

**WASHINGTON STATE  
GAMBLING COMMISSION MEETING  
MARCH 14, 2013  
APPROVED MINUTES**

**- PUBLIC MEETING -**

**Chair John Ellis** called the Gambling Commission meeting to order at 10:00 a.m. at the Tumwater Comfort Inn and Conference Center and introduced the members present. He said it was his honor to introduce David Trujillo in his new capacity as Interim Director of the Gambling Commission.

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

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

**Agenda Review / Director’s Report:**

**Interim Director David Trujillo** thanked Chair Ellis for the kind words he has expressed to him over the past few weeks. He then pointed out some additional material that was provided to the Commissioners: the amendment to ESSB 5723 for enhanced raffles; an additional news article; an agenda update; and the February meeting minutes. He explained it was anticipated to be a fairly short Commission meeting and that there had been a brief study session this morning. Interim Director Trujillo reported that staff was not asking for any changes to the order of the agenda.

**Chair Ellis** pointed out that a few people had joined the meeting in the past few moments and explained that he expected the meeting to be finished before 11:00 a.m. The Petition for Review of Mr. Skipwith was scheduled for 11:30 a.m., so the Commission would commence its executive session, which will be in this room, and then return for the Petition for Review hearing.

**Interim Director Trujillo** drew attention to the press release concerning Director Day’s departure and a couple of news articles. The first article was titled “Man Charged in Alleged Unlicensed Raffles” and was about an investigation by one of our agents. At the time of the article, the couple was accused in court records of taking more than \$277,000 in proceeds from

the raffles, but it was believed that number had grown. The couple had donated approximately \$4,900 to the intended purpose of the charity. He found the article regarding Nevada and New Jersey and internet gambling interesting because the reason Nevada went ahead and signed legislation legalizing online gambling activity was because they wanted to beat New Jersey. The last article talks about a couple of other states that are looking at legalizing internet gambling, including California and New Jersey. Interim Director Trujillo was not sure if there had been any legislative update for those two states.

**Chair Ellis** noted it was an interesting development and that it was not the only interstate race that appeared to be going on. He thought Massachusetts and Vermont were in a bit of a race to see whether Vermont could successfully get authorization and funding for a casino to ensure that Vermont gambling dollars stayed in Vermont to the extent possible and did not cross over into Massachusetts. Former Director Day, as the executive director of the Massachusetts Gaming Commission, will probably be thrown into that shortly.

### **Legislative Update**

**Ms. Amy Hunter** reported the Legislature had passed several cutoff dates, one of which was where bills had to get out of the house of origin. Ms. Hunter noted the cutoff dates do not apply to any bills that are necessary to implement the budget. She pointed out this was year one of the two-year legislative cycle, so even though a bill might be dead for this session, it will still be alive in January 2014. She explained that the bills that are dead were listed on the agenda and included in the agenda packet so the public knows what is dead.

### **Bills with Direct Impacts on the Commission**

- ESSB 5723 is the enhanced raffle proposal from Special Olympics-Washington. The bill would allow organizations that serve people with intellectual disabilities to hold raffles with a prize up to \$5 million and ticket prices up to \$250, whereas the current level is \$100. Those organizations would also be able to use a call center and be able to hire a consultant for the raffle, which are currently not allowed. At the February meeting, the Commissioners took a neutral position on the bill and asked staff to pass along a couple of technical considerations to the Legislature. There was one amendment in the House, which is the same as the amendment in the Senate. The bill went out of the House Committee with language that it would expire June 30, 2017. So, without other action, in four years the language would go away, assuming the bill passes. At this point, the Senate version is the one that is expected to be the vehicle, and it did make yesterday's cutoff of being passed out of the Senate. The Senate version adds the language about the bill expiring in 2017 and also that by December 2017, the Commission must make a report to the appropriate legislative committee on revenue generated, state or federal actions taken in relation to enhanced raffles, and make recommendations, if any, for policy changes to the enhanced raffle authority. Looking at state/federal actions is meant to get at the issue about whether mailing things would be in violation of the U.S. Code. Ms. Hunter expected the bill would have a hearing next week. She thought a report back to the Committee made a lot of sense and asked if the Commission had any comments to pass on to the Committee. With the two amendments, there is the report that is due by December and the bill expiring before that

date. She thought those dates probably needed to be cleaned up; maybe the report needs to be a little bit earlier.

