

**WASHINGTON STATE  
GAMBLING COMMISSION MEETING  
THURSDAY, NOVEMBER 14, 2013  
APPROVED MINUTES**

**- PUBLIC MEETING -**

**Chairman Mike Amos** called the Gambling Commission meeting to order at 1:30 p.m. at the Tumwater Comfort Inn Conference Center and introduced the members present.

**MEMBERS PRESENT:**     **Commissioner Mike Amos**, Selah  
                                  **Commissioner Margarita Prentice**, Renton  
                                  **Commissioner Chris Stearns**, Auburn  
                                  **Commissioner Geoff Simpson**, Issaquah  
                                  **Senator Steve Conway**, Tacoma  
                                  **Representative Christopher Hurst**, Enumclaw  
                                  **Representative Gary Alexander**, Olympia

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

**Staff Accomplishment:** Cathee Gottfryd Recognized for 30 years of State and 15 years Gambling Commission Service.

**Director Trujillo** recognized Cathee Gottfryd for almost 15 years service with the Gambling Commission. Ms. Gottfryd enjoys entering contests like the one in Portland last summer where she participated with 1,200 other redheads that attempted to break the Guinness Book of World Records for the most natural redheads at an event. She also entered her cat named Bentley in a photo contest with the Washington State Lottery called Cats versus Dogs. There were 1,355 total entries and the top three cats and top three dogs with the most votes will be pictured on an upcoming scratch ticket. He thanked Ms. Gottfryd for her time with the Gambling Commission.

**Agenda Review/Director's Report**

**Director Trujillo** commented there was a large turnout for this morning's study session and thanked all the attendees who were part of that study session. It was refreshing to see such a large turnout. He briefly reviewed the agenda and noted a couple staff requested changes. The report by Administrator Paul Dasaro on the Electronic Gambling Lab would be presented in two

parts: part one at this meeting and part two at the January meeting. The approval of day two, the October 9 Strategic Session, minutes would be held over until the January Commission meeting.

**Director Trujillo** pointed out a request by the Lummi Tribe to amend its Tribal-State Compact. The Governor's Office forwarded that request to the Gambling Commission with directions to move forward with Compact amendment negotiations. Director Trujillo pointed out a recent news article about Chairman Brian Cladoosby who is now the President of the National Congress of American Indians.

### **House-Banked Card Room Multiple Ownerships**

**Director Trujillo** explained the House-Banked Card Room Multiple Ownerships report was provided as a follow-up to Senator Conway's questions about the House-Banked Card Room Activity Summary Report that was presented at the October meeting. The memorandum reflects two different types of information. One is for house-banked card room businesses in which the businesses and the premises have common ownership, or the business owns the premises. The second is for house-banked card rooms that are commonly owned by a single person or persons. Attachment A indicates which businesses and premises have an ownership in common and Attachment B is broken up by the common ownership. For example, Nevada Gold has 11 properties; Evergreen Gaming has 4 properties; and Steve Michael has 3 properties. The report was not meant to convey anything besides information.

**Senator Steve Conway** asked which year the net income was for. **Director Trujillo** replied he thought the net income was for fiscal years ending 2013. **Assistant Director Griffin** said it was for fiscal years ending in 2012. She explained that each organization can have its own fiscal year end so not all of them are December 31 or June 30. The information is for whatever fiscal year that entity had that ended in 2012. **Senator Conway** assumed all the businesses listed were still operating except one that ceased operation under Steve Michael on September 30. **Assistant Director Griffin** affirmed that was correct. **Senator Conway** said it was important for the Commission to understand the industry here as much as anything. He said the list was a section of the industry, not all the card rooms were seen, and he was curious to what extent, when all the different card rooms were listed, of those that have relationships between or a similar owner in different places. **Director Trujillo** agreed, adding that recognizing those relationships was important to be able to understand the industry in its entirety.

**Director Trujillo** shared that he was asked how a business that continues to lose money year after year stays in business. He explained he equated it, on a very much reduced scope, to a person that has two rental properties; a rental property that constantly loses money, coupled with a rental property that sometimes makes money. In the long run, they kind of break even, even though one was always losing and one was making a profit. That is a very simplified explanation for various circumstances that could lead to a year after year loss.

**Chair Amos** welcomed Representative Gary Alexander to the meeting.

**Director Trujillo** reported the monthly update reports were fairly standard. He pointed out some news articles, which demonstrate why it was so important for the Commission to have the strategic discussion last month. There were several articles regarding the state of Washington. There was so much happening around the country, and just being aware of that helps the Commission respond to what could be coming this way. Director Trujillo drew attention to the following news articles:

- The Gambling Commission issued a verbal warning to organizers of a poker event to raise funds for the re-election campaign of a Battleground city council member because the way they were doing the event was not correct.
- “Franklin County Court Administrator investigated for running an illegal betting pool.” In Washington, it should not have been done the way that it was.
- The Nisqually Tribe’s Red Wind Casino's expansion and the Centennial Accord that was held there recently.
- The Tulalip Tribe's gift giving of \$6.9 million to nonprofits.
- G2E and the state of online gaming in 2013 was a fairly lengthy article, but it explains what was going on in Nevada, New Jersey, Delaware, California, online gaming, and casino gaming. It really is a synopsis of what is occurring nationally or beyond the boundaries of Washington State.
- The Drawing Dead article was a poker documentary and showcased two opposing points of view. One point of view was a person who was on track to be another Tiger Woods, who had suffered a heart attack at a very early age and found he had the ability to make money in online poker and did very well at it. Contrast that with another person who basically did a walk-across-America to draw attention to problem gambling by showcasing his own problem with gambling.
- A general article about a study from the Economic Times about Americans spending \$2.6 billion gambling online in 2012. Director Trujillo said he had not looked into the veracity of the study but thought it was a very interesting article.

**Director Trujillo** said that staff would continue to include the news articles in the agenda packets. He asked if there were any comments about these news articles based on the strategic topic discussion at the October meeting.

**Commissioner Stearns** thought the Wall Street Journal article was interesting. When they looked at 4,222 casino customers just 2.8 percent or 119 customers provided half of the casino's income and 10.7 percent of the customers provided 80 percent of the casino's revenue. That shows what the breakdown is of people who gamble and people who help sustain the industry.

**Director Trujillo** agreed it was very interested reading.

### **Business Licensing Services**

**Director Trujillo** explained the memorandum in the agenda packets goes along with continuing efforts to inform the Commission of staff’s work with the Business Licensing Services. In 2009, the Legislature tasked the Office of Financial Management with

consolidating, or looking at consolidating, business licensing functions that are performed by various state agencies. Staff began exploring that option soon thereafter with Department of Licensing's Master License Services, which then moved to the Department of Revenue with Business Licensing Services (BLS), who staff has continued to work with. Assistant Director Griffin and her team have met with them many times since 2010. At the last session, there were some requirements that state agencies were supposed to provide to Business License Services, or Department of Revenue, just to keep the project moving. One of the reasons it was difficult for the Gambling Commission as an agency to initially participate was the complicated structure of its license fee system. That, coupled with the Department of Revenue's computer system, did not mesh well. The Department of Revenue was in the midst of transitioning from their old system to their new system. Staff will continue to explore and partner with them, and may be able to take advantage of that system beginning in 2017 when the Department of Revenue gets it online. Washington State is moving towards providing unique services to its citizens or consumers and "My Account" is the Gambling Commission's version of providing that unique service to those who access that system.

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

**Problem Gambling Public Service Announcement (PSA)**

**Director Trujillo** introduced Ms. Susan Newer who was in the audience and who prepared the information for this topic. Ms. Newer prepares many of the periodicals that are shared with the Commission. There were two PSAs, one was for underage gambling and the other was for dog fighting. He introduced Ms. Maureen Greeley, President of the National Council on Problem Gambling, who has offered to come up and share some information with the Commission. One of the bullet points on page 3 of the memorandum explains that three of the reporters requested to collaborate with the Gambling Commission on a dog fighting case. Agents in the eastern regional field office coordinated a ride along with KOMO when arrests were made at a cock fighting bust in August 2013. At 11:30 last night, KOMO aired a follow-up to that, which Director Trujillo would like to show. It is a very short presentation, but it is very interesting. He explained there was a Romanian princess involved, which KOMO refers to as the backyard princess. Not only were the PSAs well received, which can be seen by the comments, but it resulted in some follow-up and raising the awareness.

**Commissioner Stearns** said it was better than some other ones. **Director Trujillo** explained that once the video was shared with the Commission, Ms. Maureen Greeley would like to come up and share some things with the Commission.

*[The KOMO4 video on cock fighting was played.]*

**Director Trujillo** said the video was a result of something that Gambling Commission agents worked on with several other agencies; it had multi-agency and multi-state impacts.

