted 75 house-banked card room employees. In January 2000 there were 56 licensed house-banked card rooms, so the current level is lower than in 2000. There were no unusual items to draw the Commission's attention to and staff recommends approval of the New Licenses and Class III Certifications listed on pages 1 through 31.

Commissioner Gray made a motion seconded by **Commissioner Prentice** to approve the New Licenses and Class III Certifications listed on pages 1 through 31. *The vote was taken; the motion passed with four aye votes.*

Rule Up For Final Action

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

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

Assistant Director Griffin reported that staff is requesting this new rule to outline the process for withdrawing authorization of gambling equipment. There are rules currently that outline the review and approval process for gambling equipment and a process for withdrawing approval of card games, but there is not a rule at this time that addresses a process for withdrawing approval of gambling equipment. The new rule sets out a process that is similar to when staff denies gambling equipment approvals. Staff recommends final action with an effective date of 31 days after filing.

Commissioner Gray asked for an example of the kind of gaming equipment that would involve. **Assistant Director Griffin** replied that an example might be an electronic card shuffling device, which could be a progressive system or a roulette reader display system. Those are some of the gambling equipment that staff give approval to. **Commissioner Gray** asked why would there be a removal of that. **Assistant Director Griffin** responded that staff gives approval, but then may find out after it is out in the field that there was some aspect that staff was not aware of during testing that makes the device not be in compliance with WAC or RCW. At that point, staff would first work with the licensee to attempt to bring it into compliance, but if they were not able to bring it into compliance, staff needs to have something that allows the equipment to be pulled back if it is not in compliance with WAC and RCW.

Chair Amos asked if the rule allowed everything but the electronic part of it. **Assistant Director Griffin** affirmed there is something currently in place for when somebody submits gambling equipment for review and it is not in compliance with WAC or RCW. There is a denial process for the initial submission, but nothing for after it is approved and staff finds out that it is not in compliance. Staff is using that denial process and putting in a separate rule for the withdrawal once it has been approved. **Director Trujillo** added that one of the other things that this rule does is without this process in place, the Director or the Director's designee could actually withdraw that approval simply by rescinding the approval letter. Staff is trying to get something in place that would create a process that follows what is actually being done. Another example might be that if a piece of equipment was put into play and deployed as staff had authorized through various upgrades, it may morph into something that staff did not know about. This would be a way to at least enter into that dialogue to see if it can be corrected.

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

Mr. Jamie Durkan, representing the Muckleshoot Casino, reported that the casino staff had looked at this and had some concerns to it in that it takes time to get equipment off the floor and phase it out. So when something is decertified, he wanted to make sure there would be enough lead time to remove that equipment and replace it. It was not good to have a lot of machines turned off; although that would not necessarily happen. If staff has the leeway to give the users of those machines some heads-up that this was going to occur, they would have the ability to phase

the machines out should they be decertified. **Assistant Director Griffin** responded that subsection (2) of the proposed new WAC says the Director or his designee will provide written notice to other impacted licensees who have gambling equipment after the final decision is made. AD Griffin said she would envision that notification would have a built in end date, that it would not be upon receipt of this letter to get the stuff off the floor. Staff recognizes what Mr. Durkan's concerns are and recognizes the impact that this will have on licensees as well. She envisioned there would most likely be a 30-day removal. Staff will be working with the manufacturers and licensees. If it starts to get to that point, she was sure staff would give notification to the licensees that may be impacted as the process moves forward. If there is some equipment staff is seeking to have removed, they would probably send out a notice to all the licensees who have that equipment in play already and let them know where staff is at; just a piece of information for them. Then they can keep track of what is going on, either through the manufacturer or directly through staff. If there was a final decision that the equipment needed to be removed, AD Griffin envisioned staff would give that notification and provide a time period for them to respond in kind.

Chair Amos asked if staff actually envisioned actually going and taking out banks of TLS machines. **Assistant Director Griffin** replied no, adding there have been a few instances, particularly in the last year as staff have gone through and reviewed card games that they have realized that the card games that had been approved had morphed over time or maybe something was overlooked in the beginning and it is not in compliance. Staff has had an opportunity to work with the licensees through that process and all of them have come into compliance and changed their rules. When staff encountered something with equipment, the same sort of thing popped up and it was realized that there was no rule, and had to wonder what to do. This rule protects the manufacturers as well because this affords them due process. It gives staff an opportunity to start the dialogue with the other licensees if it looks like things are not going to be able to be worked out and staff has to proceed through the proposed rule.