The Bill did pass the Senate with a vote of 38 to 11. The 11 votes were not a party-line vote; both Republicans and Democrats voted against it. The Lieutenant Governor ruled that this was an expansion of gambling and needed the 60 percent vote. He said that each of these components on their own may not have required a 60 percent vote, but when all of these new things were added together, it bumped it over the line of needing a 60 percent vote. The Senate would have needed 30 votes and they had 38. Ms. Hunter expected there would be an amendment when the bill is in the House that clarifies that one of the methods of entry would be to print an entry form off the organization's website and mail it in. That is something that Mr. Eliason and Ms. Hunter had discussed, but that did not make it into a floor amendment before the bill got out of the Senate. Anything that gets changed in the House will have to go back to the Senate for concurrence.

**Chair Ellis** asked if Ms. Hunter saw a problem with the report back requirement. **Ms. Hunter** replied she thought it was a good idea. She did not know what was going to happen with these, but thought it would be good to see what really happens. Staff would be giving the Commission a report, similar to the one a couple of years ago on big raffles. These raffles may be very successful. If one of them is as successful as is hoped, it would be the same amount in gross receipts that 700 organizations are making now in one year.

**Commissioner Gray** asked if Ms. Hunter knew why it was limited to those with intellectual disabilities. **Ms. Hunter** responded that her insight on it was simply that the organization was trying to make it as narrow as it could, feeling that it would have more opposition if it said any bona fide charitable or nonprofit organization could do it. The organization felt it would have a better chance in the Legislature if it was a smaller group. Clearly, the Special Olympics would be able to do this, but autism organizations would probably meet that definition, as well as another couple of organizations.

**Chair Ellis** asked if there had been any indications outside the scope of those organizations that other charities are interested and have any intent of trying to expand the definition during the context of this legislation, as opposed to waiting to see what happens with the Special Olympics. **Ms. Hunter** responded that no one else has testified at this point and the hearings have been rather uneventful. The Association of Washington Counties did sign up in support of the bill when it was before the House Committee, and Mr. Eliason has been there. Ms. Hunter was not sure if that was because it was not on other organizations' radar at this point.

**Commissioner Prentice** indicated that, first of all, she thought people were taking a wait and see attitude because they tend to be skeptical. Somebody that she has known for a long time had an experience with this kind of thing and said it flopped. There is not a lot of money out there. They want to see if this is going to fly. If it does, then the Commission would probably see a lot more requests.

**Chair Ellis** recalled the Commission has had its own experience with two large raffles that it approved. One was going to support school district activities down in Vancouver and another was going to support cultural arts in Tacoma. As he recalled, in the Tacoma raffle the first prize was going to be a condominium in Tacoma. Both of those raffles generated a very small percentage of what the promoters had hoped to get from the raffles. **Ms. Hunter** thought that was part of the reason for trying to have legislation that included call centers and a consultant. There was an understanding that if the organizations tried to do this on their own, they really needed some people with expertise to assist them with getting those sales up to what they needed to be. Ms. Hunter said that, at last month's meeting, Mr. Eliason had explained more about an entry method they had found to be successful. The amendment would add a couple of sentences to make it clear that printing the form would be all right and that obtaining the form does not constitute a sale. Language that might strike the Commission as odd is in the last sentence and has to do with a bill before the Legislature about three years ago dealing with the Lottery Commission and having losing tickets be something that players could re-enter through the website. At the time, the Commission's AAG, Jerry Ackerman, thought the language should be very precise, so staff has continued with the precise language. Ms. Hunter asked the Commission to let her know if they had any comments on the language. She had explained to Mr. Eliason that if the Commission thought different language was needed, staff would let him know. AAG Castillo and Ms. Hunter have worked together on the language and thought it would take care of what the organization wants to do.

**Commissioner Prentice** said the answer to why they refer to those with intellectual disabilities is this was the Special Olympics, which Mr. Eliason is active in. He is a well-respected lobbyist; people know him.

**Ms. Hunter** noted the technical considerations mentioned last month were about whether sales by mail, as well as having the receipt go back through the-mail, would violate the U.S. Code, which is pretty broad. It did not generate much interest when Ms. Hunter brought it up, but she thought it was important to make sure the legislators knew about that possibility. The second consideration deals with whether the bill is allowing an activity for any person or for any purpose, which is the language used under the Indian Gaming Regulatory Act. When a bill is introduced, whether it is horse racing, lottery, or something that would impact the Gambling Commission, staff looks at whether it would be allowing something new. At this point, staff would recommend the Commission continue with a neutral position, along with the other considerations. Staff has been asked to do several fiscal notes as the bill has been amended. It was estimated that the cash receipts from the license fees should cover staff expenditures for licensing and regulations, not including the rule-making. The Commission has rule-making authority and fee authority in the bill, so if the bill passes, staff anticipates bringing a proposal back to the Commission. Ms. Hunter said the organization was interested in being able to do a raffle as soon as they can.