He said staff has enjoyed and are proud of the partnership with the problem gambling organization and that it was nice that Ms. Greeley was present today.

*[Four Public Service Announcements were shown]*

**Ms. Maureen Greeley** explained the background on the PSAs. She said the newer (inaudible) with Cheryl Wilcox (inaudible) partnerships (inaudible) to test the waters. She wanted to see (inaudible) some of the (inaudible) radio and television; would she see a change in the number of people who were actually seeking treatment. They got that with the dog fighting, in addition to a lot of people calling her. That was a very emotional one for people because some people did not want to see the dogs or be shown that side of life, and other people called saying they thought they knew where somebody was doing dog fighting or cock fighting. Ms. Greeley was able to share that information with the Gambling Commission. Those partnerships were greatly successful and, in fact, a couple of the PSAs were going to continue to air through the end of the year, which she was excited about. It did push the needle. Ms. Greeley said she talked with Cheryl Wilcox yesterday at the Problem Gambling Advisory Committee Meeting. Assessments were up in Washington State on average 15 percent and a couple of their treatment providers saw an increase of up to 50 percent of people seeking treatment. So they knew that it was successful in getting awareness out there and in getting the Helpline number out there so people could seek help. She hoped to be able to continue to do that, but it does take money and it does take partnership. Ms. Greeley was hoping to be able to continue to partner with both Division of Behavioral Health and Recovery (DBHR) and with the Gambling Commission. She wanted to share with the Commission some of the other partnerships, which she was very excited about, because she knew there was a commitment to continue to look at problem gambling and responsible gaming.

Ms. Greeley said they were in Spokane this time last month for the fifth annual Tribal Problem Gambling Awareness Conference hosted by the Kalispel Tribe. The conference is highly supported by Washington Indian Gaming and by a number of tribal family health (inaudible) behavioral health services programs. Some people from Vancouver, BC, who work with First Nations and aboriginal groups, asked to meet about the first international conference on First Nations and tribal problem gambling and responsible gaming. Ms. Greeley was excited about how much that has grown.

Ms. Greeley said she was talking to a number of people last week through the Recreational Gaming Association membership. Washington Gold and Great American properties were the first to step out and actually host a responsible gaming training for their employees. Ms. Greeley said they trained more than 1,200 employees at Washington Gold and Great American properties in Washington last week. Along with Victor Mena and Dolores Chiechi, she has been trying for about five years to get the responsible gaming certification program launched in this state, so it was very exciting for her to share with the Commission that it is now officially launched in a very great way. Ms. Greeley asked if there were any questions about the PSAs or the problem gambling programs in Washington State.

**Senator Conway** said he was curious if the program was reaching out to the language specific stations as well (inaudible) Spanish speaking or (inaudible). **Ms. Greeley** replied that because of budget, they had not in the past, but they are partnering again with the Division of Behavioral Health and Recovery (DBHR) and they just mentioned yesterday that they were going to try their first Spanish PSA. They have done a number of different Asian dialects in print publications, but have not done anything but some posters and brochures in Spanish. They have an opportunity to do a PSA in eastern Washington, which will probably be airing in March in conjunction with Problem Gambling Awareness Month. Ms. Greeley said she would love to do more.

**Commissioner Stearns** said he lives in Auburn near the casino. Currently at the Muc Mart (Muckleshoot Market) there is a huge banner and a little further up the street by the Federal Aviation Administration (FAA) is another banner. They are really excellent pieces of work. **Ms. Greeley** thanked Commissioner Stearns, adding the Muckleshoot banner goes all the way around its fence right at the gas station there. The Muckleshoot and Tulalip Tribes have some major programs with outreach and awareness in their own communities. (Inaudible) was the first Tribe to do (inaudible) billboards and banners, so Ms. Greeley has had a lot of (inaudible). Some have cultural (inaudible) and some are just for the general (inaudible). It was a really (inaudible) continue that with them as well.

**Chair Amos** thanked Ms. Greeley for her presentation.

**Ms. Amy Hunter** said she wanted to publicly thank Ms. Susan Newer for all of her work (inaudible). Ms. Newer gets little bits and pieces of ideas from people, but she is really the one working very closely with the Council. Ms. Newer really has (inaudible) true love for animals, and when they were looking for different topics to have, she talked about animal fighting (inaudible) other literature that she had received. Ms. Newer did a lot of additional follow-up so they could do that, and it was really great to see it be so successful. Ms. Hunter wanted to thank Susan for all of her work, not only on this but on all of the different publications that the Commission sees. Ms. Hunter said she really appreciated all Ms. Newer's expertise.

**Director Trujillo** asked the Commission's permission to finish the strategic discussion at the January meeting because the minutes were just completed yesterday. He also suggested holding two or three topics throughout the year to look at what was happening and to determine how best to respond. A suggestion was made at the October meeting to have a game of the month for demonstration purposes, so staff was anticipating sharing a non-proprietary game beginning in January, and then have a different one every couple of months thereafter, which would help with the foundation for making decisions in the future. **Chair Amos** replied he thought that was an excellent idea. **Commissioner Stearns** also thought it was a good idea.

***Electronic Gambling Lab Report (PowerPoint Presentation)***

**Mr. Paul Dasaro**, Administrator of the Electronic Gambling Lab (EGL), thanked the Commission for the opportunity to come before them today and talk a little bit about Tribal Lottery Systems (TLS), the gambling lab, and the work that his staff does in relation to them. Mr. Dasaro explained he has been the administrator for five years, and prior to that he was the lab senior engineer for eight years. He worked in private industry as an IT specialist before his state service.

Mr. Dasaro reported the Electronic Gambling Lab is responsible for conducting technical evaluation and analysis of electronic gambling equipment. The lab is a sub-unit of the Tribal and Technical Gambling Division under Assistant Director Julie Lies, and is the subject matter experts on electronic gambling. They provide technical support to tribal and state gaming agents with electronic gambling regulation, and also provide the technical expertise necessary to enhance and improve the regulatory process. The lab is composed of six engineer staff, a senior engineer position that is currently vacant, and the lab administrator. Because of the highly technical nature of their work, all lab staff are titled as engineers, but are officially Information Technology Specialists who are IT jacks-of-all-trades. While many IT people specialize in one particular field, lab engineers must be knowledgeable in many different technology disciplines because virtually all electronic gambling equipment is run by computers and many of them are very complex. To successfully regulate these systems, the lab engineers must be able to understand all aspects of their operation, including hardware, software, databases, networks, and security.

On average, staff process about 600 equipment submissions, investigations, and inspections per year. The vast majority of their work, over 98 percent, is dedicated to Tribal Lottery Systems (TLS), which are an electronic version of electronic scratch lottery tickets. Paper scratch tickets can be purchased from retail locations over the counter or from vending machines and then are scratched by the player to reveal the whether they are a win or loss. The TLS are an electronic model of this basic process. Although they appear from the outside to be slot machines, they operate under the hood very differently. In Las Vegas style slot machines, the win or loss result is generated from a piece of software that sits inside the machine and players are essentially playing against the machine, not against other players. In TLS, the win result comes from a centralized computer system that acts as an electronic model for the processes of creating and distributing physical scratch tickets. Since multiple machines are pulling results from the computer system, players are essentially competing against each other for the winning results. At its most basic level, the system consists of a manufacturing computer that creates and randomizes the win/loss results and the scratch tickets, and a central computer that distributes the scratch tickets to player terminals on the floor as players play. The player terminals resemble slot machines. Because Tribal Lottery Systems are not allowed to dispense cash to players, a cashless accounting system is connected to the machines on the floor.

Inside a stand-alone slot machine is a random number generator, which is a piece of software or firmware that is responsible for generating random win/loss results that are delivered to the player. As the player plays, the random number generator is working to

create those win/loss results, so essentially the player is playing against the machine. In the TLS world, things are much more complex. There is a manufacturing computer usually in a back room in the facility that is responsible for creating and randomizing those tickets, and a central computer that is responsible for delivering the tickets to the machines on the floor. The manufacturing computer creates the tickets and delivers them to the central computer where they sit in static form. The tickets are not randomized at that point; they just stay in the same format. Then the player terminals on the floor receive the tickets from the central computer as players play. Each time a player hits the button, whatever ticket happens to be next in line gets delivered to the machine, so the players are essentially competing against other players for those winning tickets.