Mr. Monty Harmon, Evergreen Gaming Corporation, commented that he thought this was a great procedure to have and encouraged adoption of the rule. Staff needs a process. He said he had currently worked with staff, very reasonably, over an issue with a game that had been approved. There is not a clear, defined process, and he appreciated staff bringing this forward to establish a good system. He encouraged the Commissioners to go ahead with the approval.

Chair Amos asked if there were any more public comments; no one stepped forward.

Commissioner Stearns made a motion seconded by **Commissioners Gray** that the Commission approve WAC 230-06-052 with an effective date of 31 days from filing. *The vote was taken; the motion passed with four aye votes*

Rules Up For Discussion And Possible Filing

Staff Proposed Rule Change: Two-part payment plan for licensing fees

Amendatory Section: **WAC 230-05-015** – Two- part payment plan for license fees

Assistant Director Griffin explained that licensees with an annual license fee of more than \$800 are afforded an opportunity to enter into the two-part payment plan. In 2012, there were 612 licensees with an average license fee of about \$2,800 that participated in this payment program. This proposal adds language to clarify for licensees who choose to participate in this two-part payment program that they are obligated to pay the full annual fee, which would include the second half payment, regardless if they cease gambling operations, if they surrender their license, or if they have their license revoked during the license year. In the past four or five years, many licensees have used this two-part payment plan as more of a pay-as-you-go where they pay their initial first half, get their new license that is for the full year, and then stop gambling when the second half payment is due. Our uncollectible license fees were rising considerably. In 2011, staff started seeking to collect the unpaid second-half payment from licensees. Licensees were provided notice of their outstanding debt and staff worked with them to collect that debt. Then if staff was not able to get collection, the licensees were referred to debt collection for any payments that had not been received. This process is outlined by statute so by adding this section and making it clearer for licensees, the rule and current practice was just being codified.

This proposal removes subsection (3) of the rule because it is in conflict with another rule. Subsection (3) requires participants of the two-part payment plan to upgrade their license halfway through the year if their gross gambling receipts exceed 50 percent of their annual license class. Licensees know what their business revenue stream is, so if it is cyclical and they happen to take in more than 50 percent of their annual gross gambling receipts in the first half of the year, this rule requires them to upgrade even though they knew they were not going to make very much money in the last half of the license year. So they have to upgrade, they have to pay more money in the middle of the year, and staff has to issue a new license showing the new license class that the licensee is operating under. Then when it ends up they do not make as much money as they were required to upgrade for, the licensee asks for a refund and staff processes the refund. It makes a lot of work and is costly for both parties.

There is another rule that requires all licensees, whether using the payment plan or not, to monitor their gross gambling receipts throughout the year, apply a projection to their year-to-date receipts, and then upgrade their license before they exceed their license class. That rule will still be in effect, but by removing subsection (3) in WAC 230-05-015 it will eliminate a lot of the costly upgrade process for those in the two-part payment plan. Staff recommends filing this petition for further discussion.

Commissioner Gray asked for clarification. If she was a card room and made most of her money in the first half of the year, she would not have to upgrade and then get the refund.

Assistant Director Griffin affirmed that was a good example if it was used for pull-tabs, but the license fee for card rooms is based on the number of tables, not on gross receipts. Another

example would be a conversation AD Griffin had with a bowling alley. The owner knew that his punchboard/ pull-tab business was cyclical, and the first six months of his license year was his busiest time period. Even though he knew he was not going to be at that next level, that he was barely going to be at his renewal level, the rule said he had to upgrade. They would still have to upgrade under the other rule, they just would not have to pay if they were part of the two-part payment plan and automatically upgrade at the second half. It really goes back to being responsible for monitoring their activity throughout the year on a year-to-date projection.

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

Commissioner Stearns made a motion seconded by **Commissioner Gray** to file amendatory section WAC 230-05-015 for further discussion. *The vote was taken; the motion passed with four aye votes.*

Staff Proposed Rule: Requiring landlords of house-banked card rooms to undergo background checks

New Section: **WAC 230-03-061** – Fingerprinting persons holding an interest in the building of a house-banked card room

Assistant Director Griffin explained this new rule proposal is to bring this rule into compliance with RCW 9.46.070 (7) by requiring persons holding an interest in a building used for gambling activity to undergo a national criminal history background check. Persons who hold a 50 percent or more ownership interest in a building used for a house-banked card room, or having less than a 50 percent ownership in the building used for a house-banked card room and having actual potential influence over the gambling activity, would be required to be fingerprinted. The new rule would apply to house-banked card rooms licensed after January 1, 2014, and currently licensed house-banked card rooms if they change locations or have a change in the ownership of their building. Staff has reviewed the laws and regulations for Nevada, Michigan, New Jersey, Louisiana, and California and none of those states require fingerprinting landlords. Staff recommends filing this petition for further discussion.

