

**WASHINGTON STATE  
GAMBLING COMMISSION MEETING  
TUESDAY, OCTOBER 8, 2013  
APPROVED MINUTES**

**- PUBLIC MEETING -**

**Chairman Mike Amos** called the Gambling Commission meeting to order at 10:55 a.m. at the Spokane Davenport Hotel and introduced the members present.

**MEMBERS PRESENT:**     **Commissioner Mike Amos**, Selah  
                                  **Commissioner Margarita Prentice**, Renton  
                                  **Commissioner Kelsey Gray**, Seattle  
                                  **Commissioner Chris Stearns**, Auburn  
                                  **Senator Steve Conway**, Tacoma

**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  
                                  **Gail Grate**, Executive Assistant  
                                  **Michelle Rancour**, Administrative Assistant

**Director Trujillo** asked Chair Amos to join him at the podium. He recognized Executive Assistant Gail Grate, a long-time staff member, who would soon be retiring. Ms. Grate has been integral to the Gambling Commission for many years. She is kind and very helpful and Director Trujillo wished her well. He said it has really been nice knowing and working with her. Director Trujillo thanked her for everything she has done for staff and for the citizens of Washington.

**Acting Program Manager Jim Dibble**, based out of the Spokane Region Office, said he has been with the Gambling Commission for close to 20 years and has seen a lot of ebb and flow with good times, lean times, times that were very trying, and times that have been wonderful. He said it has been amazing for him to be able to find Ms. Grate on the other end of the phone when he has had to call the Director. She has always been very personable, engaging, and knowledgeable, and always put him at ease. Her smile is contagious and she carries it with her. She has been a wonderful face for the Washington State Gambling Commission over all these years. SA Dibble said he has always considered Ms. Grate as a friend who has always been a great help for him. He wished her the best in the future, adding she has a family at the Gambling

Commission. Staff appreciated Ms. Grate and would always keep those fond memories in their hearts.

**Ms. Dolores Chiechi**, Recreational Gaming Association (RGA), said Ms. Grate had big shoes to fill when prior Executive Assistant Shirley Corbett left the Commission. Ms. Chiechi explained she was there when Ms. Corbett was the executive assistant and thought that was going to be a tough one for Ms. Grate to do. But though her shoes may be smaller, Ms. Grate has done a great job of filling them. She has been tremendously helpful in getting information and sharing information. Ms. Chiechi said they work together real well, and she was going to miss Ms. Grate a lot. Ms. Chiechi congratulated Ms. Grate and wished her the best in her future.

**Chair Amos** said he met Ms. Grate five years ago when Governor Gregoire appointed him to the Gambling Commission. When he attended his first Commission meeting, Ms. Grate said not to worry about anything, that she would help him with anything he needed. She also said the meetings were usually short. The first meeting he attended was at Southcenter and it went until 8:00 that night. There were five or six executive sessions and the last time the Commissioners got up to do another executive session, he walked by Ms. Grate's table and asked her to type a letter of resignation for him before he came out of the executive session. She said it was not that bad, that this was just an exception to most meetings, and that he would be okay. Chair Amos said Ms. Grate has helped him tremendously to get his feet wet and he has enjoyed every minute of it. He wished Ms. Grate well.

**Ms. Grate** thanked everyone for their comments.

### **Agenda Review/Director's Report**

**Director Trujillo** briefly reviewed the agenda, noting that staff was not requesting any changes to the agenda. He indicated that an executive session would be needed to discuss pending investigations, tribal negotiations, and litigation. He explained that Wednesday's meeting would be a Commissioners' Strategic session and would be from 9:30 a.m. to 12:30 p.m.

Director Trujillo pointed out a letter that was received on August 23, 2013, from Governor Jay Inslee directing the Commission to start discussions with the Cowlitz Tribe. He noted that the news articles demonstrated that throughout the country gambling was still making news. One of the articles was about King County filing charges against a former director of a political campaign committee in Washington State for allegedly embezzling, which the director blamed on drinking and gambling. New York appears to be working to expand casino gambling. The number two officer of the U.S. Strategic Command was suspended for allegedly using counterfeit chips at a casino in Iowa. While Nevada was the first state to legalize online poker, New Jersey plans to offer a whole series of online table games. Delaware is also moving forward with online games.

### **House-Banked Card Room Summary of Activity**

**Director Trujillo** reported that the annual report compares 2012 with 2011 activity. In 2012 there were 54 house-banked card rooms; in 2011 there were 59. In both years, there were 4

investigations that were initiated based on those reviews. The supporting data shows 2012 was fairly consistent with prior years in that about 50 percent of the house-banked card rooms were in the black and about 50 percent were in the red. Of those card rooms that were in the red, two have closed or are no longer licensed: Maverick's Casino and Saloon in Cle Elum and the Drift On Inn Casino in Shoreline. The Palace in Mountlake Terrace is no longer operating.

**Senator Conway** asked whether some of the casinos were all owned by the same company or corporation. **Director Trujillo** affirmed that was correct. **Senator Conway** asked if there was a way to tell that besides the title. **Director Trujillo** responded there was no way to tell based on the spreadsheet. Staff has tied all of the common ownership facilities together in the past and could do it for this report. If Senator Conway was interested in that information, it could be prepared and presented in that format at the November meeting. **Senator Conway** replied he would like to see it in that format. He thought it had something to do with the positive and the negative lines in the report and would like to see that. **Director Trujillo** affirmed that in some cases that would be correct.

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

#### Tax Lien Report

**Director Trujillo** reported on a program that was initiated several years ago. The impetus behind the program was that if an owner or an operator was behind in taxes at any level, it may be indicative of other operational problems. This report demonstrates that the program was working. Of the 24 investigations, 45 percent of those licensees either entered into a payment plan to pay off their tax liens or they paid the tax liens in full. And that happened simply by including a question in the renewal application about taxes owed, which was simply a check of a box. There were four "liens self-reported by mistake" which meant that somebody checked the box but did not have any outstanding liens. Of the licensees that had liens outstanding, 16 percent had closed their business or surrendered their license. A question that might be asked is why somebody would not pay their taxes. There could be a variety of reasons like being behind in all their bills or there are some who just do not like to pay taxes and the government is the last in line when it comes to paying bills. This program has worked very well, with minimal work by staff and it is program worth continuing.

#### Tribal Contributions Report (PowerPoint Presentation)

**Assistant Director Lies**, Assistant Director of the Tribal and Technical Gambling Division, reported she has worked for the Gambling Commission since November 1989, was one of the original members of the Tribal Gaming Unit, and worked her way up to Assistant Director. She explained that she has provided this report for about eight years and it covers tribal contributions that are required in the Tribal-State Compacts.

**Senator Conway** asked if they were the mandated contributions, not the total contributions of the tribes to the community. **Assistant Director Lies** affirmed that was correct. **Senator Conway** asked whether staff monitored some of that too. **Assistant Director Lies** asked if he meant the contributions that are non-mandated. **Senator Conway** affirmed. He knew the tribe

in his community put together and gave Community Impact Statements usually, and was curious if staff monitored that in any way. **Assistant Director Lies** explained that in Appendix X2 there was a requirement for a Community Investment Contribution Report that listed the contributions the tribes make to their local communities for various regions. The Gambling Commission gets a copy of that report, but agents do not go out and verify the information. The report is passed on to the Governor's Office.

**Assistant Director Lies** reported that, along with Program Manager Cathy Harvey, she participates in the community impact committee meetings when there are committee meetings. The agents in the Tribal Gaming Unit go out and verify accrual and disbursements for the charitable, smoking cessation, and problem gambling to make sure the accrual is appropriate. The agents just verify the payments that are made for the 2 percent community impact. The community impact and charitable contributions were made for funds that were accrued in 2011. The Tribes accrue in the year, then they have 2012 to make the distributions, and then agents verify those disbursements in 2013. There were 22 tribes operating 28 casinos during that period. The calculations are based on net receipts, which is the amount wagered less prizes paid. The total net receipts of \$2.1 billion for the year 2011 are estimated receipts. About 91 to 92 percent of the net receipts come from the tribal lottery system (TLS). The rest of the net receipts come from table games, keno, and class III poker.

Most of the Tribal-State Compacts state that the Tribes will contribute up to 2 percent of net gaming receipts to governmental agencies that are impacted by the casino. Each Compact has slightly different language on this: some say provable impact, some say actual impact, and some say future impact. Agents work with each of those Tribes to make sure they are meeting their Compact requirements. The types of organizations that receive funding are general government organizations like city, county, and tribal governments; fire and emergency services; ambulance and Medic One; local law enforcement; occasionally State Patrol or tribal police departments if they are the first responders; hospitals; Chambers of Commerce; and county economic development offices.

Assistant Director Lies showed a comparison of what was contributed for community impact in 2009, 2010, and 2011. She explained that all but one Tribe was included in the numbers. That one Tribe had accrued the funding, but was holding those for payment because they have some disputes with local jurisdictions. Staff is working with them to try and resolve the matter. There was a drop in disbursements from 2010 to 2011. Many of the Tribes pay for impacts outside of this committee and will pay for them ahead of time, so they do not pay them through this committee as well. Also, if it is paid from the tribal level, it is not included in these numbers. The payments that are made outside of the committee are included in their Community Investment Contribution Report.

Charitable distributions are one-half of 1 percent of tribal lottery system (TLS) net receipts and are paid to charitable or nonprofit organizations in Washington. The TLS revenue is about 91/92 percent of the total net receipts or net win, which is the amount wagered less prizes paid. There are also some allowable deductions that came through in Appendix X, which include the cost of

developing, licensing, or obtaining the use of TLS. A brand new facility gets to reduce their payments for the first two years because they are just starting up and it was to give them a break for the first two years. The types of organizations that receive funding include: social and community services, such as March of Dimes, Muscular Dystrophy, Red Cross, food banks, and housing authorities; Educational programs for schools, academies, PTAs, scholarships, and libraries; youth programs like Boys and Girls Clubs, Boy Scouts, Girl Scouts, YMCA, as well as camps for youth; church organizations, such as churches, academies, and ministries; and sports organizations. To receive this contribution, the organization or group just needs to be a charitable/nonprofit in Washington State, the higher 501(c)(3) federal recognition is not required. The organizations just have to be on record as a charity with the Secretary of State's Office. For the past three years, there was an anomaly in 2010, which made that number artificially high. Agents determined that the Tribes make a lot of additional charitable donations, so some of those donations were included in that number. Assistant Director Lies did not want to change the number, since it was reported last year, so the number for 2011 was really the amount the Tribes were required to contribute under the Compact.