All the TLS requirements are defined within Appendix X2 of the Tribal-State Compacts. Appendix X2 is a very detailed technical standard and establishes the requirements for the structure, operation, security, reporting, testing, and approval processes for Tribal Lottery Systems. It also establishes the number of machines that are allowed per tribe, regulatory fees, payments to charities, community impacts, and creates a dispute resolution process. Appendix X2 and its predecessor, Appendix X, were the result of agreements between tribal leaders and the Governor. Tribal Lottery Systems and some of the requirements of Appendix X2 are quite unique within the global gaming industry. Only a few other jurisdictions in the world are mandated to use these types of systems. Most other jurisdictions use slot machines or something similar. Tribal Lottery Systems account for well over 90 percent of tribal net receipts from casino gaming that occurs under the Tribal-State Compacts in Washington. Section 10 of Appendix X2 establishes the testing and approval requirements for all TLS equipment. An independent lab must first certify that the equipment complies with the technical standards of Appendix X2. Currently, there are three independent labs authorized to provide testing.

Sometimes the phrase "sponsoring tribe" was used by the industry in Washington State. The sponsorship concept arose from the Appendix X2 requirement that independent lab fees must be paid by a compacted Tribe. That process is intended to ensure the independence of the testing labs. In addition to the independent lab certification requirement, Appendix X2 mandates that the state gaming agency, the Gambling Commission, must approve or disapprove TLS equipment. While Appendix X2 allows the state to perform its own testing to determine compliance, the majority of equipment submissions, around 75 percent, are not substantively tested by EGL prior to approval. EGL staff relies in those cases primarily on the independent lab results. The equipment submissions that EGL does not test are generally those that staff has determined to be a relatively small risk to the Tribes and to the public. Some examples of that would be new game themes and minor software modifications. For those components and features that were deemed to be high risk, EGL does perform some testing on them. This testing verifies the independent lab results and helps to keep them accountable. It also allows EGL to gain a deeper understanding of the technology. That knowledge is critical in establishing EGL's own regulatory processes, including performing inspections and providing internal control recommendations. The

testing has allowed EGL staff to identify non-compliance in almost every new TLS that has been submitted into the state.

Appendix X2 also establishes time limits on the Gambling Commission issuing its approval, and if those time limits expire with no action from EGL, the equipment is automatically considered to be deemed approved. The limits are 15 calendar days for modifications of existing equipment and 60 days for new systems. No other gaming test lab, public or private, with the possible exception of New Jersey, operates with a statutory or compact mandated time limit, the expiration of which results in an automatic approval of the gambling equipment. That puts a lot of pressure on EGL staff.

The lab's most important role is supporting tribal and state gaming regulators and their work of regulating the equipment. As the agency subject matter experts, staff provides many services that help to ensure the Washington Tribal Lottery Systems are well regulated. When new technology is proposed by the manufacturers, EGL staff is often asked to perform a preliminary analysis to determine if there were any potential problems with security or compliance before they enter their development and submission process. EGL staff's technical knowledge of the systems helps gaming agents to investigate compliance related incidents and, occasionally, criminal cases. EGL works with tribal gaming agencies and the manufacturers to identify the cause and to implement fixes statewide. EGL staff identifies risks to the systems that could put the system or patrons at risk. Doing so has allowed staff to find things that could allow potential attackers to cheat the games, steal money from the casinos, or cover-up these activities. EGL also provides training to both tribal and state regulators as part of division-sponsored TLS classes and, informally, an individual tribal gaming agency basis. Intermediate and advanced TLS training classes give gaming agents in-depth, hands-on experience with the systems that they do not typically get in a live casino environment. EGL is also involved in technical inspections, which are absolutely critical for regulating TLS, in cooperation with regulatory staff. EGL helps them in the development of those inspection checklists.

EGL assists regulatory staff in the development of internal control recommendations, which can be used by tribal gaming agencies as they develop their own controls. Staff also keeps abreast of developments in computer security. Most EGL staff is trained in common hacking techniques and security weakness and use that knowledge when analyzing TLS systems, security standards, and recommending improvements to them.

Mr. Dasaro cleared up some misconceptions. EGL is not purposefully replicating the testing of the independent test labs, but relies on the independent test labs for the majority of the low-risk submissions that come into the lab. EGL's review and testing procedures are primarily focused on identifying the best way to regulate the technology for the high risk submissions that are tested. The procedures are necessary to gain an in-depth understanding of that technology. EGL does not test or review things that are outside state jurisdiction, such as player tracking systems, slot management systems, or Class II electronic bingo. Staff does ensure that any communications between those systems and the TLS are well

protected and does not in any way influence the operation of the gambling system. EGL also does not perform quality assurance testing for the manufacturers, determine if the game is pleasing to the eye, or if it appeals to the 21 to 30 year old age demographic. EGL's focus is on compliance, security, and ensuring that TLS is well regulated.

Various process changes have been instituted over the years to improve the submission times, while at the same time maintaining effectiveness. Many of these changes were in direct response to suggestions expressed by manufacturers and tribes regarding EGL processes. Those changes have allowed a quite significant time reduction to almost half of what the Compact mandated time limits were. One change was a required action notice, which was if staff encountered a problem with an equipment submission that prevented continuing the review. Typical problems include mixing documentation, inoperable software, and communication problems within the system, which are pretty frequent. Almost 25 percent of all the submissions received have these issues. A required action notice must be issued on those. Because of the tight timelines, staff does not have much time to fiddle with ensuring that it is up and running and working properly, but it keeps the process moving forward and keep things going through the system and getting approved.

EGL also performs documentation-only reviews on something that is considered to be low risk and is submitted by the manufacturer. EGL staff reviews the independent lab certification and the manufacturer's documentation, and then issues an approval. About 70 to 75 percent of total submissions are processed in this manner. A peer review is an internal process where new system submissions, especially the more complex ones, are reviewed by another engineer in the lab who is looking for problems with the submission, clarifications of documentation, and making sure that all the steps were followed during the testing process. Changes are being made with how staff plans and prepares for major submissions through project management techniques, which was a specific recommendation from a manufacturer. Mr. Dasaro thought it would definitely help in making sure that those submissions were planned accordingly.

Testing teams have been formed by cross training staff. Previously there was one person assigned to one manufacturer, but now Mr. Dasaro has expanded that to have two or more staff trained on specific manufacturers. That gives flexibility so one engineer could keep the process moving forward in case another engineer is busy or on vacation. He has also made various changes to how submissions are processed administratively that have also helped keep things pretty efficient. EGL's work helps keep Washington one of the most effectively regulated gambling jurisdictions in the country. Identifying major non-compliance issues in most of the new TLS has helped ensure that the systems are safe for players, that they meet the standards set forth in the Compact, and that they minimize the financial risks to the Tribes that are operating them. Problems that are identified in the lab generally get fixed before the TLS are installed, which helps keep the systems more reliable before they are put out in the field. Process changes have improved submission processing time to the point that the vast majority of submissions are completed well within the Compact mandated time limits of 15 and 60 days, and have allowed more efficiency in getting submissions out the

door and keeping things moving. Knowledge of electronic gambling gives the agency a valuable tool in dealing with the challenges of technology, which is a constant thing heard in the gaming industry. Technology is becoming everything, and the complexity of this technology will continue to grow. To effectively regulate it, staff definitely needs to understand it at the deepest possible level.

**Commissioner Simpson** asked if there was a range of payouts that were required of the Tribal Lottery System. **Mr. Dasaro** replied that Appendix X2 mandates a minimum payout percentage of 75 percent, which means that during the life of the game, which is the stack of tickets that have been created, 75 percent of that value has to be returned to the players in the form of prizes. What has been seen in actuality is similar to commercial gaming jurisdictions where the actual payout percentage averages around 90 to 92 percent, which is still a pretty good guaranteed return to the casino of between 10 and 8 percent.

**Commissioner Simpson** said that, if the minimum was 75 percent, whoever was operating the system could decide what theirs was going to be up to that requirement. **Mr. Dasaro** affirmed. The way it usually works is the manufacturers establish a range of payout percentages that are available to the operation, and then the operation could choose among those. Typically, the payout percentages available are between 88 and 95 percent, but can sometimes be lower or higher.

**Commissioner Simpson** asked about a graphic Mr. Dasaro showed that described the way the information flowed from one computer to another and then stacked the tickets in there in a randomized order. He thought the timing of when the player pushed the button was really the determination of whether they were a winner. There must be some other randomization if they are simultaneous. If there are 1,000 people playing and 100 of them push the button at the exact same time, there must be some other randomization that is taking place in the background. **Mr. Dasaro** responded that he was explaining a computer network, which is kind of like having a website and 100 people on the internet and they all happen to click on it at the same moment. The system threads this information out, so whichever message it first receives, will be processed first – it is in milliseconds, so it would be possible there could be 100 people that could do that. The system knows, and as soon as it receives that message from that machine, it responds. It cues everything in a certain order and sends it out in whatever order it was received so there should not be any randomization at that point. Whatever the system receives next is the next one that it sends out. **Commissioner Simpson** said it was literally the length of wire between that and that. **Mr. Dasaro** affirmed it could definitely have an impact. The quality of the network switches that exist in the system and the speed of the computers that are processing that information all have an impact.