**Chair Ellis** asked if there were any questions of Ms. Hunter; there were none. He asked if any of the Commissioners felt the Commission should take a different approach than the neutral approach that Ms. Hunter proposed. Commissioner Amos responded he thought the Commission should stay with the neutral position. Chair Ellis agreed, stating the Commission would continue with the neutral approach on this bill.

- SSSB 5552 appears to be dead. It is the gambling intercept program which would have required filling out a federal form if licensees and casinos had winnings that were at the W2G level and checking the child support system to see if the winner was someone who was in child support arrears. The bill did make it out of both the Policy Committee and the Ways and Means Committee, but did not get to a vote on the floor.
- ESHB 1403 and ESSB 5680 deal with Business Licensing Services (BLS). Both bills are still alive and passed unanimously. The bill was introduced in response to an audit by the State Auditor's office in September 2012 on regulatory reform where they were looking at how many agencies issue licenses through that service. One of the recommendations was to make some fixes to the law, which is what they are doing. The report showed that only the Department of Revenue licenses were available through the BLS website. Only 16 percent of all the other state's licenses and then only two of the ten most requested licenses were available through the BLS website. Both of these bills are identical as they have moved through the various amendments. They add the Gambling Commission and 12 other agencies to the list of agencies that have to fully participate with the RCW that deals with Business Licensing Services. Fully participating is described as providing the BLS with blank application forms and information. Information on the level of participation in this service must be provided every year. The Department of Revenue would then compile that information and submit a report to the Legislature and Governor so they can see the progress the agencies are making in trying to get everything over to that service. Final amendments made it clear that a license would be issued through the Master License Services only if the agency issuing the license and the department agree. Staff has done several fiscal notes on this bill and estimate it would cost about \$3,000 in the first year to get all of our 38 business license applications over, and then about \$500 each year for the subsequent ones.

**Chair Ellis** asked if Ms. Hunter was referring to the application forms for licenses when she talked about licenses being available through the website. **Ms. Hunter** affirmed.

#### Confirmations and Other Bills that are Alive

- SGA 9158 – Senator Margarita Prentice was reappointed to the Commission by Governor Inslee. Her confirmation hearing is scheduled for Monday.
- SGA 9106 – Kelsey Gray was also reappointed to the Commission by Governor Inslee. Ms. Hunter anticipates her confirmation hearing will be in early April. Confirmation hearings do not follow the usual cutoff dates.

- HB 1014 Recognizing “Native American Heritage Day” as the Friday after Thanksgiving passed the House 93 to 4 and is scheduled for a hearing today.

**Ms. Hunter** reported there was nothing new to report on the state budget. The Caseload Forecast Council is meeting today and the revenue forecast is to be released March 20.

*Bills with Direct Impacts on the Commission that Appear to be Dead*

- HB 1295 – Modifying the powers and duties of the Gambling Commission was heard but did not make it out of Committee and appears to be dead.
- HB 1824 – Reducing the penalty for a person conducting unlawful internet gambling in his or her primary residence for recreational purposes was heard but did not make it out of Committee and appears to be dead.

**Commissioner Gray** asked if Ms. Hunter anticipated those bills coming back next session. **Ms. Hunter** explained that, technically, they will be alive. She thought the internet gambling bill would be closely looked at in the interim, but the way it was worded did not look like it would be moving anywhere. If it gets a hearing next year, it will probably need to have different language in order to move out. If the powers and duties bill looks like it is going somewhere, it would be good to have more discussion on it. Ms. Hunter felt okay with the Commission’s neutral position, but then it got into more detail when things started moving. Sometimes there are possible amendments that come for review but are not introduced. Staff will be meeting with all of the members of the Committee during the interim on the bill.

**Commissioner Amos** noted that the paperwork on HB 1295 says that DeBolt and Hunt were a little bit concerned in regard to the Rockland Ridge matter and he asked if they were the prime sponsors of this bill or if Chris Hurst had his hand in it. **Ms. Hunter** replied that Representative Hunt was the prime sponsor. She thought part of the reason for the switch in people was that in November gambling matters would have gone before Representative Hunt’s committee. When the House did the reorganization of committees, gambling matters now go to the Government Accountability and Oversight Committee, which is chaired by Representative Hurst. Representative DeBolt was not on either of those committees. **Commissioner Prentice** pointed out he was the minority leader, so he was speaking on behalf of the Republicans. **Commissioner Amos** asked if, based on a comment Ms. Hunter made earlier, because of the way it went through the Committee it was dead before it even arose. **Ms. Hunter** responded that was on the internet gambling bill based on Representative Hurst’s comments during the internet gambling bill. He said he was not even sure what that bill does or what it adds based on the way it was worded. HB 1295 was scheduled for executive action a couple of different times and they ended up not taking action on it.