Contributions for the smoking cessation and problem gambling prevention are for Fiscal Year 2012. Appendix X2 requires Tribes to make these payments 15 days after the end of their fiscal year. These calculations are based on net receipts and deductions are allowed similar to those for charitable. The total net receipts were \$2.2 million for 2012. Smoking cessation is 0.13 percent of TLS net receipts and paid to governmental, charitable, or nonprofit organizations in Washington State. The same standard applies where the 501(c)(3) with the federal government is not required, they just need to be registered with the Secretary of State's Office. A Tribe that operates a casino that is completely smoke free does not need to make this payment. Casinos that operate with no alcohol service would also be excluded from this payment. Many Washington Tribes operate non-smoking areas, but because they are not a fully non-smoking facility, they do not get to pro-rate under this provision. Currently, Muckleshoot Casino 2 is the only non-smoking casino in Washington State. Because the Yakama Tribe does not serve alcohol, they are exempted.

**Senator Conway** asked if this was ever broke down by how much actually goes to the Washington State General Fund. **Assistant Director Lies** replied that most, if not all, of the donations to the smoking cessation and problem gambling go to either charitable/nonprofit organizations or back to the Tribes for their own smoking cessation programs. Some funding did go to the State for problem gambling treatment. All but one Tribe was in compliance for the past three years. The funds were accrued, but staff was waiting for the tribal council to take action on the distribution of the funds. The increase was primarily due to TLS becoming a larger portion of net receipts.

Assistant Director Lies reported the problem gambling contribution is 0.13 percent of class III net receipts, which includes not just the TLS, but also table games, keno, and class III poker. It does not include anything that is class II gaming or non-gaming. The net receipts are calculated on the amount wagered less prizes paid and they also have similar deductions for the cost of developing, licensing, or otherwise obtaining the tribal lottery system. The Tribe that is not in

compliance that staff is waiting for the tribal council to make a decision on the distribution of the smoking cessation funds is the same here.

**Commissioner Stearns** asked what the rationale was behind the distributions going to the State nonprofits as opposed to the 501(c)s. **Assistant Director Lies** replied she was not part of that negotiation, but she understood it was to keep the money within Washington State. There was a feeling that it would impact some of the charitable organizations that were operating gambling within the State. **Commissioner Stearns** asked why that would make a difference on 501(c). **Assistant Director Lies** replied she was not sure, but would find out and let him know. **Commissioner Stearns** thanked her.

**Director Trujillo** explained that the definition for charitable and nonprofit organizations within Washington State was if they had 501(c)(3) status that was prima facie evidence that they were a charitable or nonprofit organization. However, in order for a charitable or nonprofit organization to operate gambling activities, they could meet several types of organizations, so it was not specific to the 501(c)(3) because there were more options in Washington State. **Commissioner Stearns** said he meant not 501(c)(3) but any nonprofit; 501(c)(4), or (c)(7), or whatever. **Director Trujillo** replied it would be the same thing. He thought there was a rule that said that status was prima facie evidence that an organization is charitable or nonprofit. Otherwise staff can make a determination based upon certain criteria that the organization is a charitable or nonprofit. He thought the ability to qualify as a charitable or nonprofit organization to operate gambling activities originated out of the application, but he did not know if that same rationale carried through to the Compacts, but it seemed likely.

**Senator Conway** asked if the community impact contribution was only on table games. **Assistant Director Lies** affirmed. There is a provision, which is up to 2 percent of table games, but in situations where there may be more requests for funding than the 2 percent of table games would allow, there is the one-half of 1 percent of TLS (machines) that also applies. **Senator Conway** asked if, when looking at the net receipts, AD Lies said that 90 percent of it was coming out of the TLS side. So when looking at the community impact contributions, it was really only on the table games with one-half of 1 percent of TLS. He said those statistics were a little bit confusing, and thought it would be interesting to see what the true value of the net receipt was on the community impact. In other words instead of taking all of the tribal net receipts, staff should be looking at what percentage of those net receipts were being used to come up with the community impact and charitable contribution number. **Assistant Director Lies** replied there was no easy math for the community impact numbers. People used to say that if this contribution is 2 percent of table games, if the math was done backwards they would be able to figure out what the net receipts are in the State. But, it is not that simple because there are some Tribes that do not have any contributions that they pay out through the committee, so their numbers would not be reflected because they do it as a separate donation or contribution to those local law enforcement. When the TLS, Appendix X, and Appendix X2 came on board, that one-half of 1 percent was added. But that only applies if the request for funding exceeds the 2 percent of table games. So trying to do the math is not possible. **Senator Conway** said his concern was when the net receipts show over \$2.1 billion, but the contributions seem to be out of

whack. He thought it would be better for that net receipt figure to reflect the exact percentage of the net receipts that are part of the community impact contribution. **Assistant Director Lies** replied she would look at that.

**Chair Amos** said if the 0.13 percent for smoking cessation was taken out of the \$2 billion it would be \$158 million, but the smoking cessation was not \$2 billion worth of --. **Assistant Director Lies** said she was going to back up a little bit. She explained the \$2.1 billion in net receipts for 2011 was the total class III net receipts, which includes the TLS as well as table games, keno, and class III poker. The percentage for smoking cessation was only based on the TLS net receipts, which is the 0.13 percent of that \$2 billion. Assistant Director Lies said she was an accountant and this math was sometimes hard for her.

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

### **Approval of Minutes - September 12, 2013, Regular Commission Meeting**

**Chair Amos** asked if there were any changes that needed to be made to the minutes.

**Director Trujillo** replied he had a correction to the minutes on page one where the minutes say the meeting was in Wenatchee. The meeting was actually at the Great Wolf Lodge in Grand Mound.

**Commissioner Gray** made a motion seconded by **Commissioner Prentice** to approve the minutes from the September 12, 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 Employees**

**Assistant Director Tina Griffin** reported there were currently 53 licensed and operating house-banked cards. There were two new house-banked card rooms licensed this month and one that closed. Lucky 21 in Woodland was licensed on September 9 for 15 tables and a class B punchboard/pull-tab license. The facility started with 117 card room employees: 80 were new licensees and 37 were transfers. The Lucky Dragonz was licensed on September 20 for 15 tables and a class A commercial amusement game license. They opened with 94 card room employees: 24 were new licensees and 70 were transfers. The Palace of Mountlake Terrace, which was formerly known as the Chips of Bremerton closed on October 1. The closure impacted 91 card room employees. Staff did not notice any unusual items and recommends approval of all licenses and class III gaming employees listed on pages 1 through 24.

**Commissioner Stearns** made a motion seconded by **Commissioner Prentice** to approve the new licenses and Class III employees listed on pages 1 through 24 The vote was taken; the motion passed with four aye votes.

### Rule Up For Discussion

#### Petition for Rule Change from the Public: Ashford Gaming, LLC - Allowing a new type of wager for the card game mini-baccarat

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

**Assistant Director Mark Harris** reported the petitioner, Ashford Gaming LLC, is not currently a licensee. They are requesting that, for the game of mini-baccarat, a player be allowed to make an optional wager on either the player hand or the banker hand winning the next three consecutive games. Under the current rule, a player's win or loss must be determined during a single card game. Mini-baccarat uses community cards where two shared hands are dealt called the banker and the player. Unlike other card games, the players are not dealt their own individual hands. Players bet on one of the two shared hands dealt, rather than on their own cards. The petitioner has not yet submitted this new card game for formal staff review. The game would not currently be authorized because the win or loss must be determined during a single card game. Because of that, they submitted the petition for rule change.

Mini-baccarat was authorized in Washington in 2008 in response to a petition for a rule change from the card room industry. In 2012, the Commission amended the rule to allow for carryover pots, which is an optional pot that accumulates as the dealer and participating players contribute to the pot. The winner is not necessarily determined after one card game and the pot may be carried over for more than one game. Staff is not aware of any complaints related to the 2012 rule change. Based on their experience with that rule change, staff does not anticipate significant regulatory concerns with the petitioner's proposal. The game is currently authorized in Nevada. Nevada Gaming Control Board told staff that they do not track the games after they approve them, so they do not know how popular the game is or how many places offer the card game in Nevada. They also said they were not aware of any complaints related to the card game. The petitioner is present.

**Chair Amos** asked if there were any questions; there were none. He asked if Mr. Ashford would like to step forward and speak.

**Mr. Ashford Kneitel**, manager of Ashford Gaming, LLC, planned to show a short video, but it did not work. He apologized for the video not working and held up his game layout for the Commission to look at. He explained the players would wager that the next three hands in a row would be either a player or the banker. If the players thought the banker would win the next three hands in a row, they would place their bet right there. If the banker wins the first hand, the dealer moves the chip to the first circle. If the next hand is also a banker win, the dealer moves it up to the second circle. And if the third and final hand is a banker win, then that bet gets paid 10 for 1. It is very simple and straightforward. They could also do the same with the player side – one, two, and the third one – 10 for 1.

**Commissioner Stearns** asked what the “tie” was. **Mr. Kneitel** replied that was a bet on all Baccarat games and was completely unrelated. **Commissioner Stearns** asked if it was not part of World. **Mr. Kneitel** affirmed it was unrelated to that.

**Senator Conway** asked for an explanation on how it applies to ten games. **Mr. Kneitel** replied that was the carryover pot he thought for ShuffleMaster, which was the previous game and not related to his proposal. It was a different bet that was previously approved. **Senator Conway** asked why it was called World. **Mr. Kneitel** responded that he felt Baccarat was a very international game and he just picked it because he thought it would be appealing for the design of the bet, something that just jumps out. It is a very international game. **Senator Conway** asked whether it was related to internet wagering. **Mr. Kneitel** replied it was not part of internet wagering.

**Commissioner Stearns** asked how many games there are in Nevada. **Mr. Kneitel** replied there were none yet. It was approved, but has not been placed yet. **Commissioner Stearns** asked if there was an interest in it. **Mr. Kneitel** replied he has had interest, but since he is new to the industry, a lot of casino managers have told him they do not want to be the first one out of the gate; they would rather see other casinos try it before they were willing to risk that investment with Mr. Kneitel. **Commissioner Stearns** asked how he came up with this game proposal. **Mr. Kneitel** replied he was a dealer for many years in Las Vegas. Baccarat was one of the games he dealt all the time, and he saw that when playing this game, players would keep track of streaks, how many player or banker wins in a row. He said he never saw a bet where the players could actually wager on how many consecutive wins they could do, but they were always keeping track of it. **Commissioner Stearns** asked why he used three consecutive wins, rather than two or four. **Mr. Kneitel** replied he wanted the layout to be as simple and clean as possible. He did not want it to get convoluted because, as a dealer, he knew that players did not like really busy layouts. He did not like it either, so he wanted to keep it nice and simple and he felt his lucky number was three.

**Commissioner Stearns** asked if Mr. Kneitel was applying for a license or rule change in any other states. **Mr. Kneitel** replied just in Washington and Nevada. There was no rule that prevented this game from being approved in Nevada, but he had not marketed this game in any other state. **Commissioner Stearns** asked why he chose to market it in Washington. **Mr. Kneitel** responded that he knew there was a solid Baccarat market and thought it would be a good place to start out. He said he did not want to jump the gun to Atlantic City, for example, because he did not feel they would give him the time of day. He thought Washington casinos were a little bit smaller and a little bit more approachable, so he decided to start here. He said he has been to Washington in the past, and knew some of the history of it. But other than that, there was no real reason. Washington was just more approachable and friendly.