**Senator Conway** said he has never visited the Electronic Gambling Lab and asked if once a game was approved, it was approved for all the tribes. The testing certification and approval – a lot of the tribes use the same games. **Mr. Dasaro** affirmed. The manufacturer submits it to the EGL, then staff performs the review and approves it. It would be approved for all of Appendix X2. It would be available for any of the tribes that would want to put it into play.

**Senator Conway** asked if EGL would be testing the main computer or all the hardware. **Mr. Dasaro** replied that every component that goes into the systems get tested either by EGL, an independent lab, or by both depending on the relative risk of what was submitted. **Senator Conway** asked if EGL does site visits after they have tested a game, or if they do random audits. **Mr. Dasaro** replied that the Tribal Gaming Unit, which contains the Gambling Equipment Specialists, actually does the audits. They are a group of gaming agents who are specifically trained to perform audits of the systems in the field. They get training from the lab, but are also sent to advanced information technology training. That team is primarily responsible for conducting the reviews in the field and work with the tribal gaming agencies. Besides the training, they are provided with checklists to perform the audits. The systems are inspected on a fairly regular basis.

**Senator Conway** said he was interested in Mr. Dasaro's comment about hacking, and asked if the National Security Administration could be hacked, how did Mr. Dasaro know there was not hacking going on using the computers here. He asked how that was monitored. **Mr. Dasaro** replied it was the kind of thing that certainly keeps him up at night. One unique advantage in Washington State was that the Tribal Lottery Systems were physically isolated from most external networks. If someone were going to hack into the system, typically they would have to be a trusted insider or something like that. The only way to get to the system was to be physically present in the casino and get past the physical security that exists that would allow them to plug in. A lot of staff time is spent reviewing the new and more complex systems, looking at how a system is secured, and what the relative risks were to hacking and viruses. That is a lot of what is done as far as inspection checklists, internal controls, and things of that nature to ensure that that possibility is as minimized as it possibly could be.

**Chair Amos** said he had been thinking about this for awhile and Mr. Dasaro had said that the random number generator sends it to a main computer and players are playing against other people. He asked if there were 10 or 15 lone wolf TLS machines on a bank were they all playing against each other. He asked whether, if there were other types of machines that were involved in winning against the Lone Wolf, it was the Lion King or whatever that was. **Mr. Dasaro** explained that in Washington State, the way the TLS work is there is a particular game theme like Lone Wolf, or whatever, but most of the time those machines on that particular bank on that particular game theme are all playing from the same group of tickets. It was certainly possible with the many different types of technology implementations that there are multiple different game themes that are all pulling from the same tickets, but generally speaking, each game theme has its own set of tickets that it uses for play. One of the misconceptions that Mr. Dasaro has seen when out at the casinos is players will go up to a machine, play on that machine for awhile, and then walk over to the machine next door with the same game theme, and start playing from that one, looking for the lucky machine. But what they do not realize is that, because the machines are Tribal Lottery Systems, each machine still pulling the win/loss results from the same location so it does not matter which machine they are sitting at, the results were going to be the same. It

was all dependent on when one player pushes the button relative to the other people who happen to be playing the bank at that same time.

**Commissioner Stearns** asked if Mr. Dasaro got the chance to give the manufacturers feedback on how to make their games better. **Mr. Dasaro** replied he does not really give them information on what games work better; the real focus was on the compliance aspect of it. If EGL sees something during their testing that was more physical or more visual, something that might be appealing or was weird, staff would definitely let the manufacturer know. On an informal basis, manufacturers were certainly told whether staff loved a certain game or hated a certain game, but that has no impact on what the manufacturers decide to put out.

**Senator Conway** asked if the payout was per game. **Mr. Dasaro** replied the payout was usually per game set, which is one stack of scratch tickets. Usually one machine will be able to play multiple different game sets depending on the bet amount, so if players bet one credit, their payout percentage may be 90 percent. If players go all the way to the maximum bet, which could be 45 credits or 90 credits, that payout percentage would be higher. Usually the payout percentage is dependent upon the bet level the player was making; how much they were betting. Typically the more they bet, the higher the payout percentage, or the more they lose. **Senator Conway** asked if, when talking about the payout per game, it had nothing to do with any other timeframe except the game's timeframe. **Mr. Dasaro** affirmed it was basically whatever was going on at that time. **Senator Conway** said there could be a game sitting there and not being played for months, much like the pull-tabs where some pull-tabs are gone through real fast, while other pull-tabs are gone through real slow, so it could be the same with these games. **Mr. Dasaro** affirmed. There were games out there that had been there since he started 13 years ago and there may be machines that still had the same game set running on it for 13 years straight. It just depends on how much play it gets.

**Commissioner Simpson** asked whether, in pull-tabs, there was some kind of indication of what the winning percentage was. There are a total number of tickets, the total payout, and they even show what has been won, so players can calculate. **Mr. Dasaro** replied he was not much of an expert on pull-tabs, but he knew that when a certain dollar value was won on pull-tabs, it was required that the dollar value to be marked off the flare that was displayed to players. Somewhere there was going to be a flare that showed what win amounts were available in that set of tabs, and when one of those wins got hit, the operator had to mark it off the flare. **Commissioner Simpson** asked if there was any similar requirement with the TLS. **Mr. Dasaro** replied there was not, it was one of the things that Appendix X2 did not address. If there is a single jackpot scratch ticket in a game set, and there are a million tickets in the game, and that jackpot is the first ticket that comes out, the other players are not going to know that. The casino is not going to know that either, because that information cannot be available to anybody until the game set is completed. There could definitely be a prize listed on the flare of the game that was unavailable to the players because it had already been played out.

**Chair Amos** asked if there were any other questions; there were none. He thanked Mr. Dasaro for his presentation.

### **Approval of Minutes - October 8, 2013, Regular Commission Meeting**

**Chair Amos** asked if there were any corrections to the minutes or a motion. **Senator Conway** pointed out a correction to his title; he should be listed as Senator not Representative.

**Commissioner Stearns** made a motion seconded by **Commissioner Prentice** to approve the minutes from the October 8, 2013, Commission meeting as corrected. *The vote was taken; the motion passed with four aye votes.*

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

#### **New Licenses and Class III Gaming Employees**

**Assistant Director Griffin** explained that a new house-banked card room application was received on November 4, 2013, for the Lucky Ridge Casino in Kennewick, which brought the total number of licensed and operating house-banked card rooms to 53. She pointed out a pre-licensing report for WMS Gaming, who is a Tribal Lottery System manufacturer. WMS has been licensed since 2000, but Scientific Games, a publicly traded company, recently purchased 100 percent of the shares of WMS, thereby triggering a licensing event. Staff's pre-licensing investigation included an onsite review at Scientific Games headquarters in Alpharetta, Georgia, and all substantial interest holders were identified and qualify. The source of funds was investigated and determined they were from qualified sources. AD Griffin noted that Special Olympics was listed for their enhanced raffle license on the New Licenses and Class III Gaming Employees list, which was the first time an enhanced raffle license had been issued. Staff recommended approval of all new licenses and Class III gaming employees listed on pages 1 through 21.

**Commissioner Simpson** made a motion seconded by **Commissioner Prentice** to approve the new licenses and Class III employees listed on pages 1 through 21 *The vote was taken; the motion passed with four aye votes.*

#### **Garfield High School Parent-Teacher-Student Association - Raffle Plan Approval**

**Assistant Director Griffin** reported that Garfield High School's Parent-Teacher-Student Association (PTSA) submitted a request to exceed the raffle prize limit. Commission rules limit the value of a single raffle prize to \$40,000 unless the licensee can show good cause. Prior to offering raffle prizes, the licensee must submit a written raffle plan for review and approval. The information required in the raffle plan is outlined in WAC 230-11-067. AD Griffin reported that Garfield High's PTSA was committed to helping ensure the best possible education and experience for its students. They try to raise about \$300,000 a year to assist with teachers' classroom equipment and supplies, provide money for special programs to help students that are behind their peers academically, and support student clubs and sports. Garfield High PTSA

would like to offer a Tesla S sedan worth about \$90,000 or \$50,000 in cash as the grand prize. The drawing would be held in conjunction with their annual school auction on February 28, 2014. Raffle tickets would be sold for \$100 each and three smaller prizes would be offered in addition to the grand prize. If ticket sales fall below 900 tickets, Garfield High PTSA anticipates the grand prize to be offered would be \$40,000 in cash, rather than the car. Garfield High PTSA has a class F raffle license through October 14, 2014. Staff recommends Garfield High PTSA be allowed to exceed the raffle prize limit as requested.