Commissioner Gray asked if this was a law that the Commission now had to write a rule for. She thought it was over the top, but agreed it probably had to be done. **Assistant Director Griffin** affirmed.

Chair Amos asked if there were any other questions or comments from the audience; there were none.

Commissioner Stearns made a motion seconded by **Commissioner Prentice** to file new section WAC 230-03-061 for further discussion. *The vote was taken; the motion passed with three aye votes.* **Commissioner Gray** abstained.

Staff Proposed Rule Changes: Implementing 2013 legislation for enhanced raffles (ESSB 5723)

- a) Amendatory Section: **WAC 230-03-060** – Fingerprinting of applicants
- b) Amendatory Section: **WAC 230-03-320** – Substantial interest holders not required to be licensed as representatives
- c) Amendatory Section: **WAC 230-03-325** – Office, clerical, or warehouse workers not required to be licensed as representatives
- d) Amendatory Section: **WAC 230-03-335** – Representatives must not work before receiving a license
- e) Amendatory Section: **WAC 230-05-020** – Charitable and nonprofit organization fees
- f) Amendatory Section: **WAC 230-05-030** – Fees for other businesses
- g) Amendatory Section: **WAC 230-05-035** – Individual license fees
- h) Amendatory Section: **WAC 230-07-155** – Reporting annual activity for raffles, enhanced raffles, amusement games, Class A, B or C bingo, or combination licenses
- i) Amendatory Section: **WAC 230-11-012** – Licensees may conduct a joint raffle
- j) Amendatory Section: **WAC 230-11-014** – Maximum raffle ticket price
- k) Amendatory Section: **WAC 230-11-020** – Record information on ticket stub
- l) Amendatory Section: **WAC 230-11-030** – Restrictions on ticket sales
- m) Amendatory Section: **WAC 230-11-040** – Place ticket stub in receptacle for drawing
- n) Amendatory Section: **WAC 230-11-050** – Using alternative drawing formats.
- o) Amendatory Section: **WAC 230-11-055** – Authorized alternative drawing formats
- p) Amendatory Section: **WAC 230-11-065** – Raffle prizes
- q) Amendatory Section: **WAC 230-11-070** – Defining “members-only” raffles
- r) New Section: **WAC 230-03-152** – Additional requirements for enhanced raffles
- s) New Section: **WAC 230-03-232** – Applying for a call center license
- t) New Section: **WAC 230-03-317** – Applying for a call center representative license
- u) New Section: **WAC 230-11-002** – The definition of raffle as used in this Chapter
- v) New Section: **WAC 230-11-102** – Record keeping requirements for enhanced raffles
- w) New Section: **WAC 230-11-103** – Independent audit required for enhanced raffles

Assistant Director Harris reported there were 23 rules in this staff proposed rule package. During the 2013 legislative session, a bill was passed that would allow enhanced raffles for licensed charitable/nonprofit organizations whose primary purpose is serving individuals with intellectual disabilities. The bill authorized the Commission to approve up to four enhanced raffles a year, with the grand prize for each enhanced raffle not to exceed \$5 million. The enhanced raffle law also allows charitable/nonprofit organizations to hire consultants to assist with the raffle. Consultants for an enhanced raffle can be licensed under the current service supplier rule. The new law gives the Commission the authority to amend and create rules and to establish fees to regulate this type of activity. The volume of revenue generated from these types of raffles would probably be more than the current revenue being generated for all of the existing raffles put

together. The first 17 rules in the package are changes to existing rules adding the call center, call center representative, and enhanced raffle. They also include a section for a new license fee for the various types of activities. AD Harris asked if the Commission wanted him to go over each rule separately.

Chair Amos asked what the other Commissioners preferred. **Commissioner Gray** asked if these were just existing rules that would now apply to the enhanced raffles. **Assistant Director Harris** confirmed that the changes were minor and were where the rule applies to an enhanced raffle, a call center, a call center representative, or creates a new license fee for the various activities. Some of the other language changed was “ticket” instead of “ticket stub” because the enhanced raffles do not use ticket stubs. **Commissioners Gray** and **Prentice** did not think AD Harris needed to go over them separately.