## **Approval of Minutes – February 15 Regular Commission Meeting**

**Chair Ellis** asked if there were any comments or changes to be made in the draft minutes; there were none.

**Commissioner Gray** made a motion seconded by **Commissioner Prentice** to approve the minutes from the February 15, 2013, Commission meeting as submitted. *Vote taken; the motion passed with four aye votes.*

## **- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -**

### **New Licenses and Class III Certifications**

**Assistant Director Griffin** pointed out that the house-banked card room report shows 57 card rooms licensed and operating house-banked card games. Staff has received a new application for a business to open in the former Oak Tree in Woodland. She reported that staff did not notice any unusual items and recommended approval of all new licenses and class III certifications listed on pages 1 through 13.

**Commissioner Gray** made a motion seconded by **Commissioner Amos** to approve the new licenses and class III certifications listed on pages 1 through 13. *The vote was taken; the motion passed with four aye votes.*

### **Default: Brian K. Hurst, Class III Certification, Revocation**

**Amy Hunter** reported that Mr. Hurst, while working as a cashier at the Tulalip Casino, took about \$80 from a drawer that was at the poker customer point-of-sale. The Tribe did revoke his license and this default would then revoke his certification so he would not be able to transfer to a card room. Former Director Day issued administrative charges to Mr. Hurst. The charges notified Mr. Hurst that if he failed to respond, staff would be recommending that his certification be revoked. Mr. Hurst did not respond and has waived his right to a hearing and staff would recommend the Commission revoke his certification.

**Chair Ellis** asked if there were any questions; there were none. He asked if Brian K. Hurst was present or if there was anyone present on his behalf; no one stepped forward.

**Commissioner Amos** made a motion seconded by **Commissioner Gray** that the Commission revoke Brian K. Hurst's Class III Certification. *The vote was taken; the motion passed with four aye votes.*

**Ms. Hunter** pointed out that an extra paragraph would be added at the end of the final order explaining how someone could petition for review to Superior Court. That language was not in the agenda packet, but will be in the final order. **Chair Ellis** said that sounded like it was pro forma language that should not change the result of their decision. **Ms. Hunter** agreed.

## **Rules Up For Final Action**

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

**Ms. Hunter** explained this rule change gets into all of the details and minutiae when staff is filing rules with the Code Reviser’s office. Several years ago, staff made a filing error that was only recently caught so now it is being brought before the Commission to have it cleaned up. There were two different rule proposals on different topics but they changed the same WAC number. One rule proposal passed in May 2004 and the second rule proposal passed in August 2004. When staff did the second filing for the rule passed in August 2004, it did not include the language that had been changed in the May rule proposal, which basically made the May change go away. The change in May allowed the electronic facsimile of cards to be used for all card games not just for house-banked card games. Staff is recommending the Commission move this rule into the section that deals with card games as opposed to house-banked card rooms where it is currently. Staff does not expect any impact from the rule as it passed several years ago. DigiDeal Corporation, who was the petitioner for the rule that passed in May 2004, addressed the Commission at the January meeting and also sent an e-mail in support of the change. Staff recommends an effective date of 31 days from filing.

**Chair Ellis** asked if there were any questions; there were none. He called for public comment; there was none.

**Commissioner Gray made a motion seconded by Commissioners Amos and Prentice that the Commission accept the proposed rule change on electronic facsimiles of all card games; repealing WAC 230-15-485 and replacing it with a new section WAC 230-15-116, with an effective date of 31 days from filing. The vote was taken; the motion passed with four aye votes**

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

**Chair Ellis** explained the Petition for Review of Sean Skipwith’s license revocation was scheduled for 11:30 a.m. and would be held after the executive session.

### **Other Business/General Discussion/Comments from the Public**

**Chair Ellis** opened the meeting for other business, general discussion, and comments from the public. No one stepped forward.

**Chair Ellis** called for a ten minute break at 10:45 a.m. He asked that everyone who would not be attending the executive session clear the room in ten minutes.

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

**Chair Ellis** called for an executive session at 10:55 a.m., which lasted until 11:20 a.m. The public meeting was reconvened at 11:45 a.m.