**Commissioner Stearns** asked what happened last year in terms of regulatory, what the result was. **Assistant Director Griffin** replied a warning letter was issued.

**Commissioner Simpson** said he was curious where the prize limitation came from and what the rationale was behind the Gambling Commission saying \$40,000 was the magic number. **Assistant Director Griffin** replied she did not have that information off the top of her head. **Senator Conway** replied it was statutory. **Commissioner Simpson** asked when it was put in place. **Director Trujillo** thought that particular requirement had been there as a check and balance, because the Legislature wanted a second set of eyes to take a look at raffle plans that were greater in scope, involved a large raffle prize, or involved large raffle prizes within a year period. **Senator Conway** added the Legislature actually dealt with raffles a lot. And you know, (inaudible) -- it's statutory. He recalled one issue where state employees wanted to have a raffle but it was in the statute that they could not. The Legislature has had considerable discussion around raffles at different times and will be looking at enhanced raffles next. Senator Conway thought the limit was in the statute and that it had been changed recently. The Legislature does adjust the raffle prize up at times. **Assistant Director Griffin** affirmed the raffle prize limit had recently been raised. Having the \$40,000 individual prize limit go before the Commission for approval was kept, but the license year limit was increased to \$300,000 from \$80,000 before they had to come before the Commission for approval. So any licensee that wants to offer prizes more than \$300,000 during their license year has to come before the Commission for approval.

**Assistant Director Griffin** said that Mr. Sherburn, a representative from Garfield High School Parent-Teacher-Student Association, was present to answer any questions.

**Commissioner Simpson** asked if it would be permissible for Garfield High to hold five \$40,000 raffle events in a year if they had a certain amount of money they wanted to raise. Was there a limitation on the number of those? **Assistant Director Griffin** replied there was not a limitation on the number of raffles they could hold. The raffle license was based on gross receipts. The limitation is only on the raffle prize that was going to be offered – a single prize of \$40,000 or more or \$300,000 in overall prizes throughout the year. Prior to raising the limit, there were a few licensees that came before the Commission to ask for approval to offer raffle prizes in excess of \$80,000 during their license year. AD Griffin thought the last request that came before the Commission for approval for offering prizes cumulatively over \$80,000 in their license year was Rocky Mountain Elk Association. She recalled that presentation, noting the association offers smaller raffles continuously throughout the year at their dinners and other various events that they hold. **Commissioner Simpson** asked if the Gambling Commission goes back and audits

the raffle itself to make sure everything was done properly after all the tickets were sold. How does that work? **Assistant Director Griffin** affirmed staff does. **Assistant Director Mark Harris** added that agents perform routine spot inspections or module inspections on smaller raffles. Records inspections are also done on the larger raffle operators every three to four years. **Commissioner Simpson** asked if a specialized one like this would automatically trigger an inspection. **Assistant Director Harris** replied they would most likely already fall under that category range of license class where staff would do a records inspection just based on their volume.

**Chair Amos** asked if there were any questions of the petitioner; there were none. He thanked Mr. Sherburn for coming to the meeting.

**Commissioner Stearns** made a motion seconded by **Commissioner Prentice** to allow the Garfield High School's Parent-Teacher-Student Association to exceed the \$40,000 raffle prize limit. The vote was taken; the motion passed with three aye votes. Commissioner Simpson voted nay.

### **Special Olympics of Washington - Enhanced Raffle Plan Approval**

**Assistant Director Griffin** said this was the first enhanced raffle to come before the Commission. It is different than the regular raffles. RCW 9.46.0323 is the most recent legislation that authorizes the Commission to approve up to four enhanced raffles per calendar year; two in Western Washington and two in Eastern Washington. The location is determined based on where the grand prize drawing was to be held. As outlined in the RCW, enhanced raffles can only be conducted by a bona fide charitable or nonprofit organization whose primary purpose is serving individuals with intellectual disabilities. Enhanced raffles may offer a grand prize up to \$5 million in value and ticket prices cannot exceed \$250. The enhanced raffle may include additional related smaller raffles, or drawings, with related entries such as an early bird, refer-a-friend, or multiple ticket drawings, which are specifically defined and outlined in the RCW. The bona fide charitable or nonprofit organization can contract with a call center to receive enhanced raffle ticket sales, but the call center cannot solicit sales. The call center has to be licensed by the Gambling Commission, and it does not have to be in the state of Washington. The bona fide charitable or nonprofit organization can hire a consultant licensed by the Gambling Commission to run the enhanced raffle. The bona fide charitable or nonprofit organization is ultimately responsible for ensuring the enhanced raffle is conducted in accordance with state laws and rules, and they have to be the primary recipient of the funds raised. They also have to provide a dedicated employee to oversee the enhanced raffle operations, and must have the enhanced raffle and smaller associated raffles independently audited, and provide those audit reports to the Commission. By December 2016, a report must be submitted to the Legislature on enhanced raffles. The legislation expires June 30, 2017.

Assistant Director Griffin explained that WAC 230-03-152 outlines the plan that the nonprofit organization must submit to the Commission for their approval in order to begin their enhanced raffle. She said representatives from the Special Olympics were present to share a what their mission is and what they are planning on using the proceeds for. After their presentation, AD

Griffin said she would then wrap up and give a brief overview of the raffle plan they submitted to staff. She introduced Beth Wojick, the President and CEO of Special Olympics Washington.

**Ms. Beth Wojick**, President and CEO for Special Olympics Washington, thanked the Commission for taking the time to review their request. She reported the Special Olympics was on a mission to provide athletic experiences for those who are intellectually disabled. Less than 1 percent of the population is born this way. There are about 60,000 intellectually disabled citizens in Washington State and the Special Olympics is currently serving 10,000, so they have a long way to go. The other thing that is interesting about her organization is that most of their competitions take place in recreation centers, so they are kind of segregated from the school day. When their athletes are seen around town with the medals on, it seems kind of cute, but it really changes lives and builds self-esteem. And if Special Olympics can be done within a school day, their kids become typical kids, just like everybody else. They are not in the trailer in the back, but are wearing a school uniform and competing in soccer. It is a phenomenal thing to see and it is called Project Unify. Project Unify outcomes include self-esteem for Special Olympics athletes, but also for the typical athletes that compete on the unified sports teams. They grow as mentors for the athletes too, and it actually changes the DNA of a school system. So it can be seen how things spontaneously combust, even without the Special Olympics' support, such as at a unified dance that the partners would put together for the athletes. Ms. Wojick has seen it firsthand, and has had great experiences with Seattle Public Schools. They are now working statewide to increase their athlete base. Ms. Wojick explained the proceeds from this raffle would be used to help increase their athlete base so they can serve more athletes every day. Special Olympics is free for their athletes; they do not pay a dime. Money is raised to currently support all of the competitions for 10,000 athletes, but Special Olympics would like to serve a lot more. That was why they wanted to do the enhanced raffle. She asked if there were any questions and thanked the Commission for their time.

**Chair Amos** thanked Ms. Wojick.

**Assistant Director Griffin** reported the grand prize would be a house valued up to \$5 million, an annuity, or cash. Upon receiving Commission approval for the enhanced raffle, Special Olympics would finalize and secure the house and submit final documents outlining the number of tickets to be made available and the break-even ticket sales based on the value of the house they secure. The enhanced raffle sales will begin in late January 2014 and the grand prize drawing would be held in King County on May 31, 2014. Tickets will be sold for \$150 each, with discounted packages available. There will be three early bird drawings and two smaller associated raffles as part of the enhanced raffle. In total they will be offering 1,406 prizes. Lori Friedt, Vice President of Finance and Administration for Special Olympics Washington, will be the dedicated employee overseeing the enhanced raffle operations. Raffle Administration, Inc. from San Francisco, California will be managing the enhanced raffle for Special Olympics. They hold a service supplier license that was just approved in the package. They will be managing the gambling activity and are contracted to receive 10 percent of the gross revenue of the enhanced raffle ticket sales. Cornerstone Administrative Services out of Portland, Oregon is the licensed call center for the enhanced raffle, and has contracted with Special Olympics to

receive all of the ticket sales on behalf of the nonprofit. For this service, they will be receiving about 3 percent of the gross phone sales for the enhanced raffle. Staff recommends approval of Special Olympics Washington's enhanced raffle for Western Washington.

**Senator Conway** asked if the Commission would monitor this, to a (inaudible). **Assistant Director Griffin** affirmed, adding the Special Olympics has not secured the house. **Ms. Wojick** affirmed they would be monitored greatly and frequently, which they are used to because they are a nonprofit. There are a few items that are yet to be secured in their plan that the Commission will be receiving 15 days out from the raffle. They need to secure the house and some of the other prizes, and get everything in order for the actual raffle itself. She said they were well on their way for those plans right now and she thought the Commission would be receiving them sooner rather than later.