**Chair Amos** asked if Mr. Kneitel had an idea of how many house-banked card rooms on the west side of Washington have Baccarat. **Mr. Kneitel** replied he did not know. **Mr. Victor Mena** replied he thought it was about 60 percent. **Chair Amos** asked about how many were in Eastern Washington. **Assistant Director Harris** replied there were no baccarat games in Eastern Washington. **Chair Amos** asked why that would be. **Assistant Director Harris** replied it was a different clientele.

**Chair Amos** asked if there were any other questions.

**Commissioner Prentice** said Mr. Kneitel had made the observation as a dealer that this would be a game that most people could grasp and understand. **Mr. Kneitel** affirmed. He said that at a Baccarat game, players would have a scoreboard or a piece of paper where they keep track of the wins, whether the hand was a banker or a player. They were looking for streaks. They wanted to see whether, when four in a row has been the player, the next one would be a banker or whatever arbitrary system every player has devised. Mr. Kneitel figured that if they wanted to bet on streaks, there should be an actual way to bet on the streak itself. He thought it would be beneficial to the game of Baccarat because there was currently no way to bet on a streak.

**Senator Conway** said he noticed the rule was to carry up to ten games, but Mr. Kneitel was talking only three and he wondered why he saw two different things here. **Assistant Director Harris** replied the original petition, which he thought was in 2012, was to allow for carryover jackpots, which are not on a Mini-Baccarat game, but are on a different type of game. It would allow the players to contribute to a pot that could carry up to ten games. If it goes over that, then it would be divided among the players. That game was approved, but this proposal would be another exception to that subsection of the rule, which would allow for the game of Mini-Baccarat to have a streak of three games, not determined on the outcome of a single game.

**Senator Conway** asked if the idea was that when players enter into the game they could only enter into one type of Baccarat game. They would check a box saying they are only into the Mini-Baccarat game, not the other Baccarat game for up to ten carryovers. **Assistant Director Harris** replied the carryover jackpot was more for poker-based card games. This proposal would be an exception for Mini-Baccarat, so the carryover jackpot really would not play on a Mini-Baccarat game because it was specifically designed for a poker-based house-banked card game as opposed to a blackjack-based or Mini-Baccarat.

**Director Trujillo** asked if AD Harris recalled when the carryover jackpot game language was approved. **Assistant Director Harris** replied it was not that long ago, he thought it was 2012. **Director Trujillo** said he just wanted to share with Senator Conway that the language was in the existing rule; that the only language the petitioner is looking to modify is subsection 5(b) under that rule.

**Mr. Kneitel** thanked the Commission for their time.

**Mr. Martin Durkan**, representing the Muckleshoot Tribe, explained this was kind of a learning moment here. In July 2012, when the Commission voted to change the carryover pot rule, he raised some concerns, not necessarily what was being voted on at the time, but what happens in the future, because gaming is always expanding. It is just the nature of the game. Mr. Durkan said his concern was where it goes next. Is it a player is going to win four in a row on a blackjack table or something else? What is the next step in this progression? The tribal gaming authority at the Muckleshoot Tribe took a hard look at this and determined that it was not a good game for the Muckleshoot Tribe. Even if the Commission would approve it, the Muckleshoot Tribe would be very unlikely to do it. Prior to July 2012, a card game was concluded at the end

of the game on a win or a loss. Winners were either paid the wager they won or they lost the wager they bet. When this rule change was made July 2012, Mr. Durkan said the game was not over at the end of a game and this was precisely why the Commission was looking at something like this today. Mr. Durkan said he was more concerned about the next rendition. Baccarat is a fairly complicated game and the Muckleshoot Tribal Gaming Commission is concerned about cheating that could go on. There are now many more slots on the table, there are chips moving up and down, there is a card game that has ended but it has not ended. Mr. Durkan testified that the Muckleshoot Tribe has taken the position that it does not support this rule change. If the Commission did change it, it was something that the Muckleshoot Tribe would not do because of the concern of possible cheating.

**Chair Amos** thanked Mr. Durkan and asked if there were any other comments.

**Mr. Kneitel** said he understood that the biggest concern for Muckleshoot was cheating. He wanted to show the Commission that it was actually the least likely bet of any table game to be cheated in a casino. He did not think it should be a concern at all for any casino. When looking at the placement of the bet, he purposely placed it towards the top, closest to the dealer. That way it was the farthest bet away from the player, which by definition makes it the least likely bet to ever be cheated, especially compared to the traditional baccarat bet, which is a lot closer to the player. Mr. Kneitel explained he did that in order to protect the game because his biggest concern as a dealer had always been game protection. As a dealer, if a game that he was dealing was ever cheated, he would likely be fired. Mr. Kneitel dealt at the Palazzo in Las Vegas, which is connected to the Venetian. They are very, very, very strict about cheating and the dealers were told time and time again to protect their games. So his biggest concern has always been game protection. Mr. Kneitel said he could say without a shadow of a doubt that this was the least likely bet to ever be cheated in any table game.

**Mr. George Teeny** testified that, with all due respect to Mr. Durkan, Baccarat is the simplest game on the market. Players make a bet, then sit back, and make no decisions. The cards are dealt, players win or they lose, which is unlike blackjack where a decision is made almost every time players get two cards. Again with all due respect to Mr. Durkan, in Mr. Teeny's opinion it is a very simple game. Mr. Teeny said he did not know Mr. Kneitel at all; he had just met him this morning. His bet sequence is very simple; it is not confusing. On the cheating aspect, there will be cheating aspects in every single game known to man from croquet to ping pong. But this game is so simple that the dealer would have to be deaf, dumb, and blind not to catch somebody cheating.

**Chair Amos** thanked Mr. Teeny. He asked if there were any other comments; there were none. He explained this rule was just up for discussion at this meeting.

**Assistant Director Harris** asked if the Commission had any more questions of him.

**Commissioner Prentice** said she was hearing two very opposite things and would like to hear from Assistant Director Harris. She asked what came after. If the Commission approved the

rule change, would they be filing it now? **Assistant Director Harris** explained this was just up for discussion this month; it would be up for final action at the November Commission meeting.

**Chair Amos** said a motion was not needed on the petition at this meeting.

**Commissioner Prentice** said she wanted to be cautious, if the Commission was to approve the petition, about getting in a position where there was going to be more cheating. She admitted that she liked the idea about a working guy having an idea that maybe he could do this and it would improve and simplify the game. She said she was really torn; she did not want to open up things that the Commission may wish they had not done, but there was something about this. She said she would like to keep talking about it. **Chair Amos** affirmed the Commission would continue talking about it. He asked if Mr. Kneitel would have to license himself as a corporation for the state of Washington if the Commission did approve the petition. Would the card room owners have to contact him to buy the table or could they rent the table

**Assistant Director Harris** affirmed that Mr. Kneitel would have to get licensed as either a manufacturer or a service supplier. Then he would submit the game to the Commission for approval to make sure it met all the standards. At that point, Mr. Kneitel would go out to market it. Assistant Director Harris assumed Mr. Kneitel would just be marketing the layouts that would go on a normal table. The card rooms would take the old layout off the table and put the new layout on for this game. So it is not even a matter of getting a new table, just replacing an existing layout.

**Chair Amos** asked if doing this three in a row bet would give a bigger percentage to the house. **Assistant Director Harris** replied he did not know the math specifically on the game because he had not yet seen it, but he assumed that it was always in the house's favor.

**Commissioner Prentice** said it occurred to her that because the Commission was not going to be making a decision at this meeting, staff would certainly hear from people out there who are a lot more knowledgeable than she is about how the game actually works and whether there was a market for it. But there is no expensive equipment; it just looks like that beautiful cloth that Mr. George Teeny held up for Mr. Kneitel; it was not a huge outlay. She thought the Commission would know more after they hear from everybody. **Assistant Director Harris** affirmed that, basically, it would just be the purchase of a new layout.

**Senator Conway** asked where the game was currently being played, aside from the United States that Mr. Kneitel had mentioned. Where else in the world is the game currently being played? **Assistant Director Harris** replied he thought it was pretty much everywhere. It is the game that James Bond is always playing in his movies. **Senator Conway** said in Europe and Asia. **Assistant Director Harris** agreed. **Senator Conway** assumed the reason the game was concentrated on the west side had something to do with the population on the west side. **Assistant Director Harris** responded it was also demographics and who the players were for the various types of games. Certain players like certain types of games. The customer base pretty

much determines what games will be played in what location, whether it is heavy on blackjack, or heavy on poker, or heavy on Pai Gow.

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

**- PUBLIC MEETING -**

**Other Business/General Discussion/Comments From the Public**

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

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

**Chair Amos** called for a break at 2:50 p.m. He announced that the Executive Session was expected to last approximately 30 minutes and at the end of the executive session the public meeting would be resumed solely for the purposes of adjourning. At 3:10 p.m. the Commission went into an Executive Session to discuss pending investigations, tribal negotiations, and litigation.

**Adjourn**

**Chair Amos** adjourned the meeting at 3:35 p.m.

**WASHINGTON STATE  
GAMBLING COMMISSION MEETING  
STRATEGIC DISCUSSION  
WEDNESDAY, OCTOBER 9, 2013  
APPROVED MINUTES**

**PUBLIC MEETING**

**Chairman Mike Amos** called the Gambling Commission meeting to order at 9:45 a.m. at the Spokane Davenport Hotel and introduced the members present.

**MEMBERS PRESENT:**     **Commissioner Mike Amos**, Selah  
                              **Commissioner Margarita Prentice**, Renton  
                              **Commissioner Kelsey Gray**, Seattle  
                              **Commissioner Chris Stearns**, Auburn  
                              **Commissioner Geoff Simpson**, Issaquah  
                              **Senator Steve Conway**, Tacoma

**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  
                              **Gail Grate**, Executive Assistant  
                              **Michelle Rancour**, Administrative Assistant

**Welcome**

**Director Trujillo** welcomed everyone to the Commissioners' strategic topic discussion. He explained that at the June Special Commission Meeting there was indication of a desire to talk about strategic items and how certain items may impact how the Commission does or should do business in the future. The discussion is scheduled to last until 12:30 p.m. If it looks like it will take more time than that, the Commissioners may decide to continue the discussion at the November Commission meeting. Director Trujillo explained that he had sent a suggestion of various strategic topics to the Commissioners and Ex-Officio members for their consideration.