Assistant Director Harris explained the last six rules were new and most of them were based off of rules for similar activities. There was an activity that was similar, so staff based the rules off of the existing ones. WAC 230-03-152 lists the items organizations must provide to the Commission prior to approval for an enhanced raffle, which is similar to the rule in place for exceeding the prize limit for existing raffles. The requirements are pretty similar, with a couple new ones. WAC 230-03-317 adds a requirement for applying for a call center representative license, which is similar to applying for other types of licenses. WAC 230-11-002 establishes a definition for a raffle as used in this chapter because there was an RCW that defined a raffle and now there is a new RCW that defines an enhanced raffle. So it says raffle as used in this section means both types of raffles. WAC 230-03-232 is a call center license and WAC 230-03-317 is the call center representative license. WAC 230-11-102 is the record keeping requirements for an enhanced raffle and is based on similar record keeping requirements for other activities. WAC 230-11-103 is the requirements for the independent audit for enhanced raffles that was required in the bill.

The license fees for this new activity are based on what it would cost to cover licensing and regulatory costs. The new license fees are based on staff’s best projections of the time and resources required to perform licensing and regulatory investigations and to keep the criminal element out of gambling. These estimates are based on the type of work staff performed for other licensees and similar activities like bingo and pull-tabs that generate the type of revenue for the same size. Staff will have to create new forms and update current systems to account for this new enhanced raffle activity and application fee process. There will have to be additional training for staff because the requirements are different than what has been dealt with in the past. Staff would also have to create and revise the regulatory programs to account for the new requirements in this law.

Commissioner Gray asked what was meant by “onetime variance” fees that are listed. **Assistant Director Harris** replied that would be the existing fees for the existing licensees. Three new sections in the package apply to enhanced raffles, the call centers, and the call center representatives. AD Harris thought the variance Commissioner Gray was referring to concerned pull-tabs; if they exceed their class the first time, they are allowed to go through and have a higher class and be upgraded at the end. They get a onetime variance for that without getting penalized.

Chair Amos asked if there were any other questions; there were none. He asked if the representatives from the Special Olympics would like to speak.

Ms. Beth Wojick, CEO for Special Olympics Washington, thanked the Commission for the professional service they received from the Gambling Commission. It was really great to work with staff and find their way through this. She explained that Special Olympics Washington is currently serving 10,000 intellectually disabled athletes. They have events almost every weekend. The typical athlete will compete in three sports per year, so they are a sports organization for intellectually disabled athletes. The organization has been involved since 1975 in the state of Washington, and is also part of a worldwide organization that services five million athletes in 160 countries. The Special Olympics was started by Eunice Shriver, JFK's sister, who had an intellectually disabled sister. In 2012, they found themselves with this beautiful thing they were doing, but most of it was in Parks and Recs Departments. So if they had a Special Olympics athlete, he was going to go to a rec center and doing his thing and then coming back to school on Monday with his medal, but nobody was going to know what he did. He is kind of weird and maybe he is in the trailer in the back.

The program they are working on that they want to use the raffle money to fund is a school-based program where the kids get to actually play, which believe it or not, their guys deserve a chance to play. The school districts will say they are currently doing Special Olympics, but what they mean is that everybody can try out for the team. That means that their guy ends up being the water boy, or maybe he is artificially given a chance to score a touchdown. In the Special Olympics world, that is not okay. Their guy is the center of the soccer team, he is playing the match. The project being worked on right now is to create a program called Unified Sports that will be held within the school districts, just like any other sport the school districts have. Unified Sports includes Special Olympics athletes playing on the same team with typical athletes. As an example, on a soccer team with five players on each side, there are three Special Olympics athletes and two typical athletes playing on the same teams. The program has demonstrated that they can do this work by working with the Seattle Public Schools who fielded over 30 Unified Soccer teams this year. From those kids, they have actually created an All Star Team that got to play with the Sounders. They then created an international team, Team USA, who actually went to Costa Rica. So there were kids from Rainier Beach High School who had never been on a team before, and certainly never been asked to join a team or wear a school jersey for goodness sakes, going to Costa Rica at no cost to them. Special Olympics is free for all of their athletes. Secondly, consider the typical kids that are playing on the teams, which they call partners. They have an amazing way to join Special Olympics to help reduce bullying, because now they are friends with Special Olympics' athletes. As their guys are walking through the halls, they are not getting bullied anymore; in fact they are getting high fives. They are no longer sitting in the back of the room and watching everything; they are actually part of a team. When the partners graduate from high school and go on to be college students and business leaders and the like down the road, imagine the impact they will have with Special Olympics over time.