**Assistant Director Griffin** explained that once licensing staff gets the finalized plan, Field Operations agents would take over. AD Griffin thought the field agents had already begun working on things a little, but will obviously then have to work more diligently with them. The independent audit report, which was outlined specifically in the RCW, is due to the Commission within 60-90 days after the raffle. And then there is the follow-up and ongoing regulation and regulatory enforcement of a nonprofit licensee. Staff would have to make sure that significant progress was met for the nonprofit and that they were still meeting their stated purpose.

**Senator Conway** asked if staff would be monitoring the out of state side of the raffle as well. **Assistant Director Griffin** replied they were licensees; that both the call center and the manager are licensed. The individuals at the call center that will be handling the enhanced raffle sales will have to qualify and be individually licensed, because they will be taking and receipting sales for the raffle tickets. **Senator Conway** asked if it was only people from Washington State who could participate in the enhanced raffle. **Assistant Director Griffin** affirmed. **Director Trujillo** asked if AD Griffin's staff actually went onsite to the call center. **Assistant Director Griffin** affirmed. The pre-licensing investigation of the call center included an onsite visit. Special agents in the Financial Investigations Unit had been there, and special agents from Field Operations have been there or will soon be going. **Assistant Director Harris** confirmed the field agents would be going after the raffle had started to do an onsite visit at the call center. **Assistant Director Griffin** added the call center was in Portland, Oregon. **Director Trujillo** said it was very similar to licensed manufacturers that are housed out-of-state. There are ongoing in-state requirements, and then agents periodically conduct onsite visits as well.

**Senator Conway** explained for the sake of those in the audience that this came before the Legislature last session and was passed as a statutory authorization. It is a large raffle. Raffle prize limits were discussed earlier and this goes far beyond those limits. It is basically a new experiment in raffles and the purpose is great. Everyone knows the importance of the Special Olympics, and he thought most of the people in the Legislature recognize the great value that Special Olympics does, and they wanted to find additional revenue for them. The question here is just making sure it operates smoothly and that there is appropriate oversight because of the size of the raffle prizes.

Commissioner Simpson made a motion seconded by Commissioner Prentice to allow Special Olympics to conduct an enhanced raffle in Western Washington. The vote was taken; the motion passed with four aye votes.

**Default: Mario I. Gastelum, Card Room Employee, Revocation**

Ms. Amy Hunter reported that Mario Gastelum was working as a card room employee when he falsified poker tournament records and took about \$600 of prize money from tournaments at RC's Casino during the last year. When the agents talked with Mr. Gastelum, he admitted he had done this and estimated that he had done it several times and took about \$600. The Director issued charges by regular mail and certified mail. The certified mail card came back signed by Mr. Gastelum, so it is known that he did in fact receive the charges. The charges let Mr. Gastelum know that if he failed to respond, this would likely result in a default order revoking his license. He did not respond, so he waived his right under the Administrative Procedure Act. Staff recommends the Commission revoke Mario Gastelum's card room employee license.

Chair Amos asked if there were any questions; there were none. He asked if Mario Gastelum or a representative was in the audience; no one stepped forward.

Commissioner Prentice made a motion seconded by Commissioner Simpson that the Gambling Commission revoke the card room employee license of Mario Gastelum. The vote was taken; the motion passed with four aye votes.

**Rule Up For Discussion and Possible Filing**

**Staff Proposed Rule Change - Clarifying requirements for authorized card games**

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

Assistant Director Harris reported this proposal was to help clarify that more than one "envy" and "share the wealth" bonus feature is allowed to be offered on a single card game, to add some definitions, and to make clarifications to bring the rule in line with current practices. This includes adding definitions for separate game, bonus features, and "envy" and "share the wealth" bonus features. It clarifies that card games and bonus features must be approved by the Director or the Director's designee. The prize in a bonus feature is based on achieving a pre-determined specific hand, and bonus features may not be combined with progressive jackpots. Approved card games must be operated as documented on the agency website. Only one player may place a wager on a wager area in the game of mini-baccarat. Other card game features that do not require a separate wager are considered bonus features. For variations of the game of Pai Gow, a player may bank the game every other hand, as approved in the card game rules. "Envy" and "share the wealth" bonus features were first authorized in house-banked card games in April 2000 as part of the card room enhancement program for house-banked card games. Including the definitions and making these clarifications in the rule will help reduce the number of questions staff receives from licensees. Staff recommends filing the petition for further discussion.

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

**Mr. Victor Mena** asked if this rule would impact any existing games. **Assistant Director Harris** replied it should not change anything; it is just clarifying what has consistently been done in current practice but that had not been addressed in a rule. **Mr. Mena** asked if the existing games that have been approved up to this point all comply with this rule. **Assistant Director Harris** affirmed, with the exception of the part about more than one "envy" or "share the wealth" feature being offered on a card game, which is something that is a little bit new. **Mr. Mena** questioned more than one "envy." **Assistant Director Harris** replied more than one "envy" or "share the wealth." In the past, it had been interpreted to mean that players could only place one wager that would qualify for an "envy" or a "share the wealth" payout. Staff recently got a different ruling that says that the rule could mean that players could have one or more on it, so that verbiage is just being clarified in the rule so that it is clear what it means.

**Director Trujillo** suggested AD Harris explain "envy" or "share the wealth" in practice. **Assistant Director Harris** explained that an "envy" or "share the wealth" would be if in a card game a player places a \$10 wager, and if some other activity or hand gets a different -- say four aces on it -- because the player had the wager out there that was a certain dollar amount, that entitles them to an additional payout of the initial dollar amount. Or if another player's hand had four aces. A "share the wealth" would be if their hand had their aces, they would get an additional payout in addition to everybody else who had a wager out there above that certain dollar amount. It is not a new wager; it is if an existing wager on a current game exceeds a certain dollar amount, then it entitles that player to the additional payout. "Envy" would be if somebody else's hand has it; "share the wealth" the player would also get paid out if it was on their hand. An example would be if a player places an initial wager out there of \$5 in Pai Gow poker that would allow them to play the game. If there is a requirement of the game that says if a wager is placed out there of \$10 or more, that would allow the player to get paid out on an additional prize amount based on the outcome of somebody else's hand. So if the person beside them at the table had four of a kind and there was an "envy" pay scale that said they would get paid \$25 out on that result if they had placed a wager out there more than \$5, then they would get that payout. **Director Trujillo** said they were envious of somebody else's win. **Assistant Director Harris** affirmed, adding it was paid out based on the outcome of somebody else's hand. "Share the wealth" is pretty much the same idea, except they can also get it paid out if their hand also had the four aces in there. In the past, staff thought there could only be one of those. So there could be an "envy" payout based on four aces on that game but if somebody wanted to put an "envy" payout of a full house out there too, they could not put both of those on the same game, at the same time, based on the way the rule was interpreted. But now it has been clarified that the rule actually would allow them to do both of those, so this proposal is clarifying that the existing rule allows them to do that. That is a roundabout way of getting there.

**Mr. Mena** said that satisfied his question.

**Assistant Director Harris** offered to bring to the next meeting an actual example to document and show the Commission how to do it with a PowerPoint presentation or something else. **Chair**

**Amos** said the January meeting would be perfect. **Commissioner Stearns** suggested demonstrating it with cards.

**Mr. Monty Harmon**, Harmon Consulting, said he was speaking on behalf of Safari 21, which is a game of his that the Commission had approved. At present, trying to describe something from this podium with regard to a game and how it operates seems to be very confusing. He was glad that staff was proposing to go forward with some game-of-the-month where the Commission gets to experience the betting and how this all functions. Mr. Harmon saw this subject as important to the card rooms in the sense that card rooms are allowed to have social card games. By putting the definitions in the rules, it has caused certain parameters that have restricted the creativity of the industry, which could restrict the products that are offered by the industry. Specifically, the game Safari 21 has multiple betting spots within a betting area so players can place chips on several different spots in an area in front of them on the table for one game. The illustration Mr. Harmon said he would use is a roulette table. If someone wanted to play roulette and they were limited to a \$300 bet, they could put \$10 on red, \$10 on black, \$10 on a specific number, and that is how the game of roulette is played. With his game, players have a 21 hand and then they also have the ability to stratify their bet up above on this roulette game. Safari 21 was approved in 2006 and was operated within the state legally under the rules at the time. As the rules have changed to accommodate different bets for these creative ideas that the industry has come up with, staff's interpretation for how Safari 21 can be operated has changed, and it cannot be operated in the way it was originally designed.