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

**Chair Ellis** stated the Petition for Review hearing was scheduled to begin at 11:30 a.m. and Mr. Skipwith had not yet appeared. Staff had not received any information as to why he has not appeared. AAG Happold, the counsel for the Commission staff, was present. He asked how AAG Happold would like to proceed at this point. **Assistant Attorney General Stephanie Happold** replied that since this was a continuance from the January Commission meeting, she would like to recap and finish up staff's position that was started at the January meeting and update the Commission on what staff has learned since then. **Chair Ellis** agreed.

**AAG Happold** reported that Mr. Sean Skipwith was licensed as a card room employee for Macau Casino in Lakewood. As of the June 2012 administrative hearing, he owed \$3,558 in court ordered fines and fees and had accrued nine failures to appear. The Adjudicative Law Judge issued an amended initial order stating that staff had satisfied its burden by proving that the petitioner no longer qualified to retain his gambling license and thereby revoked it. Mr. Skipwith petitioned this Commission, stating he had made arrangements to clear up his situation and that it may take a few months, but it would be resolved shortly. At the January Commission meeting, Mr. Skipwith informed the Commission that he was filing for bankruptcy. He had also made mention that he was planning to do that during the June 2012 hearing. Based on conversations with Commission staff and presenting to the Commission, it was decided to take a couple month's break to allow Mr. Skipwith to file for bankruptcy and to see what his status was. Staff did not hear anything from Mr. Skipwith by the end of January, which is when Mr. Skipwith said he would be filing, so staff started contacting Mr. Skipwith in February. AAG Happold heard from Mr. Skipwith that he would be filing the end of February, so she got hold of his bankruptcy attorney who confirmed it would be the end of February and that they would FAX the paperwork once it was filed. AAG Happold had not received anything by February 28 so she called again. On March 5, 2013, she received the filing showing Mr. Skipwith had filed for Chapter 7 bankruptcy. Mr. Skipwith told AAG Happold that he would be at today's meeting to provide the status update.

After discussions with Commission staff, AAG Happold asked the Commission to adopt the initial order issued by ALJ Gray. She explained that Chapter 7 falls under the bankruptcy rules and there is an automatic stay on most actions; however, Commission staff believes this action before the Commission falls under the specific exemption for governmental units and their exercise of police and regulatory powers, which is under 11 USC 362(b)(4). She explained the two tests that bankruptcy courts have used for this exemption. AAG Happold believed this action before the Commission would be to protect the safety and welfare and not simply to recover debt. The revocation process falls under the duties charged this Commission by the Legislature as it presented the Gambling Act. This revocation process is based on Mr. Skipwith's willful disregard of court orders, which is a violation of WAC 230-03-085(3) and RCW 9.46.075. The Commission is not doing this revocation process purely on the debt itself. Mr. Skipwith has presented a pattern of not abiding by a judge's ruling and these prior activities raise concern for Commission staff who are also concerned about what other gambling rules and regulations Mr. Skipwith deems are not fit or not having to follow. Staff wants him to uphold his duty, his obligations, and his gambling license, which he has already failed to do under

subsection (3) of WAC 230-03-085. Staff is concerned about what else Mr. Skipwith could be doing that would be a violation of public safety and welfare.

**Commissioner Gray** asked if the Commission revokes Mr. Skipwith's license as staff recommends, could he bring this back and say that the Commission could not revoke his license because he filed for Chapter 7 bankruptcy. **AAG Happold** replied he could see this as a possible cause of action and contest the Commission's decision, but she thought the Commission had a very good-faith argument that it satisfied the two tests that the appellate courts in bankruptcy use.

**Chair Ellis** asked if AAG Castillo had any additional advice for the Commissioners, going beyond what AAG Happold has said. **Assistant Attorney General Callie Castillo** replied she had nothing beyond that, but suggested they go into closed session if the Commissioners wanted additional advice.

**Chair Ellis** asked if any of the Commissioners felt they could use advice from their counsel before proceeding. **Commissioners Amos** and **Gray** replied they did not think it was necessary. **Chair Ellis** commented that he thought there was ample ammunition in the initial order of the ALJ supporting AAG Happold's analysis that this was not a matter of collecting a debt, but instead was a matter of enforcing Commission's regulatory responsibilities on who can participate as a card room employee.

**Commissioner Gray** made a motion seconded by **Commissioner Prentice** that the Commission affirm in all respects the initial order of the ALJ revoking Mr. Sean Skipwith's gambling license. The vote was taken; the motion passed with four aye votes.

### **Adjourn**

**Chair Ellis** adjourned the meeting at 11:59 a.m.

Minutes prepared by:

Gail Grate, Executive Assistant