It is a really good program that is going to take a lot of work, but it is a huge, huge step forward for Special Olympics. As they traveled around the United States trying to look for ways to fund this very important project, they found the enhanced raffle with Special Olympics Southern

California. The consultant they are working with has done over 27 of these raffles throughout the United States for a number of nonprofits like United Way, Boys and Girls Club, and Ronald McDonald House. So Special Olympics Washington is kind of late to this party, but this is a way it is going to be able to fund Unified Sports in the school districts statewide.

Commissioner Stearns asked if there was a tie in, or any sort of work they were doing, connected to the 2014 Soccer World Cup.

Ms. Wojick replied in Special Olympics' world it was Football World Cup in Rio de Janeiro. They have scheduled Special Olympics World Cup, which is endorsed by FIFA and Major League Soccer. Of course the Sounders and Kasey Keller are also very involved with Special Olympics.

Chair Amos asked if there were any other questions or comments; there were none. He thanked Ms. Wojick for her presentation and called for public comment; there was none.

Commissioner Stearns made a motion seconded by **Commissioner Gray** to file the rules package covering the 23 amended and new rules for enhanced raffles for further discussion. *The vote was taken; the motion passed with four aye votes.*

Chair Amos called for a lunch break at 12:00 p.m. explaining the hearings were scheduled to begin at 1:30 p.m. He reconvened the meeting at 1:30 p.m. and asked if Shawn Karmil, John Sagatu, or Sean Skipwith were in the audience; no one stepped forward.

AAG Castillo recommended waiting a few more minutes for one of the petitioners to arrive. She suggested either taking a recess or going into the executive session. She asked Director Trujillo how much time he estimated for the executive session. **Director Trujillo** replied he anticipated about 45 minutes. **Chair Amos** said that should give the petitioners plenty of time to arrive.

- PUBLIC MEETING -

Executive Session to Discuss Pending Investigations, Tribal Negotiations and Litigation

Chair Amos adjourned the meeting at 1:40 p.m. to go into an executive session. He reconvened the meeting at 2:15 p.m.

Chair Amos called for a thumbs up or down to have staff prepare the agency request legislation for the September Commission meeting. *All four of the Commissioners agreed.*

Director Trujillo pointed out that the staff proposed rule change to require landlords of house-banked card rooms to undergo background checks had some discussion at the study session and suggested the Commission put the item on the September Commission meeting agenda for additional discussion. Normally, once a rule is filed for discussion, the next month it is only discussed at the Study Session, then it is brought back to the Commission the third month for final action. **Chair Amos** agreed.

Chair Amos asked if Shawn Karmil, John Sagatu, or Sean Skipwith or anyone on representing them was present to address this issue before the Commission; no one stepped forward. He asked AAG Castillo what the next step should be.

AAG Castillo suggested they turn it over to the representative for the Commission staff, Assistant Attorney General Greg Rosen, for his recommendation about what the Commission staff would like to do.

Chair Amos welcomed Assistant Attorney General Gregory Rosen.

Assistant Attorney General Gregory Rosen introduced himself and thanked the Commission for the privilege of addressing them today.

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

Petitions for Review:

a) *Shawn M. Karmil, Card Room Employee, Revocation*

AAG Rosen reported that Mr. Karmil held a card room employee license to work at the Drift on Inn until that license was suspended by the Gambling Commission in December 2012 based on the allegation that he had taken money out of the poker podium till. Written statements from the Drift on Inn Poker Manager Mr. Qiang Li, Mr. Karmil's supervisor Nghi Nguyen, and Mr. Karmil revealed that Mr. Nguyen had approached Mr. Karmil on July 6, 2012, at approximately 11:30 a.m., to ask for money so that Mr. Nguyen could gamble at a nearby casino; specifically Club Hollywood. When asked how much, Mr. Li, Mr. Nguyen, and Mr. Karmil each confirmed it was \$1,000 the first time and \$2,000 three more separate times, within approximately an hour-and-a-half, all occurring on July 6, 2012. Each time, Mr. Karmil gave Mr. Nguyen the requested cash outside the range of surveillance cameras. When Mr. Nguyen realized how much he owed Drift on Inn he contacted friends to raise the funds and return the money to the casino. At approximately 4:00 p.m. to 5:00 p.m. that day Mr. Nguyen came back with the \$7,000 and met Mr. Karmil in a bathroom so the money exchange would not be caught on camera. After receiving the money, Mr. Karmil placed it back into the poker chip cabinet. Mr. Karmil admitted in a statement given to Special Agent Brandon Rhodes that he gave Mr. Nguyen cash from the poker podium on four separate occasions and also admitted to counting the money inside the poker chip cabinet to avoid being caught doing so on camera.