Mr. Harmon thought it was really important, conceptually, for the Commissioners to understand how the games operate. And before they pass a particular rule with definitions in it, they should have the game-of-the-month experience to help understand exactly what it is that is been approved and why, and what is not being allowed, or what the restrictions are, and if there is a reason to even define and restrict what kind of a social card game this Commission would like the card room industry to have. Mr. Harmon thanked the Commission for listening and asked if there were any questions.

**Commissioner Stearns** asked if Mr. Harmon was for or against this rule change proposal. **Mr. Harmon** apologized to staff because he had been rather busy with some other duties, and enjoyed a vacation recently and is now back and fresh. He said he did not want his boxing gloves on at all. He appreciated and applauded staff's intent to put things out in front. Mr. Harmon said he was against this particular rule because he saw it as restricting and defining what a social card room was in a tighter definition than he would like to see. If he, as a licensee, came before this Commission in the future with this rule approved, say in six months, and he had a newly created game that needed a change to this rule, Mr. Harmon believed this Commission could say this was an expansion of gambling because what is being done is redefining this particular definition within the rule. That caused Mr. Harmon concern, and he thought it put before the Commission several issues as people create new games if the rule is defined too tightly. Mr. Harmon encouraged the Commission to consider possibly allowing staff to continue to work with the definition on social card games, and let the industry determine what flexible rules or what kind of games it would like to see. He did not know that the Commission could

define what future creative people will come up with, but he knew that social card games were allowed. Mr. Harmon said he was against this rule change.

**Assistant Director Harris** rebutted Mr. Harmon's statement a little bit. If this rule did not go forward, all these things in it are current practice, so it would move forward the way it is right now. So by not approving it, all it will not do is put it into a rule form; it wouldn't change anything as far as a regulatory standpoint from staff. So what Mr. Harmon proposed would actually open up what type of games would be out there. It actually would require a change to this rule and would be a lot more substantial than what staff is proposing, which is to just put what is currently being done into the rule, and what is currently allowed into the rule, and not go any further than that.

**Chair Amos** asked AD Harris if, as a staff member, he wanted this filed for further discussion. **Assistant Director Harris** affirmed.

**Commissioner Simpson** made a motion seconded by **Commissioner Prentice** to file for further discussion the proposed amendment to WAC 230-15-040 to clarify the rule to allow more than one "envy" and "share the wealth" bonus feature, etc. *The vote was taken; the motion passed with four aye votes.*

### **Staff Proposed Rule Change - Allowing pull-tab prizes of \$20 or less to be added to cash cards used in electronic video pull-tab dispensers**

Amendatory Section: **WAC 230-14-047** - Standards for electronic video pull-tab dispensers

**Ms. Hunter** explained this proposed rule change would allow pull-tab prizes of \$20 or less to be added on to cash cards when they are used in electronic video pull-tab dispensers. Most prizes are below \$20, which was mentioned in the earlier discussion about when prizes have to be marked off flares. The topic for this rule change proposal will be familiar to many of you, as the reason for the rule change was an issue that the Commission has been dealing with for several years now. This rule change is in response to a recent Thurston County Superior Court decision where the Court directed the Commission to allow a specific electronic video pull-tab dispenser that would permit the purchase of a pull-tab at the dispenser. The new part is it would allow pull-tab winnings of \$20 or less to be added on to a cash card at the dispenser.

The history of the court case shows that this case also went to the Washington Supreme Court. Rather than include every decision that had occurred along the way, on advice of the Assistant Attorney General, staff thought it was probably best to include the Washington Supreme Court case, which was the final order, and then to include the most recent Superior Court case. The Commission's review of this issue actually began eight years ago in 2005 and has led to several court proceedings that have involved many different legal issues. In the rule summary, which hopefully is laid out fairly succinctly, staff tried to focus on how they relate to cash cards. The rule summary has the procedural history of how the case started out with staff disapproval, and then the manufacturer submitted a request to the Commission for a declaratory action back in September 2005. The Commissioners chose to refer the case to an administrative law judge

(ALJ) for an initial order. The ALJ made his initial order but neither party was satisfied with it, so both the manufacturer and the Commission sought final review by the full Commission. The full Commission, as it existed in August 2006, upheld the ALJ's determination that this particular system violated what were then the Commission's current regulations and the Commission specifically disavowed part of the order from the administrative law judge. In August 2007, it went into the judicial process, and the Thurston County Superior Court found that cash cards were equivalent to cash and merchandise and, therefore, were lawful under the Commission's regulations. The Commission appealed this decision to the Court of Appeals who held that "substantial evidence did not support the Gambling Commission's determination that the pre-paid cards failed to satisfy the regulatory definition of cash." The Commission appealed this decision to the Washington Supreme Court who ruled in January 2013, almost two years ago, and affirmed the lower court's ruling. They found that "the Commission erred in concluding that the VIP machine violated then in force regulations." The Supreme Court remanded the matter back to the Commission for proceedings commensurate with its opinion. In March 2013, the Commission issued a final order on remand and ZDI sought judicial review of that decision. In August 2013, the Superior Court for Thurston County reversed the Commission's final order on remand, and among its findings, it concluded that the VIP system was not a gambling device and should be allowed. The Superior Court signed its order on October 18, 2013.

In 2008, the Commission adopted the WAC 230-14-040 setting out the standards for electronic video pull-tab dispensers. At that time, the Commission specifically decided not to adopt language to allow dispensers to add prizes of \$20 or more onto the cash cards. The impact of this rule change is that it would now be complying with the Thurston County Superior Court's Order and would allow the specific manufacturer in question here to basically operate their pull-tab dispenser to have the prizes go back onto the cash card. Ms. Hunter thought it was important for the Commissioners to know that, as the rule change is worded, it would allow other manufacturers to develop similar pull-tab dispensers. Staff has no way of predicting whether any other manufacturer would do this or not. Ms. Hunter emphasized that this was a pull-tab dispenser, which have been out there for many years; it is just a question of the features that are on them. Staff recommends filing this rule for further discussion.

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

**Ms. Joan Mell** stated she was the attorney who had been representing ZDI for the past eight years and the person the Commission would like to get out of their lives. She testified this was not the way to do it and said she was here to urge the Commission not to file this rule proposal at this time, and instead entertain ZDI's invitation, which she assumed had been conveyed to the Commission, perhaps in executive session. She wanted to make a record of it. ZDI would like to sit down with the Commission and agree upon a rule that would satisfy ZDI's various challenges. What was not provided in the staff report was that this particular rule change does not resolve the ZDI litigation and is not needed for ZDI to be able to operate its technology. The Court has ordered that. ZDI has the blessing of the Court in permitting them to operate the technology they had previously challenged the Commission on, so this rule is not needed to resolve that issue. This particular rule was the subject matter of a pending case before Division

II where ZDI had directly challenged the entire section, in addition to a separate rule that defined the term "cash." That other definition was not included in this proposal, so there is a question as to the interplay between those two that does need to be resolved. ZDI would recommend that that definition, which is a very strange definition that was contrived to address some of the arguments ZDI was making at the time, really should be repealed as well.

Ms. Mell said she assumed there certainly was language that ZDI could agree to, if there was a desire to have a rule proposal. But ZDI would urge the Commission to not bring this before the Commission because it would get very confusing for the Commission as it was the first time this rule was proposed. She said Director Trujillo would remember; he had to dance between the original version that was set, and then they got into Alternative 1, and Alternative 2. Ms. Mell said she would just really urge the Commission to sit down with her so they could come to an agreed proposal within the next ten years, that they could really get behind the Commission and support them in their regulatory control. The industry was not against that. She thought what the industry was against, and certainly ZDI was challenging very specifically, was this concept that the Commission is implementing rules that say "you can only do this and you can only do that." When looking at the language here, one of the challenges that was being argued in the Division II case was that this rule says "may incorporate only the features below and not perform additional functions," which is somewhat the same issue that the Commission was struggling with in the prior rule that was proposed in Mr. Harmon's argument. It is very hard, as a regulatory Commission, to say people could only do what was written in the rule because it is a live and thriving industry. In order to make it an industry that serves its purpose, and the purposes that the Legislature has authorized the games to achieve – charitable, nonprofits, commercial stimulants – it has to be ever-changing, and developing, and innovating. If they are stuck with a rule that says it is only x, y, and z, Commission staff are stuck constantly with legal challenges trying to interpret what the words in the rule mean versus what the game is that is actually played and how it is implemented, and what the technology does. It is virtually impossible to describe in a rule the ZDI VIP.