The first topic simply had to do with technology in general; the second item had to do with working within the legislative environment; the third topic was problem gambling; the fourth topic was conducting the business of the Gambling Commission, which he thought meant not the Commissioners per se, but how staff works; the fifth item was legislative reports; and the sixth item was technical assistance and training. Those topics were ranked by importance, so the four

items that would be discussed at this meeting were technology, working within the legislative environment, problem gambling, and conducting the business of the Gambling Commission. Director Trujillo explained that, because the schedule was quite ambitious, he had previously communicated with Commissioner Gray who has much experience in helping discussions move along.

### **Strategic Discussion**

**Commissioner Gray** explained the goal was to have an open discussion, whether or not a conclusion or decision was made. The ideas and suggestions would be recorded and may turn into decisions later. Commissioner Gray suggested the Commission read the series of questions within the technology topic area (excerpted in text box below). (Handout with questions on all topics is attached and incorporated by reference herein.)

#### 1. **Technology**

The same technological pressures that citizens are placing on state government to modernize the way it conducts business are the same pressures and expectations we are facing as changing technology reinvents the gambling industry every year.

I-582 and I-583 are current initiatives that propose allowing online intrastate poker. How do we prepare for this possibility without looking as if we are promoting it or somehow sanctioning it?

Digital currencies are becoming more common. Some are supported by government, such as the MPeso in South America, and others are not, such as the decentralized Bitcoin. As these become more and more prevalent, how do we keep informed of this technology and how do we ensure this technology does not enter Washington gaming unless the Legislature authorizes it.

How do we continue to plan for rapid advances in technology on mobile gaming devices such as cell phones, notebook/notepad computers, or Google Glass that can impact WA gambling, as well as electronic enhancements to traditional gambling games?

How do we address the gambling industry's desire to be able to enhance their gambling products with advanced technology?

**Senator Conway** indicated he was interested in the whole online gambling issue in terms of what was going on in Delaware, Nevada, and New Jersey, and also to figure out how to anticipate what may be happening as people are online.

**Commissioner Gray** asked Commissioner Simpson if his idea was to really review the RCW.

**Commissioner Simpson** affirmed, noting that the last time the RCW was modified with regard to technology changes was Substitute Senate Bill 6613, which was Senator Prentice's bill in the 2006 legislative session.

**Director Trujillo** thought it was important to step back before the RCW in question, moving straight to the Constitution of the state of Washington. Article 2, Section 24, Lotteries and Divorce, from that Constitution were included in the agenda packet. It is important to understand the foundation from which the Commission began to operate. Section 24 says the legislature shall never grant any divorce. And lotteries shall be prohibited except as specifically authorized upon the affirmative vote of 60 percent of the members of each house of the Legislature, or notwithstanding any other provision of this Constitution by referendum or initiative approved by 60 percent affirmative vote of the electors voting thereon. That is the foundation from which the Gambling Commission came from and from which everything else now flows.

The legislative declaration, which is RCW 9.46.010, describes a little bit about what the Commission is to do. Then there are about 21 sections in RCW 9.46.070 that define the Commission's powers and duties. The Legislature determined the Gambling Commission was a law enforcement agency, which is a healthy distinction from a criminal justice agency. In 1988 came the Indian Gaming Regulatory Act. That framework provided the foundation for the Tribal Compact environment that the Commission operates under. RCW 9.46.240 was brought forward with the change and citizens believed it was only the State Legislature that was making internet gambling illegal. But it was the Constitution that declared that if it was not specifically authorized, it was not legal. This simply clarified it into one of the most clear internet statutes in the nation.

**Senator Prentice** recalled that all the Legislature did was insert the word "internet." She said she was approached by Jerry Ackerman of the Attorney General's office, who asked her to do that legislatively because there was a lawsuit involving the World Trade Organization and they wanted the state to be consistent. It seemed innocuous, but there were a lot of people who thought the Legislature was taking their rights away from them. That was why it was extremely important. If it was not specifically permitted, it could not be done anyway, but the hysterics that went around nationwide was pretty surprising.

**Commissioner Gray** explained that she would like the Commission to have a discussion on these topics, but would like to first get some of the ideas down on paper and then open it up for a discussion. Internet gambling is coming into the United States, whether it comes into Washington or not is another question. To answer the question that Senator Conway proposed, the Commissioners have an obligation to discuss the topic and figure out what the expectations are. Commissioner Gray asked the Commission to write down a couple of their thoughts with respect to the two questions that were asked: what should be one change the Commission would like to see made that would enhance the role of the Commission to deal with this changing environment; and how to anticipate and what to expect with respect to online gambling as it relates to other states.

**Senator Conway** said there was some history around internet interstate compacts and revenues with the Horse Racing Commission who does online gambling on horse racing in

this state. That is something that goes on and the state has a share of that revenue. If this becomes big, and Washington citizens engage in it, revenues will pour into the other states and Washington State is not going to be happy about that. Online gaming came about with horseracing because people were participating in the internet. The Horse Racing Commission went to the Legislature who changed Washington law to ensure that the state captured the revenues to help that industry. He said he was just raising that point as a strategic problem.

**Chair Amos** suggested adding a discussion about how to capture monies for revenue for Washington State when this comes – and it will be here. He thought it would require somebody who had technical knowledge on how to track people on home computers that are online playing poker with somebody in Mississippi. Somebody like Special Agent Dibble, who is really sharp in computers, could tell the Commission how to track that.

**Commissioner Simpson** said that, when looking at the bill that Senator Prentice had passed, one of the things it did was to specifically add the words "the internet," "a telecommunications transmission system," and "or similar means." He thought one clarification that could be made to this RCW was to make it clear that Washington does not allow any kind of new forms of gambling. Currently the RCW says "whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore, the internet, a telecommunication transmission system, or similar means." Commissioner Simpson suggested simply changing "or similar means" to say "or any other means." That could end any possibilities that there was some other technological advancement along the horizon that the Commission was not going to anticipate. The other thing that bill did was to change it from a gross misdemeanor for a person guilty of this to a Class C felony. If the state is experiencing difficulties with people who are disregarding the law and conducting illegal online gambling in Washington, then this Commission should consider changing the penalty for that. If it is not appropriate, then the Commission should recommend the language be changed in order to stop the illegal activity.

**Commissioner Gray** asked if Commissioner Simpson was suggesting the Commission look at Substitute Senate Bill 6613 and enhance it so there would not be any internet gambling.

**Commissioner Simpson** replied that was the intention of the bill. It had been silent on internet gambling, so Senator Prentice's bill specifically called out internet gambling. He suggested this discussion be about those things the Commission did not have any way of anticipating. He thought the Commission could strengthen that RCW just by saying Washington State does not allow gambling by any other means than was currently allowed. That would be something for the AG's office to look at. **Commissioner Gray** added that if, as Commissioner Amos said, the Commission anticipates there would be online gambling, it would then require some change in that legislation. **Commissioner Simpson** replied that online gambling was already illegal in Washington and is a Class C felony if convicted.

**Commissioner Gray** asked if he was suggesting changing that, which would require changing the law. **Commissioner Simpson** affirmed, if the state wanted to allow online gambling, which he did not think it should, the Legislature would have to change the law.

**Commissioner Prentice** suggested assessing where the people of Washington State were in terms of gambling before the Commission plunged ahead that far. She explained the Legislature was having hearings all over the state at that time. There was one consistent message that came through, and it was very broad: where the state was, whatever was being done right then, it might be more than some wanted, but it was okay, but do not plunge any further. That was in 2006, and as time has gone on, people may have changed in their acceptance. Commissioner Prentice recalled that when the Lottery first came in the implication was that it was going to go to education, but the actual bill did not say that. So there was always a disconnect between what the public thought and what the Legislature knew. Commissioner Prentice did not want to create that kind of animosity and suggested making it very clear that the Commission was doing this, but that there was acceptance from the people of the state of Washington. The public needs to know what the Commission is doing.

**Commissioner Stearns** commented on the suggestion about how the state captures revenue, how to track it, and what was one change the Commission would like to see to enhance their ability to work in this environment. He thought they should discuss how to allow the Commission to recommend a strategy for the state to authorize and regulate internet gaming, which he thought was the future. He did not want to ignore it; he thought the Commission needed to be experts on it. He said he liked the idea of holding the kinds of hearings where they become experts at the issue. Commissioner Stearns also thought it would be a great idea to have a professional economist work with the Commission so they could better understand the economic environment and the implications for the state.

**Commissioner Gray** agreed with Commissioner Stearns and thought it would be good to become experts on it and perhaps as a Commission look at bringing in an expert to talk to them about the future and how to capture those revenue funds.

**Senator Conway** thought if the Legislature wanted anything, the Gambling Commission could do a strategic study of the impacts of the changes that are going around the internet. He said an example would be what the Legislature was doing with regard to trying to get to a streamlined sales tax and a destination sales tax as a way of capturing the lost revenue going on by people going on the internet and purchasing goods out of state. Congress is considering major legislation around that. The fact is the internet has become the way business is being done. It is obvious that people go online and they do not understand that they cannot do something because they do not know the RCWs. Senator Conway recalled that at the July Commission meeting, the Commission talked about how internet gaming could be tracked and how the Gambling Commission tracks it, which was a very interesting discussion. He thought that, with more states considering online gaming, he anticipates this to start tumbling and much like horse racing, the state will be drawn into it. Senator Conway thought strategic planning by the Commission around this and understanding what was actually going on currently would be very helpful to the Legislature.

**Commissioner Gray** said what she was hearing was that one of the things the Commission could do that would also be helpful to the Legislature would be to undertake a real look at online gambling, what its impact would be, and the possible revenues.

**Senator Conway** added that involved in that, as Commissioner Simpson suggested, was whether the RCWs needed to be changed. He asked if the Commission needed to anticipate further change. He thought it was wise to plan for this because it is here and it is reshaping how the state currently collects sales taxes. The reality is that people are doing more on the internet and they use it constantly; it is becoming part of our world and younger people are always on the internet. It is just good public planning.

**Commissioner Gray** suggested tapping into some of the experts the Commission has to look at online gambling across the country.

**Director Trujillo** thought this discussion illustrated why this was a good topic of discussion. The Commission is fairly knowledgeable of gambling and has such diverse thoughts on it and he could only imagine what the public thinks about it, since they do not really have as much of a background as the Commission does. He shared that having been in this for awhile, he could see that there are technological pressures to be faced at some point. Washington is a very conservative state when it comes to gambling, evidenced by two public opinion surveys that basically said the citizens were okay with where gambling is currently, but they do not want to see it expand. Plus there were the initiatives that were put forward that failed because the people did not vote in favor of them. Knowing that, and recognizing what is happening outside the boundaries of Washington, is something the Commission needs to reconcile a little bit, even if it is just to change the statute to clearly say absolutely no way, or to step on the other side a little bit and provide information that the Legislature could use to make good informed decisions. There is a difference between internet gambling and intranet gambling, which is what the states are moving forward with. Intranet gambling is within the boundaries of the state. Director Trujillo expected to see the states have the ability to enter into compacts with other states. As Washington legislators begin to field questions in the upcoming session, it is good to have this discussion. Staff gets these questions all the time and the Commissioners will also be getting these questions from the public and constituents. It is a good topic from the standpoint of bringing this up as an awareness topic for discussion.