Based on Mr. Karmil's actions, the Gambling Commission Director issued a Summary Suspension of his card room employee (CRE) license. Mr. Karmil submitted a Motion to Stay the suspension. On January 8, 2013, the Administrative Law Judge (ALJ) issued an order denying the Motion to Stay. An administrative hearing regarding the revocation of Mr. Karmil's license was conducted by the ALJ on February 21, 2013. On April 22, 2013, the ALJ issued an Initial Order that determined Commission staff had proved by a preponderance of evidence that Mr. Karmil's CRE license should be revoked. Commission staff received Mr. Karmil's Petition for Review on or about May 14, 2013. RCW 9.46.153(1) states that it shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the

necessary qualifications for licensure of each person required to be qualified under this Chapter. WAC 230-06-035 states that licensees must not offer to give credit, loans, or gifts to any persons playing in an authorized gambling activity. RCW 9A.56.020(1)(b) states that theft includes by color or aid of deception to obtain control over the property or services of another with the intent to deprive him or her of that property or services. A person is guilty of Theft in the First Degree if he or she commits theft which exceeds \$5,000 in value.

At the administrative hearing Mr. Karmil did not dispute that he committed these acts. In fact he testified at the hearing that "I committed the crime." Mr. Karmil's Petition for Review does not appear to dispute that he gave money to Mr. Nguyen to gamble, but that he felt coerced, bullied, and intimidated by Mr. Nguyen, his supervisor, to commit these acts. Although Mr. Karmil contends his actions were coerced by his supervisor, Mr. Nguyen, he also testified at the hearing that he did not have an expectation that he would be fired if he refused to give Mr. Nguyen the money, but if he was demoted to dealer from poker floor supervisor, it would be financially disastrous for him and his family. Mr. Karmil's Petition for Review also indicates that, in his view, neither Mr. Li nor Mr. Nguyen suffered punishments. AAG Rosen submitted that was incorrect, that his understanding was that Mr. Li's license was also revoked and he did not appeal the Initial Order revoking his license. AAG Rosen said his understanding was that Mr. Nguyen surrendered his license after the stay hearing and did not request a revocation hearing. AAG Rosen submitted that Mr. Karmil's de facto, in a sense, equal protection argument that similarly situated persons, specifically Mr. Li and Mr. Nguyen, were treated differently than he was, would lack merit. Gambling Commission staff's position is that in light of his actions, Mr. Karmil has failed to establish by clear and convincing evidence under RCW 9.46.153(1) the necessary qualifications for ongoing licensure. He knowingly conspired with Mr. Nguyen to violate the laws of this state and rules of the Commission by his actions. The ALJ correctly determined that Mr. Karmil's gambling license should be revoked because he willfully disregarded state statutes, including the criminal code, and his unlawful behavior increases the likelihood of future illegal practices and activities in the conduct of gambling activities as based on WAC 230-03-085(8).

The Gambling Commission staff respectfully requests that the Commission adopt the ALJ's Initial Order revoking Mr. Karmil's card room employee license.

Chair Amos asked if there were any questions; there were none. He asked if a motion was needed. **AAG Castillo** replied it was the Commission's call on whether they needed to go into closed session to discuss the matter or they could just do a motion and decide it here.

Commissioner Prentice asked what the motion would be – to accept the recommendation or what. **AAG Castillo** replied that the Commission would have to affirm the ALJ's Initial Order in its entirety, affirm but make changes to the Initial Order, or remand it.

Commissioner Prentice said she did not care to rush the Commission and thought they should probably talk for a moment, but she was for affirming the ALJ's finding. She said there is a very strict expectation that people will be honest in these dealings. They are out there with a lot of money, there is a lot of temptation, and this is one of those areas where the Commission really needs to be very, very strict. It is part of our mission to make sure it is honest.

Commissioner Gray said she wished Mr. Karmil had been present because she thought there were extenuating circumstances and she would have liked to hear his story. **Commissioner Prentice** pointed out that he had a choice. **AAG Rosen** offered to address any questions Commissioner Gray might have in that regard. He pointed out that, in fairness to Mr. Karmil, his Petition for Review indicated he had 16 years of a clean, spotless record and that he felt he had been intimidated or bullied by his supervisor. The Commission is the reviewing body.