The better recommendation and the better approach as a regulatory body for the Commission that will give the staff the flexibility to implement their expertise and make recommendations to the Commission on technology would be to have a standard that says any feature on any game, including electronic video pull-tab dispensers, must not take away from the regulatory control of the activity. It must enhance the regulatory control of the activity. That has historically often been the legal standard, or the administrative standard, so that it could be measured whether or not these proposals that the industry brings forward would be a good idea. Ms. Mell urged the Commission to not accept this, to come to the table with her and maybe some of the stakeholders, work with the language, and then hopefully it would put to rest this Division II case. There was another question that the Division II case also raised that was not addressed by this specific rule challenge, which was what the voting requirements were. Ms. Mell said there was an issue before the Commission on whether or not it takes three members to adopt a rule such as this. That seemingly was something that probably could be agreed upon and implemented by way of a WAC, and it is not in this proposal. Ms. Mell thanked the Commission for their time.

**Commissioner Simpson** said he was curious about the voting requirement and asked Ms. Mell to explain that a little bit more. **Ms. Mell** responded that when this rule was adopted there were only three members present, and there were two votes in favor and one against. The Gambling Act, RCW 9.46.095, has a provision that specifies for rule proposals that relate to the regulation of licensing there needs to be three votes. Ms. Mell contented that those three votes needed to be unanimous so there was unanimity among those three so there truly was a majority of the voting members weighing in on the issue. There is an interplay legal argument with the Administrative Procedure Act (APA) wherein because the Commission is a multi-member body – a multi-member body is considered and defined as an agency head – an agency head is defined as each and every one of the Commission, so that would be five voting members, so three is a majority. The Commission needs to do rule changes by majority. So that is the issue and the staff's position has been no, two is enough because two is a majority of three; there were three present; that was sufficient. **Senator Prentice** said that was a quorum. **Commissioner Simpson** thought that was interesting. **Ms. Mell** said it was interesting and, unfortunately, the APA does not help them because there is no voting requirement raised in the statute that specific.

**Commissioner Simpson** asked AAG Castillo about that issue. He said he knew that in the legislative committees it has to be a majority of committee members voting in the affirmative to pass a bill. So if there were only three people that showed up to a committee meeting, they could not just have two vote yes and have it pass. They have to actually have a majority of the full committee vote in favor of it. He said he was curious and asked if the RCW was silent about this. **Assistant Attorney General Castillo** responded that, with respect to the state's position on this legal matter, she would be happy to advise the Commission in terms of an executive session with respect to the litigation questions because this was actively in litigation. **Commissioner Simpson** said okay. **Commissioner Prentice** said the staff recommended that the Commission file it for discussion next month. **Chair Amos** affirmed. **Ms. Hunter** corrected that the recommendation was for the Commission to file it today for discussion, and then it could be on the January agenda. **Commissioner Prentice** replied that was what she meant. **Director Trujillo** pointed out that this rule proposal could be discussed for multiple months. Because it was a staff petition, it was not filed one month, discussed one month, then approved or not approved in the third month. It could be filed one month, discussed one month, discussed the next month, discussed the next month, etc., then approved or not approved. There is time to have discussion on the rule proposal.

**Commissioner Prentice** made a motion seconded by **Commissioner Stearns** to file for further discussion the proposed amendment to WAC 230-14-047. *The vote was taken; the motion passed with four aye votes.*

**Director Trujillo** explained that with rule petitions, fairly non-controversial ones would be filed for discussion before the Commission, then the following month it would be discussed at the study session, and then the third month it would come before the Commission for approval. Because this rule petition appears to be somewhat controversial, Director Trujillo asked if the Commission wanted it on the agenda for discussion at the January meeting, rather than just at

study session. And if there was continual discussion that the Commission would like to have based upon the rule summary, it would be included.

**Chair Amos** affirmed this should be discussed further at the January meeting.

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

**Chair Amos** opened the meeting for other business, general discussion, and comments from the public. There was none. He called for a ten minute break at 3:45p.m. and reconvened the meeting at 4:02p.m.

### **Petitions for Review:**

- a. **M&R Euroimports, d/b/a Classic Island Casino, Card Room, Revocation**  
**Greg Rosen, Assistant Attorney General** was present for the state, as well as **Attorney Mike McAleenan**, representing M&R Euroimports.

**AAG Rosen and Attorney Mike McAleenan** provided their arguments in the Petition for Review. A recording and transcript of the hearing is available upon request.

At the conclusion of the arguments, **Chair Amos** asked if there were any questions. There were none.

- b. **Terri M. Mullins, Card Room Employee, Revocation**

**Chair Amos** asked if Ms. Terri M. Mullins was present or a representative on her behalf. No one stepped forward.

**Commissioner Prentice** asked what the Commission's correct action would be for this petition. **AAG Castillo** replied it would be up to Mr. Rosen about whether he wanted to continue to argue this case or just rely on the briefing for this Commission to decide. **AAG Rosen** replied he would like to make a brief record, if the Commission permitted. **Chair Amos** agreed a brief would be fine.

**AAG Rosen** testified his briefing was before the Commission. He wanted to emphasize the point that the mere compilation of the amount of fines that Ms. Mullins has as a result of her civil infractions and her criminal cases is not in and of itself the issue in terms of revocation. The issue is under the WAC and whether the compilation of those fines, specifically her prior activities and compiling those fines and not paying them, and having that large debt, whether that debt creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities in order to relieve her significant financial pressures. The real gist of his theory of this case was that Ms. Mullins could engage in unfair illegal practices in the conduct of gambling activities in order to assist her in paying that large debt. **AAG Rosen** wanted to be clear on the record that there was no evidence to support that Ms. Mullins' had done so, but the WAC provides for revocation if that risk exists. It creates or increases the likelihood of that happening, and **AAG Rosen**

believed that large debt that Ms. Mullins' has does create that risk. AAG Rosen wanted to make sure the Commission was fully informed of Ms. Mullins' pending Chapter 13 bankruptcy that was filed on March 24, 2010 and is still pending at this time. He was sure the Commission had the record as to Ms. Mullins currently participating in a pending Chapter 13 bankruptcy. The Commission was probably aware that the fines that Ms. Mullins accrued as a result of her civil traffic infractions cases. If she successfully completes the bankruptcy, all of those fines would be successfully discharged in the bankruptcy; however, the fines that Ms. Mullins accrued in her three criminal cases are not dischargeable. Criminal fines are never dischargeable in a bankruptcy. AAG Rosen pointed out that Ms. Mullins had not made any payments for quite some time in any of her three criminal cases in which she owes a total of \$1,196. If Ms. Mullins had made some payments, or had demonstrated some tangible efforts in that regard, AAG Rosen said he may or may not be moving for revocation. But despite the fact that Ms. Mullins is in bankruptcy, she still needs to pay the fines that are owed in her criminal cases. Ms. Mullins did not dispute that at the administrative hearing, but said she would pay the criminal fines that were outside the bankruptcy.

AAG Rosen said he had checked with Special Agent Kevin Maxwell last week to see if Ms. Mullins had made any payments. Agent Maxwell informed AAG Rosen that Ms. Mullins had not made any payments, so his understanding was that Ms. Mullins still owed \$1,196 on her three criminal cases, which are not dischargeable in bankruptcy. The only other theory that AAG Rosen had that justifies revocation in Ms. Mullins' case was that because she has not paid off her fines, she has knowingly disregarded the Court Orders at the state level, which also justifies revocation. AAG Rosen summarized that he would respectfully request that the Initial Order by the Adjudicative Law Judge that ordered revocation be adopted by the Commission.

**Commissioner Stearns** asked what the three criminal cases were. **AAG Rosen** replied First Degree Negligent Driving, Hit and Run Unattended, and Driving While Suspended in the Third Degree. The First Degree Negligent Driving and Driving While Suspended in the Third Degree were misdemeanors, so the maximum penalty was 90 days in jail and a \$1,000 fine. AAG Rosen said his recollection for a Hit and Run Unattended was a gross misdemeanor, so the maximum penalty was one year in jail and a \$5,000 fine, unless those penalties had changed in the last few years. He thought that everything else that Ms. Mullins owed was based on a criminal traffic infraction of some sort.

**Chair Amos** asked if there were any other questions; there were none. He asked AAG Castillo what the Commission's next action should be. **AAG Castillo** recommended the Commission go into closed executive session for their deliberations.

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

**Chair Amos** announced that the Executive Session was expected to last approximately 40 minutes and at the end of the executive session the public meeting would be resumed solely for

the purposes of adjourning. At 4:40 p.m. the Commission went into an Executive Session to discuss pending investigations, tribal negotiations, and litigation.

**Adjourn**

**Chair Amos** adjourned the meeting at 5:05 p.m.

Minutes were submitted to the Commission for approval by:  
Michelle Rancour, Executive Assistant