**Ms. Hunter** said she thought it was a testament to this Commission and ex-officio members that they were taking the time to have this discussion. She really appreciated it because it brought up all of these things that people are hearing about. In meetings with legislators, staff is asked very direct questions about what they think about internet gambling. She recalled someone asking her what her best advice would be to the legislators if they were to allow internet gambling. It would be helpful to know where the Commissioners are on that issue. Sometimes in those discussions, Ms. Hunter felt like she was on this line and was not sure which side of it she should be on because she was not sure where the five Commissioners and

the four ex-officio members really were on the issue. The Commission wants the Legislature to make good informed decisions, so some of the discussion about the economic impacts would be really important. It is also important from the perspective of the licensees and the Tribes that are currently involved in gambling to understand how that would impact them, because these are the people the Commission have worked with for a long time. She thought the Commission could appreciate all of the economic impacts of their businesses, regardless of which part of the industry is offering that gambling. Ms. Hunter thought that, particularly with a couple of the initiatives that are out there, legislators want to know what is going on in other states and she was never quite sure how much information the Commission wanted staff to provide in response to those questions. She has had questions about what the Commission thought of the initiatives, about Delaware's approach, about Nevada's approach, and about New Jersey's approach. Ms. Hunter appreciated the discussion, finding it very interesting. She said it was much easier to shop on the internet than to drive to the stores, so there are a lot of purchases made that way; it is true that the internet is where people are going.

**Senator Conway** indicated he thought it would be good to include the article about where, in Nevada, people can use their cell phones to legally gamble. He asked what was going to stop Washington citizens who are using their cell phones in Nevada to gamble from continuing when they get back home in Washington where it is illegal. Nevada's move online with gambling activity is just going to spread. He asked how the enforcement was for this and thought the enforcement side of this was another strategic issue. Senator Conway said he was not trying to judge what the Commission should do here, but he thought they needed to strategically discuss what the impacts would be when people do this. He felt it was fascinating and it was going to spread. He recalled when this internet discussion was started. The federal government had a really clear federal objection to anyone getting involved in internet gaming. It seems like now that legal environment is changing and states are entering into internet gaming. Senator Conway thought the Legislature would need help, and he warned they were looking for revenue in Olympia because of the needs of the state and schools because other things are stripping Washington's revenue capabilities. This is a high issue in Olympia and it is going to come up. He said some guidance on these issues from the Gambling Commission would especially be helpful. Help from the Commission on that issue was going to be critical in the future, and he thought it was strategic planning, as much as anything.

**Commissioner Stearns** said there are these two initiatives that are in various stages, which might create some kind of a timeline. He indicated his preference was that the Commission be able to weigh in and assist the Legislature. There are all these questions and all these issues, and then the Commission makes a recommendation. It looks like there is a timeline and he did not agree that this gets to be studied for five years.

**Assistant Director Harris** responded that his staff is currently tasked with the internet gambling regulation. They are looking at what other states are currently doing to find the good, the bad, and what the problems are. He thought the wait and see approach was good on

the Commission's part to see where the other states jump in, what the shortcomings are, and the different approaches taken. One state is looking at more of a revenue generator and the regulation approach is secondary. They have all had some kinks they are working through, and AD Harris thought that was good to see. When the Commission has to go forward and do something, they can actually find the best method that works for the Commission and learn from the states that jumped in right away. The Commission staff is quite prepared for some of the problems that would be encountered. He said there are ways of determining if people are still gambling on their cell phones inside Washington State, like geo-location etc. He thought a couple of states use two methods to confirm where somebody is, and another state will use three methods. So the more methods they have, the more reliability there is to it. The Gambling Commission has the potential, the experts on staff that could give the Commission an Internet Gambling 101 class – the nuts and bolts of how that actually works.

**Commissioner Stearns** asked if Assistant Director Harris could set something up for the Commissioners. **Assistant Director Harris** replied something could be set up either informally or formally.

**Director Trujillo** said that Gambling Commission agents have had great success in the enforcement of illegal internet gambling because the strategy has not been focused on players, but rather on operators and providers, especially those currently within Washington State. He thought that at one point there were several thousand operators that would accept internet bets from within Washington State. After Gambling Commission enforcement activities partnered with the other states, that number is now under 500, which may still sound like a lot, but it is much less than it was previously. As long as outside operators or vendors have a hope of obtaining a license in another state to conduct this activity, they are likely to look at the Washington State statute and see that it is very clear that they probably should not allow bets coming from Washington citizens because it is illegal. Therefore, if they want to have a chance of obtaining a license in one of these other states, they probably will not accept those bettors. That has also been part of the Gambling Commission's success, because of the clarity of the current Washington State statute.

**Assistant Director Griffin** explained she has been watching and monitoring the licensure activity for the three states that have gone forward with online gambling to see what they are doing in terms of who they are licensing and how that is progressing.

**Assistant Director Julie Lies** said her staff was focusing a lot on online gambling. She thought the Commission needed to focus on the technological advances to existing gambling activities. There are a lot of people out there that are trying to add the bells and whistles as they try to attract the same types of customers in a brick and mortar location as they would online. That was another important part that the Commission needed to keep an eye on as well.

**Commissioner Prentice** pointed out that she thought that, although they were doing this in Nevada, they were broke. She wondered if there was sufficient revenue to make it worth it. She said one of the things that concerned her was that kids were adept at this too and she thought the Commission should take a big look at that. She said she realized that the Commission has tended to be more conservative, but all states were not equal. Washington gambling laws started in different way, so what people tolerate or even know -- and she thought that some of those states that were plunging into it did not really know what they were doing. In some states it was not regulated at all, so Washington is well ahead by having its 1973 law in place even before the Indian Gaming Regulatory Act (IGRA) hit. It was not that Washington State was so grand, it was just that it has been a lot more cautious, which has been fortunate. She always said that the state, with that awful situation in King County where they cheated so much, had a good law. That is where this state is, and it is better regulated than a lot of other states.

**Commissioner Gray** captured some of what has been brought up so the Commission could continue with their discussion: look at a study of the impacts of internet gambling, both economic and the full range of impacts; look at some other states and what they are doing, how they are regulating, and whether it works, including the good and bad of that – there may be some folks within the Commission that could help with that; review the legislation and see what might be needed in terms of changes; connect with the Commission’s partners, clients, and the people that staff currently work with, both in terms of tribes and house-banked card rooms; and look at enforcement. She also heard that the timeline was pretty close and that this needed to begin shortly since there were at least two initiatives currently concerning online gambling, and that the Commission needed to study this and become more aware in terms of their own knowledge about internet gambling and its impacts.

**Commissioner Simpson** said he thought it would be a mistake for Washington State to begin to allow internet and online gambling. Not only would it negatively impact those people that are conducting brick and mortar operations here in state, it would transfer money out of state, and it would be much more difficult to enforce winnings and whether they were conducting it legally – are those people in the Cayman Islands who are running poker games cheating the people here in Washington. He said the Commission, as it moves forward, should be very cautious about those things. Another topic he thought deserved consideration was a broader discussion of what gambling is. People can go online and find a site that lets them play some kind of gambling operation, like an online slot machine, which does not cost them anything. They can buy credits and can continue to play. He did not know if that was actually gambling. He did not think Washington State statute was very clear about what exactly does constitute gambling. Is it the purchase of credits online? Is it the ability to win something of value? People are always dreaming up new ways of doing things on the internet. He asked if Director Trujillo thought that was something the Commission should discuss.

**Director Trujillo** affirmed that was correct. People are creative and staff receive questions all the time about whether this online game, or free play, or if social gaming qualifies as

gambling. Staff looks at prize, consideration, and chance. If any of those elements are not included, then it is not considered gambling. However, as time goes on and people become more creative, the lines become blurred. Some of the questions staff receive from legislators are from other questions they receive from their constituents who would like to come do business in Washington State, but they are not sure if what they are doing is gambling or not. Generally speaking, staff does not look at social gaming and make a determination that it is not gambling, but instead staff does the reverse by providing the three components of gambling. Then if it meets the definition of gambling, staff lets them know it is gambling and they will enforce the law. Part of that is because there is a whole exploding realm of technology that is a resource impact. Another part is that every single case is unique and there are always different nuances to every scheme. Director Trujillo pointed out this was one of the topics that was included for later.

**Commissioner Gray** said that Commissioner Simpson was pretty clear about not allowing online gambling and asked if he would be willing to have the Commission look at and examine the economics and the kinds of impacts on both Gambling Commission clients and partners, and the kind of enforcement issues.

**Commissioner Simpson** agreed he thought it was worth looking at. He added that he would also like to discuss the impacts on problem gambling and the economic impacts on families and underage gambling. He thought it was a real problem because it was too easy for somebody to just get online and gamble away the rent money. It takes more effort to get in the car and go down to the nearest gambling facility.

**Senator Conway** added to his earlier comment about people being able to use their cell phone to gambling in Nevada. They are going to allow access to online poker with the cell phone, but what about after they have used their cell phones on vacation in Nevada, is that signal going to be blocked? Are they going to suddenly say those cell phones are now outside of Nevada and so the signal is blocked? He asked if that was a federal law, if it was interstate commerce. **Assistant Director Harris** replied they do have that capability. Part of one of the aspects in Nevada is geo-location, so if that person's cell phone shows they are outside of Nevada, then they would not be able to participate. The trouble Nevada is running into is with people that live a couple miles inside the border of Nevada not being allowed to gamble because they are close to the border and the geo-location cannot determine where those people are located. They would rather exclude somebody as opposed to include them.

**Senator Conway** asked if they had the capability to put a block on a bet coming from outside Nevada. **Assistant Director Harris** affirmed, adding that just as with any technology, if someone wants to spend enough money and be creative enough they could probably get around it. **Director Trujillo** added that he believed those were operator or vendor blocks – it is not the government imposing those blocks. **Assistant Director Harris** affirmed.

**Commissioner Prentice** said she thought one of the things being overlooked, even since the 2006 law that was referred to, was at that time it seemed like life was simple. It was against federal law. Times have changed. The rug has sort of been pulled out from under and they said now it was up to the states to decide, which is why that proliferation is being seen out there. She thought the Commission needed to keep their bearings as they plunge ahead and see where they fit in and if there were going to be other stuff being done at the federal level.

**Commissioner Stearns** asked if Commission staff work with Senators Cantwell and Murray or the Representatives and whether they ask about the internet gaming. **Director Trujillo** replied that, generally speaking, Gambling Commission staff has not worked with Washington State representation in Washington, D.C. Contact has been with local legislators here in Olympia. Staff often tries to balance how to approach something without appearing to drag the Commission along and over-step staff's authority, which then translates to a HB1295 initiative like last year. It is all an interesting balancing act.