Commissioner Stearns asked if, in theory, the Commission could suspend rather than revoke. **AAG Castillo** suggested that, if Commissioners were going to go into this kind of discussion, they should go into a closed session where she would be happy to provide the Commission with advice. Given the posture of this case and the questions that are arising, she suggested they hold this matter and an order would be forthcoming once the five of them have an opportunity to go into closed session to discuss it. **AAG Rosen** stated he wanted to make clear that the Gambling Commission staff was recommending the Commission adopt the Initial Order in its entirety.

Commissioner Gray asked if the Commission should go into executive session. **Commissioner Stearns** asked if there were other hearings. **AAG Castillo** explained that the Commission had the option of continuing with the other two petitions and then discussing them all in closed session. **Commissioner Prentice** suggested hearing the other two before going into closed session. **Chair Amos** concurred.

b) John S. Sagatu, Class III Employee, Revocation

AAG Rosen reported that Mr. Sagatu held a Class III gaming certification from the Gambling Commission to work in the Muckleshoot Casino in Auburn, which is set to expire on October 8, 2013. During the administrative hearing, the ALJ determined that the Commission had been aware of Mr. Sagatu's failure to pay his court-ordered fines and fees since 2009 and the Commission issued a Notice of Administrative Charges in October 2009 based on Mr. Sagatu's failure to pay \$5,424 in court-ordered fines and fees that had been sent to collection due to non-payment. However, the ALJ found that the Commission issued an Order of Dismissal without prejudice on November 5, 2009. Gambling Commission Special Agent (SA) Julie Sullivan prepared another case report in Mr. Sagatu's case in 2010 based on his failure to pay \$5,424 in court-ordered fines and fees that had been sent to collection due to non-payment. The Commission issued a Notice of Administrative Charges on December 21, 2010, based on that failure. However, in February 2011, Mr. Sagatu entered into a Settlement Order with the Commission in which he agreed to pay off his court ordered fines and fees totaling \$5,424, that his Class III certification would be suspended for ten days, seven to be served with three suspended, and that he would agree to send \$50 from each paycheck to a collection agency to pay off his outstanding balance.

After an annual review of Mr. Sagatu's criminal history in September 2012, SA Sullivan learned that Mr. Sagatu had not made any payments since signing the February 2011 Settlement Order. On September 13, 2012, SA Sullivan called Morena Cross at Muckleshoot Tribal Gaming Agency and informed her that she would be recommending the revocation of Mr. Sagatu's certification. As of September 17, 2012, Mr. Sagatu owed \$3,227 in unpaid court fines and fees, including

outstanding fines and fees that were to be paid according to the February 2011 Settlement Order. At the time of the December 2012 administrative hearing, these penalties were in collection status for \$3,227 and Mr. Sagatu had accrued at least four additional failures to appear.

Commission staff issued administrative charges on October 12, 2012. An administrative hearing was conducted by Administrative Law Judge John Gray on December 19, 2012. On April 4, 2013 Judge Gray issued an Initial Order stating the Commission staff satisfied its burden by proving by a preponderance of the evidence that Mr. Sagatu's Class III gaming certification should be revoked. On April 12, 2013, Judge Gray reissued the Initial Order to include the appeal rights available to Mr. Sagatu. Commission staff received Mr. Sagatu's Petition for Review on or about April 23, 2013.

WAC 230-03-085(3) authorizes the revocation of a gambling license if the holder willfully disregards a court order. The Gambling Commission's response to Mr. Sagatu's Petition for Review set out the various court ordered fines and fees owed by him. AAG Rosen noted for the Commission's edification that the ALJ's Initial Order incorrectly stated Mr. Sagatu had not made any payments toward his court ordered fines and fees since October 2009, which is an erroneous Finding of Fact as well as an erroneous Conclusion of Law. AAG Rosen noted for the record precisely what the ALJ incorrectly concluded in Paragraph 20 of the Initial Order of the ALJ: "The evidence that is lacking from Mr. Sagatu is any efforts at paying the delinquent fines and fees since October 2009, a date now three and one-half years ago. He failed to comply with the terms of the Settlement Order he signed in 2011. He has already had additional time that he still seeks today. That absence of any payments toward the delinquent fines and fees since 2009 is what convinces me that the Commission is right in seeking to revoke Mr. Sagatu's Class III employee certification." In reality, Mr. Sagatu made a payment on January 25, 2011, in the amount of \$3,237 to allow him to initially enter into the February 2011 Settlement Order. In addition, on December 11, 2012, eight days before his administrative hearing on December 19, 2012, he made a payment in the amount of \$80.65. However, as of June 24, 2013, Mr. Sagatu still owes \$3,146.35 and has made no payments since December 2012. He also has not entered into a wage assignment agreement to pay \$50 from each paycheck nor has he paid off his court-ordered fines and fees as required by the 2011 Settlement Order.