**Commissioner Gray** asked if it was possible to ask staff to basically put together a study where the Commission could add some of these questions; maybe have an economist or someone familiar with online gambling to come in and provide that data so the Commission can move forward to come up with recommendations for the Legislature or ideas for the staff. **Director Trujillo** replied that staff could do something; although, he was not exactly sure how complete it would be based upon the timeline. He thought that providing factual data versus recommendations at this point would be advisable. **Assistant Director Harris** pointed out there might not be a lot of data out there, since this is a fairly new activity, and the states have only been conducting it for less than a year at this point. That might be a little bit of a constraint on what is available within the United States. He said he knew there were a couple of provinces in Canada that have been doing it a little bit longer, but within the United States, it would be a very short period of time for assessing that data. There is not going to be much data available.

**Commissioner Stearns** thought there was a lot of pre-packaged information put together that is out there. For instance there was a whole online gaming association in Congress at the G2E.

**Assistant Director Harris** indicated that, if the Commission was looking for statistics inside the United States, only a small amount might be available at this point because the activity has not been conducted for very long.

**Commissioner Gray** thought it might be helpful to the staff if each of the Commissioners gave their ideas of where they might look for information to the staff. For example, some of the Commissioners may know some congressional people who might have staff that is aware of some of the internet gambling. They could go to them and ask them to come in fill the Commission in on what they see as the future. She asked about the online gaming association

that Commissioner Stearns mentioned. **Commissioner Stearns** he replied it was a daylong session at G2E, that the AGA's annual conference had a whole day session on it.

**Commissioner Gray** said, to wrap this topic up, she was sensing there was a conclusion that the Commission needed to look further into internet gaming and that they would ask staff to put together some kind of factual information on potential economic impacts, social impacts, and enhanced internet. They would be reviewing the legislation and providing the Commission with an opportunity to talk with some of the clients that they currently serve.

**Director Trujillo** said AAG Castillo said a motion was not necessary because this was just a discussion and that a suggestion is just fine.

**Commissioner Gray** asked if there were any other comments on technology or internet gaming. She knew there was at least one question about digital currencies and asked if staff was familiar with that. She asked if Director Trujillo wanted to talk a little bit about internet currencies.

**Director Trujillo** responded it was just another example of what is proliferating out there. Eventually, digital currencies such as Bitcoin, which is probably one the Commission may be familiar with because it has been in the news recently, is a decentralized digital currency that is used to purchase goods from one person to another and has the value of whatever people decide its value is. Because it is decentralized, there is no one place for federal agencies to step in and regulate. However, they have had recent meetings with the Department of Justice. Another one is called MPeso, which is changing life in South America. He thought that one was a government-sanctioned digital currency. There are more out there and it will be interesting to see how that manifests itself in Washington State. People will go to legislators or Commissioners and ask if they think it is something that can be utilized in Washington State. The answer would be "probably not."

**Senator Conway** pointed out an ad he has seen where someone transfers money from their banking account directly to another person using their cell phone. He asked if that was what Director Trujillo meant by "digitized." **Director Trujillo** replied that was probably not the same thing. That would simply be electronically transferring money from one account to another account. That is money; this is something that does not have the foundation as tangible money but is more like a barter system that has the value that people determine the value is.

**Commissioner Simpson** explained it would be like a group of people getting together and deciding that certain rocks were worth a certain amount and the more rocks someone had, the more currency they had. **Director Trujillo** agreed. It is essentially utilized on the internet and is making its way into various gambling arenas as well with all the technology there is out there. Part of what Washington State is looking at is how to utilize this technology to best serve its citizens who, for the most part, will begin accessing services on mobile devices. That

encourages repackaging of computers and cell phones, which then encourages repackaging of electronic gambling, which has changed so much in the past few years and will continue to change.

**Commissioner Gray** thought that was another topic area was how the Commission addresses the gaming industry's desire to be able to enhance their gambling products with advanced technology, which comes before the Commission regularly. How does the Commission address that regularly in either a new game, or an update on a current game, or a new way to play an existing game?

**Commissioner Simpson** said that, as a new Commissioner, he had a hard time envisioning a method or some broad policy that the Commission could employ that would work. Because every new technology is individual in its nature, the Gambling Commission, by necessity, needs to examine each one and determine whether they believe it is something that should be allowed in Washington State. Aside from his general belief that the Washington State should not allow online gambling, some of the proposals the Commission has received to allow different types of games shows they are highly individualized, and he did not know how the Commission would take a shotgun approach to that.

**Commissioner Prentice** said she was looking at what she saw as a consistently slippery slope. There was a time not so long ago, when Congressman Barney Frank was the advocate for internet gambling. He is now retired and not there anymore. But at the time it was against federal law, but that was changed. The President was approached about that and then they said it was up to the states. So there are things changing that people really have no control over. The political discussions are out there and the Commission has to live with them also. She thought she knew what the law was, and then the rug was pulled out from under her. She said the Commission needed to pay attention to what was happening out there and what the stresses and the urges were. She also kept thinking she did not know who it was that was getting rich because she saw some states really struggling. She recalled the last initiative that failed by 61 percent, so she was concerned with the receptiveness of the public and whether they really wanted this. She admitted she had no idea how the signature gathering was going on with the initiatives that are currently out there because she has not seen any of them. She asked if Ms. Hunter knew.

**Ms. Hunter** replied she assumed Commissioner Prentice was referring to the poker initiative. She said she did not know, but staff did contact the Secretary of State's office to see if there were any types of check-in processes and there are not. The Secretary of State's office did not know how many signatures had been gathered; although, one of the organizations put out a statement to their members letting them know they needed more money in order to work on signature gathering and that they did not have that funding. **Commissioner Prentice** said she has not seen any signature gatherers at the grocery stores or any place else, which indicated to her that it was kind of sluggish with no momentum for it.

**Commissioner Simpson** asked if it was possible to hear from the public about that. **Director Trujillo** replied that would be the prerogative of the Commission. **Commissioners Simpson and Prentice** both said they would be interested in hearing what anybody had to say.

**Commissioner Gray** asked if there was anybody in the audience that would like to speak to this issue of technology and what they think would be coming forward. **Commissioner Prentice** added she was sure the public had opinions on this issue.

**Mr. Victor Mena**, Chief Operating Officer for Washington Gold Casinos said the topic being discussed is a very broad in scope. The topic in his mind in terms of what is – they are kind of linked. The Commission is discussing how the online gaming aspect is somehow in time going to be part of reality. He thought that, in time, things that are done in his industry would have to evolve as well as part of that reality. There are some products that we use that he has found could be a little antiquated; pull-tabs is an example of something that is fairly archaic and very cumbersome to deal with from the standpoint of being able to accurately determine that the product's integrity is still there. Something as simple as opening up a bag of pull-tabs and having the humidity factor of that bag's tickets evaporate over the course of two weeks to show that now they have fewer tickets than they originally started with, but that bag had never been touched. He thought that type of issue was one of inaccuracy that lends itself to the question of gambling; the integrity of what takes place gets questioned based on the fact that somebody could say they have a shortage, but the reality was that they did not have a shortage. The reality was that the product itself was flawed from the standpoint of being able to monitor the product. It is cumbersome to do it correctly because it is a bag of 6,000 tickets and somebody has to take the time to count those tickets. Those types of things could absolutely be looked at as ways to enhance and change, and control and regulate much more accurately. That was just one example, but obviously there are other examples of how the integrity of certain products could be corrected.

He said he has looked at things in the industry as far as table games that are completely electronic. And this Commission, a few years ago, looked at a product that was very similar to that. The integrity of that game gets controlled by technology so they would not have a card missing, per se. And this happens in his world when a dealer makes a mistake washing a deck on a table and a card slips under the rail because the dealer was unaware, brought the cards back in, and started to deal a game. Now the integrity of that game was compromised. It is human error; it happens, and it is not intentional. A table game like what was demonstrated to the Commission a few years back would actually control those types of human errors. So, in retrospect to the Commission's question, he thought that, in time, technology would be needed to keep gambling safe and honest.

**Commissioner Gray** thanked Mr. Mena and asked if there were any other comments from the audience; there were none. She moved on to the next topic.

## 2. Working Within the Legislative Environment

We are responsible for regulation and enforcement of licensed gambling activities, unlicensed but authorized gambling activities, and illegal gambling crimes. However, our funds only come from licensed activities, a declining revenue source. Every time we stop an illegal or unauthorized venue, theoretically, gamblers move back into the legal regulated environment. Also, free online games are becoming prevalent resulting in legislators and staff continually faced with vendors who want a determination that their product is not gambling. How do we connect our funding source to our legislative mandate and changes in stakeholder expectations?

How can we build confidence in the Legislature that the Commission can regulate gambling without additional legislative restrictions?

Today, we can effectively enforce the laws against illegal online/electronic gambling but if our funding is declining how do we remain effective in this role as well as be poised to regulate it should the Legislature wish to authorize online gaming?

**Commissioner Gray** asked the Commission to read the paper on working with the Legislature, (excerpted in text box above) which includes an introduction that says “the Commission is responsible for regulation and enforcement of the licensed gaming activities, unlicensed but authorized gambling activities, and illegal gambling crimes. However, Gambling Commission funds only come from licensed activities, which is a declining revenue source. Theoretically, every time the Commission stops an illegal or unauthorized venue, gamblers move back into the legal regulated environment.” Also included in this topic were two or three questions, and an RCW. She asked the Commission to jot down some ideas around the question of how the Commission could enhance the confidence of the Legislature that the Commission is effectively regulating gaming. The RCW has to do with working with the Legislature, building confidence in the Legislature, and effectively enforcing the laws against illegal gaming.

**Chair Amos** called for a break at 10:55 a.m. and reconvened the meeting at 11:15 a.m.

**Commissioner Gray** pointed out that one of the questions asks how the Commission could build the Legislature’s confidence in the Commission that it can regulate gambling without additional legislative restrictions. Today, the Commission can effectively enforce laws against illegal online electronic gaming, but its funding is declining. She asked how the Commission could remain effective in this role, as well as be posed to regulate it, should the Legislature wish to authorize online gaming. She asked Director Trujillo to provide some information about RCW 9.46.070 for fees and how those are established.

**Director Trujillo** reported the Commission has an interesting fee structure, which the licensees would probably say was probably the most complex fee structure they deal with

when it comes to city, county, and state governments. An initial applicant has to look at that fee structure and try to guess how they were going to operate in a given year because the license fee is based on a class activity, which is based on the actual gambling that is conducted throughout the year. Then they have to renew their license prior to their year end, which means they have to look at their numbers to determine if they will come close and whether they need to pay more to increase the license fee class or less to decrease the license fee class. That can be problematic because the Gambling Commission sends out a renewal notice based on what staff estimated that person's license class was going to be at the end of the year. But staff does not actually know what their license class is until they report their activity for the year, which is after the fact. So it is an interesting structure that has been in place for many years.

When it comes to how best to utilize the fee structure in a declining license scenario, which is what staff is undergoing right now, staff has looked at restructuring the fee schedule, but with any restructure, some fees go up and some go down. The Commission has a broad mandate, which is unlicensed and authorized activities, licensed activities, and illegal activities. But the Gambling Commission's funding source only comes from licensed activities. So, as the Commission moves forward into the future, the question comes up on how best to operate that. Within the Commission's powers and duties is their authority to set fees or a schedule that covers Commission activities. That has changed over the years, but basically the fee structure has remained the same. It is a complex fee structure that is not easy to work through.

**Commissioner Prentice** wondered if it was possible to put together a brief summary that would answer some of the things being discussed today, particularly with all the questions that have come up as to who the Commission is and what the Legislature knows about it. She recalled that in her early days on the Commission, the legislators thought they were supporting the Commission and were surprised that was not the case. She noted that most of the legislators were extremely ignorant, even those that thought they knew. They think they know, and they sort of like it or do not like it. The Commission could at least give them something accurate for now to say this is how it is done. Commissioner Prentice suggested the Commission start sharing the information with the Commerce and Labor committee, which she thought still had gambling within them, and then see where that leads. She knew they have had some big discussions at some time or another, like a "Gambling 101," but only those that have a high interest attend.

**Commissioner Simpson** agreed there were so many things that legislators have to try to be knowledgeable about that it is very difficult, especially when they are first starting. He thought it would be good for legislators to have a clear understanding that this agency is totally dependent on fees. Every day, the average legislator probably gets thousands of pages of information given to them. But all the Commission can do is provide the information and hope they understand. **Commissioner Prentice** suggesting putting the information in a notebook and they could look it up when they need it.

**Commissioner Gray** explained she would like the Commission to discuss the questions about how to build confidence in the Legislature that the Commission is doing the job that it needs to do and how best to do that, given the lack of knowledge, the lack of updates, and the changing environment.

**Director Trujillo** thought it came on the heels of the legislation that was introduced last year. While the Commission and staff are very conservative, deliberate, and methodical in their approach, it certainly did not appear that way in the legislation that was introduced, which he thought was kind of the origin of this particular thought topic.

**Senator Conway** said he thought at times there has been an issue of communication with the between the Commission and the Legislature. So often that occurred around some gambling expansion type of issues that were in the Commission and then the legislators heard about them, which then creates mistrust. Keep in mind, the state has a pretty high bar when it comes to gambling expansion. Even in the Legislature, nothing is passed without a high bar of votes. Something as controversial as the expansion of gambling cannot be passed, for example, three to two at the Commission meeting because then the Legislature is going to say “wait a minute. You know, we have a much higher bar when it comes to the expansion of gambling in our voting.” Senator Conway thought that was where some of the suspicion in recent years around what was going on with the Commission came from. He said he wanted to share that with the Commission because the Legislature really feels it is their role to expand gambling, not through a Commission decision. He said in his years here, that was one major issue he has seen in Olympia.

**Commissioner Gray** asked if they knew what expansion of gambling was.

**Senator Conway** replied they usually have to have a ruling by the Secretary of the Senate currently as to whether a particular decision is an expansion of gambling. He said he was not sure what that means at the Commission’s level, but assumed their legal counsel would be evaluating whether a decision would constitute an expansion of gambling. Of course, the Legislature has many bills that come to the floor that are challenged on the grounds that it is an expansion of gaming. It is a high bar in the state Legislature. It is an issue the Commission has to be sensitive about when they are talking about relationships with the Legislature. Because if the thought is to move a gambling expansion issue through this Commission, then they are going to run right into the Legislature and efforts to curb or roll back the authority of the Gambling Commission. He said those are the kinds of issues recently that have come up.

The other piece is interaction with the Legislature through the Gambling Commission. For years Senator Conway said he chaired the House Commerce and Labor Committee. At the time, it was great because then Representative Alex Wood was on the Gambling Commission and would report back to the chairman of the committee about what was going on with the Gambling Commission. And then Senator Margarita Prentice played that role completely with the Senate. But the Commission has no control over the ex-officio members who are the

ones that provide the linkage to the Legislature. It is important to try and build that linkage if the Commission is involved in that. Senator Conway thought that, as long as the Commission had those linkages, everyone knew what was going on and what debates were going on, and that works. Sometimes legislators that are not on the committees that deal with the gambling issues get appointed to the Gambling Commission. Senator Conway has observed through the years that, when that happens, there is a breakdown of communication. He pointed out that he had no knowledge of what they are currently doing at the Lottery Commission or the Fish and Wildlife Commission – commissions really exist in a world of their own. Even though legislators do not read every report that comes to them unless they are very interested in the issue, there needs to be some way of communicating with the Legislature what is being done on the Commission level.

**Ms. Hunter** agreed with what Senator Conway said about the link between the ex-officio members being really critical. She thought there have been a couple of things in the past few years that have made more things that the Commission has to do. When Senator Conway was in the House, he chaired the Commerce and Labor Committee for many years before he was elected to the Senate. The Gambling Commission had two years where it went to the State Government and Tribal Affairs Committee before that was changed to the Government Accountability and Oversight Committee. Staff was constantly building those relationships with legislators and staff. At meetings with legislators, staff give them a two-page legislative newsletter that is put out twice a year and includes what has been going on at the Commission. Staff also gives them a brochure that answers those basic questions about the Commission that staff gets from legislators. She thought the role of the ex-officio member was critical and it was great when they were able to help convey that, which was easier when they were on the committee. Three of the current ex-officio members are on the committees. Representative Hurst is the chair of the House committee where the gambling bills go and Senators Conway and Hewitt are both on the Senate committee, which really helps a lot. Ms. Hunter said she has some good information available on those rulings in the Senate about expansion of gambling. It comes up definitely in the Legislature, but it does not come up for the Commission in the same way. Jerry Ackerman had talked about that quite a bit as the Commission has had different decisions before them dealing with expansion of gambling.

**Commissioner Gray** said she had a question that deals with the Legislature and really goes back to the discussion about the technological changes. Proposals for technological changes have come before the Commission and they have to ask if that would be an expansion of gambling, if enhancing the technology of a game meant that was enhanced gambling. She thought it would be really nice to have access to the Legislature to help them understand what it was that the Commission was being faced with and were being asked to make those kinds of decisions as to whether a technological change was enhanced gambling.

**Commissioner Stearns** asked if Ms. Hunter felt the Commission's reputation in terms of law enforcement was really strong and solid and what its reputation was with the Legislature.

**Ms. Hunter** replied she thought it was good. She said she had talked with staff about this last week at some staff training. It was sometimes actually good when the legislators did not know exactly who someone is because that means that people have not been complaining about you. She explained the first thing she usually covered was that the Gambling Commission was not the Lottery or the Horse Racing Commission. She has had many legislators tell her over the years that they know the Gambling Commission is a small agency that regulates a big industry, and that people do not complain about the Gambling Commission to them, which is good. She thought that, overall, it was pretty positive and she felt good about what staff does. Elections occur every two years, so there was always a new wave of people coming in. Ms. Hunter said she has done legislative work for the Commission for about 15 years and so those faces have changed a lot. When there is a big election with a lot of new people, then staff is out meeting with those new people and letting them know who we are. Staff does a lot more in the legislative outreach each year. Ms. Hunter explained she works on legislative issues almost every single day. Staff gets a good reception when they meet with legislators, regardless of their party.

**Chair Amos** asked if Senator Conway considered the request yesterday for an increase in the bet on a Baccarat game as an expansion of gambling. **Senator Conway** replied it was the sort of issue that comes up and they have to seek legal counsel on it. He gave an example of a bill that the Gambling Commission was neutral on – the Special Olympics raffle bill – that bill was a major change in how raffle was conducted in this state, was subject to a challenge on the floor of the Senate, came through committee without being challenged, got to the floor of the Senate and it was challenged as an expansion of gaming. The President of the Senate ruled it to be an expansion of gaming and so that was the sort of thing that goes on – would a particular game be subject to that challenge if it had to be authorized by the Legislature? That is where legal counsel is critical in terms of their evaluation. He said the House and Senate are a little different. The Lieutenant Governor, President of the Senate, has very distinct rulings. A bill could get passed through the House without a challenge, but then when it gets to the Senate it could get challenged, and probably vice-versa too. So this issue of expansion of gaming is a big issue in the Legislature. In answer to Chair Amos' question, that is where legal counsel comes in – to determine if a certain type of gaming constitutes a major change in the way the state does gaming and, as a result, would it be considered an expansion of gaming. That is what happens with those rulings in the House and Senate. It is important for the Commission to understand that process. He assumed the Attorney General was here for that very reason, in part to evaluate those issues. The enhanced raffle was considered to be an expansion of gambling and the state has had raffle businesses forever. This new way of conducting that raffle was considered a gambling expansion by the President of the Senate, and as a result, it was subject to a 60 percent rule. Senator Conway said that, because it was hard to know exactly how those rulings were going to come, but it was an issue the Legislature looks at very carefully.

**Commissioner Prentice** responded it truly depends on whether they believe it is or not, where they are coming from, and what their perspective is. She recalled one of the initiatives where

the proponents of it here said it was just a shift from one kind of gambling to another, and then it failed. At the Commission meeting in Yakima, she overheard the proponents at the next table say they did not get their message out. She recalled thinking the public felt it was an expansion of gambling. Whatever legal counsel might have said, they believed it was and that was why it went down. The Commission can be very technical about it, but they did not accept it, they did not want it, and it did not fly.

**Commissioner Simpson** said he was not on the Commission at the time, but understood there was something that concerned some legislators that the Gambling Commission did last year prior to the legislative session that prompted this legislation. He thought that was part of the checks and balances of the system here. The Legislature set up the Gambling Commission to be a separate entity that has specific authority and if the Legislature feels the Gambling Commission oversteps that authority, they can communicate in ways like dropping legislation to abolish the Gambling Commission. He said he once co-sponsored a piece of legislation with Steve Conway's seat-mate to make it a Class C felony to commit fiscal note fraud because it felt like some agencies were manipulating fiscal notes so that the legislation would not pass. So there are lots of reasons people file bills. He said the Commission had to be cognizant of the fact there was a wide variety – there are probably at least 98 different points of view in the House on gambling and 49 in the Senate – so it has to be recognized that the Legislature has their authority, and the Commission has theirs along with mandates they are subject to.