Mr. Sagatu's Petition for Review sets out the reasons why he has not paid on the fines he owes, including difficult financial circumstances caused by garnishments of his checks, and that being labeled a risk to gaming, in his view, was unfair. However, Commission staff contends that Mr. Sagatu's willful disregard for court orders, particularly the 2011 Settlement Order, establishes that he is likely to pose a threat to the effective regulation of gambling and that revocation of his Class III gaming certification is in the public interest, based on WAC 230-03-085(8).

The Settlement Order was a second chance for Mr. Sagatu to demonstrate his compliance with his court-ordered obligations such that his certification should not be revoked. He made one small payment of \$80.65 in December 2012 and made no payments since that time. In light of the ALJ's error in concluding that Mr. Sagatu has not made any payments since October 2009, the Commission has the ability under RCW 34.05.464(7) to enter a Final Order on this proceeding as it sees fit, or remand the matter for instructions to the ALJ to consider the two payments made by

Mr. Sagatu, specifically the large payment he made to enter into the February 2011 Settlement Order as well as the very small payment he made in December 2012.

Although the ALJ did in fact make that error, AAG Rosen's recommendation was that the Commission enter an order revising the Initial Order, correcting the factual discrepancies, noting for the record that Mr. Sagatu had in fact made payments totaling approximately \$3,400, but that he still owes \$3,146.35 at this time. Because Mr. Sagatu has not complied with the Settlement Order, AAG Rosen's recommendation to the Commission was to adopt the Initial Order in part, but revise it so that it accurately sets out the facts of this case.

Chair Amos asked if the error was the one that was called a scrivener's error. **AAG Rosen** replied no, scrivener's errors were basically typos. An example of a scrivener's error was where the ALJ indicated there were 26 Exhibits and then listed Exhibits 1 through 9. Lawyers call them scrivener's errors and there were a number of those that could be construed as substantive, but AAG Rosen did not construe them that way. He thought that may have been why they were titled, or characterized, as scrivener's errors. The ALJ's incorrect Finding of Fact and subsequent Conclusions of Law that Mr. Sagatu had not made any payments since October 2009 were clearly substantive in nature.

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

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

AAG Rosen explained that Mr. Skipwith was initially set for a March 14, 2013, hearing before this Commission to consider his Petition for Review. Mr. Skipwith had said he thought the hearing was actually going to occur at 2:30 although he was sent a revised notice that it was going to be at 11:30 a.m. Mr. Skipwith indicated that he had shown up, which AAG Rosen was inclined to take his word for. This Petition for Reconsideration seeks the Commission's reconsideration of the Final Order they entered revoking his license. AAG Rosen indicated for the record that Mr. Skipwith has failed to identify any error made by the Commission that would warrant reconsideration of the Commission's Final Order. The purpose of a Motion for Reconsideration is to provide the parties and tribunal with an opportunity to correct a prejudicial error without having to resort to the time and delay of an appeal. Mr. Skipwith simply asserts in his Petition for Reconsideration that he received two different times for the Petition for Review hearing on March 14, 2013. AAG Rosen contends that since Mr. Skipwith was properly notified of the time for the Petition for Review hearing on March 14, his failure to appear is not a basis for reconsideration under Civil Rule 59. Second, even if Mr. Skipwith could prove excusable neglect, his Petition should still be denied as he has not raised a meritorious defense to the charges. Mr. Skipwith violated WAC 230-03-085(3) which authorizes revocation of a gambling license if the holder willfully disregards a court order.

At the hearing, it was undisputed that Mr. Skipwith knew he was subject to long-standing court orders that required him to pay \$3,558 in court-ordered fines and fees. For those reasons AAG Rosen recommended that Mr. Skipwith's Petition for Reconsideration be denied. Unless the Commission wished him to go further, AAG Rosen said he would stop there and stand down.

Chair Amos replied he thought that was fine and AAG Rosen could stand down. He asked if there were any questions; there were none.

Adjourn

Chair Amos concluded the public meeting at 2:40 p.m. and announced the Commission would be going into a closed session.

Minutes were submitted to the Commission for approval by:

Gail Grate, Executive Assistant