**Commissioner Gray** said she thought the way the Commission approached an issue, the kind of questions they asked – for example, Commissioner Prentice had said if the Commission asked the public if they wanted gambling to expand in Washington State, they may say no. On the other hand, if the Commission asked how the tax revenue from gambling or new technology in gambling could be accessed, the Commission may get an entirely different answer. It all depends on the question that was asked and how the question was asked. She asked if it was appropriate for the Commission to go through Senator Conway to ask the Legislature or the Committee a question. **Senator Conway** replied he did not recall, but he thought Commissioner Simpson was probably right about the Commission having their authority. He did not remember the Gambling Commission ever coming to him, even informally, asking if he would see whether something was going to be considered an expansion of gaming. **Senator Conway** referred to the mini-baccarat the Commission was looking at yesterday. He said part of the role of the Attorney General's representative was to play that role with the Commission to evaluate whether a particular proposal would be considered a gambling expansion. And then, within the Commission's authority, he assumed they would use that legal counsel for that purpose. Then the Legislature would look at it with their checks and balances, and if they considered it to be a gambling expansion, that would be when the Commission would probably see legislation appear. But that is a big issue. Gambling expansion is probably the biggest issue this particular Commission has to manage. From the legislative perspective, he thought the statute was pretty clear that was a legislative prerogative. Whether something is considered to be an expansion of gaming is the key issue.

**Director Trujillo** added that he certainly welcomed Commissioner Simpson as an addition to the Commission. He thought that what also may have occurred was that the rule process that was behind the legislation that was introduced last year was not a quick rule process, by any means. It was not three months, or six months, or nine months – it was at least two years. Commissioners and staff recognized that it was somewhat controversial. The petitioner withdrew it, made some corrections, and brought it back. That was the type of process the legislators were not a part of – not the Commission ex-officio members, but the committee members that then went to hear that particular bill. So the Commission, with Senator Prentice as a long-serving ex-officio, has been very methodical in its approach. The Commission does depend heavily on staff, initially, to look at their expertise to see whether something is compliant with current rules. If staff has any doubts whatsoever, they look to our legal representatives. It is really only then that something comes before the Commission for their thoughts. So, it is a check and balance system even before it makes its way to the Legislature.

**Commissioner Prentice** thought it was really important to remember the history of where the ex-officio members came from and why they are on the Commission. At the time when the Indian Gaming Regulatory Act (IGRA) came about, there was discussion within the Legislature as to how they were going to deal with it. One of the things that was brought up by Senator Jeannette Hayner, who was in charge, was that they did not want the whole Legislature voting on tribal compacts, and it made a lot more sense to have somebody from each caucus on the Commission. Commissioner Prentice said she was the first ex-officio to start attending the Commission meetings regularly. She said she was viewed at first with great suspicion and she was not necessarily welcome. But, those were necessary positions; it was not as if it was all cut and dried and the ex officio members understood what they were about. Commissioner Prentice thought that the ex officio members have been enhanced by regular attendance. It is their role to keep the Legislature informed as to what the Commission was doing. She said opening it up made a huge difference, which she has been around and watched it evolve.

**Commissioner Gray** said what she heard was the way to be sure the Legislature had confidence in the work the Commission does is to make sure they understand the work the Commission does, how they approach their work, and the limits the Commission undertakes, and to use their ex-officio members as much as possible to relay that information because that was the reason they were on the Commission.

**Commissioner Simpson** commented that Ms. Hunter does an outstanding job of outreach to the Legislature. That was his experience – he saw Ms. Hunter lots of times this last session up there working every day.

**Senator Conway** agreed, adding the continuity of having Ms. Hunter there has been really important.

**Commissioner Gray** asked if there were other comments about how the Commission might interact with the Legislature.

**Senator Conway** suggested talking a little bit about the funding of the Gambling Commission. He thought it was a major problem and very important on how it was funded. There have been a number of sweeps of the gambling account during bad state budget times, which raises a whole different perspective than what has been talked about. The other piece of this, of course, is the license fee issue that is always one that gets generated inside. It is important to understand that in the Legislature, there are very separate committees that deal with these things too. The Gambling Commission's budget gets swept by Ways and Means staff who does not always talk with the ex-officio members when they do that. Margarita Prentice was lucky because she was the ex-officio and she was on the Gambling Commission.

**Commissioner Prentice** replied she did not know how lucky that was because she could only fight it off one year. It looked as if the Commission was protecting this huge amount of money and everybody else was hurting, so it happened anyway.

**Senator Conway** suggested keeping in mind that, whenever the Commission raises license fees, the legislators hear about it because they have constituents who go to them and say what they see going on at the Commission. That is a whole other process, aside from gambling policy. The funding of the Gambling Commission is another major issue of legislative involvement and he urged the Commission not to lose perspective on that. He thought Ms. Hunter might like to comment on that. She is the one that has to run by the Ways and Means Chairs to ask what they are doing sweeping the gambling fund again this year. The people that pay for those fees are the ones who actually should be a little alarmed because they pay their money for enforcement purposes. The basic reason the Commission has license fees is to pay for enforcement activity. He thought that was in the statute. When the Legislature sweeps those funds, they are sweeping the funds that are used for enforcement. In Olympia, there are also several levels of policy involvement, especially in funding. There is the Ways and Means staff, which is OPR staff, and there is also the staff that serves the committee from the partisan perspective. It is important to have a relationship with this full staff to understand clearly what is going on. It is a very complicated challenge, but one of the reasons the Gambling Commission has been struggling with funding is the Legislature has been sweeping the gambling fund, and there lies part of the reason for fee increases, which everyone here probably has some concerns about. Senator Conway said he just raised this because he thought it was another critical relationship with the Legislature.

**Commissioner Gray** said the Gambling Commission has declining revenues because of the declining operations.

**Commissioner Simpson** explained that, as he read the statute, he thought it was the responsibility that was given to the Commission when the Gambling Commission was created to make sure there was the provision of the funding necessary to carry out the mission of

keeping corruption out of gambling and so forth in Washington. It is a responsibility of this Commission to provide that funding, but there are a lot of moving pieces. In some cases, there are increasing costs, like health care costs rising every year. For employers, that is a big cost driver, and some portions of the gambling that is legal in the state has seen a decline. Commissioner Simpson said it reminded him of a game one of his kids had called something like SimCity where the person who is operating the city is able to set the level of taxation. If they make taxes too high, then their citizens start revolting, but if they are too low, then they do not have enough. It is a delicate balancing act to be able to accomplish what is needed to be accomplished and not be too oppressive with the fees. He said he did not know enough yet to be able to make good decisions about the structure or about who is being taxed and how much. He looked forward to learning more about that and having a much greater understanding of the Commission's existing structure and who was paying for it. He has visited the Gambling Commission offices and discussed these things with the staff, and thought they have done a very good job of working hard to become more efficient and do more with less. Commissioner Simpson said he believed that the Commission is reaching a point where they can no longer continue along the path of not hiring additional people when someone leaves or allowing positions to go unfilled. So the Commission has a responsibility. He thought he needed a better understanding of the existing structure and the history of it, so that he could make a reasoned decision about how to proceed and how to adequately fund the activities the Commission is responsible for taking care of in the future.

**Commissioner Stearns** agreed the Gambling Commission was getting close to the point where its funding was affecting its ability to do what it is supposed to do. He also thought the funding and the revenue issue in terms of at what point does the Commission endanger the public by not doing its job. He knew there were similar questions when looking at the military and how much they could cut before it started creating problems for the country's safety. It is important to be aware that there probably is a threshold and if the Commission goes under that, it is not going to be able to carry out its mission.

**Commissioner Gray** wondered if there were additional ways to enhance the revenue of the Gambling Commission, which is currently done through fees.

**Senator Conway** responded that one perspective he has shared with a number of folks was that he believed the Gambling Commission was in charge of a large chunk of industry in this state. These are businesses and a lot of people have employment through these businesses. In Pierce County, their casino employment is probably one of their biggest categories right now. It used to be the tide flats. Between health care and the casino, that is where a lot of the employment is, which requires the Commission to examine its responsibilities in that arena. A lot of people get their jobs there and depend upon those jobs. It is not just enforcement activity anymore; it is also responsibility for a chunk of people who are working at jobs and people at businesses as well. Senator Conway thought that was something that has changed considerably from the 1970s, 1980s, and 1990s. The employment at their major casinos is huge in the communities now. This is an enhanced role that is being played by the growth of

the gambling industry, which is probably worthy of saying, given that, is there more that the Commission needs to be doing. And if so, do fees solely for enforcement by statute meet the need. He said the Commission could ask the tribes how many people were employed at these casinos, but there are a huge number of people who are working and getting jobs from these casinos. It varies, but by virtue of that, this has become a major industry in this state for employment.

**Commissioner Prentice** commented that she hoped time did not run out before they really get to what she saw as one of the major stresses, which is because of the Indian Gaming Regulatory Act. IGRA is a federal act and the Commission had to deal with it. The tribes were able to have whatever gambling was occurring within Washington State, so because casino nights were allowed, that was what really brought it all in. She remembered it was an attempt at having some equity. Card rooms were allowed five tables at the time and then were expanded to 15 tables. They never were intended to be the same thing, but it was also trying to deal with some of the hostility that was seen from communities that were going to have tribal gambling. It was very real in those days and people kind of act like that never happened, but it did. The Commission also has to keep in mind that it has to deal with the federal law; it cannot be avoided. It does not matter who hates it, it is just simply there and the law must be abided. Commissioner Prentice said one of the things she wanted to comment on earlier was that the Commission does deal with the Attorney General's office, but she could remember one time where the Commission felt strongly enough, and that was the Quinault Tribe and whether or not there had been an unbroken ownership in a flea market, which was where their big casino is. The Commission disagreed with the AG's office and did it anyway, and the Governor at that time agreed with the Commission. So there was plenty of give and take. They were not the same thing, and Commissioner Prentice thought the Commission had to remember that the federal law applies, and they have attempted to live with it. Washington is in a lot better shape than some states because there was already a Gambling Commission attempting to deal with those things. Commissioner Prentice said she was not astute enough to tell the industry what efficiencies were necessary. Obviously, they are concerned or they would not be here. She thought the Commission was open to any ideas that might be given and the industry can help with this.

**Director Trujillo** referred to talking about the openness of the Commission and said one of the questions in topic number 4, which will not be covered today, was how the Commission staff does business. Within that was a suggestion Chris Kealy made last month that had to do with independent audits and whether staff could do something there or not. Director Trujillo said he wanted to share with Mr. Kealy that his suggestion did make it into the list of discussion topics although it was probably not going to make it into today's discussion. He did not want Mr. Kealy to have to repeat himself if he did not need to.

**Commissioner Gray** called for public comment.

**Mr. Chris Kealy** operator of the Iron Horse Casino in Auburn, a former president of the Recreational Gaming Association (RGA), and the current past-president, said so many subjects had been covered today and he was sitting there wondering if the Commission was going to let the public comment, and now he was not sure how to cover them all. He explained they were in a phase of what he called re-regulation, which was his new buzz word, and he was going to sell it to the Commission today. This Gambling Commission in 2001 supervised approximately 21,000 people. Today, tribal gaming units in general have done a good job themselves and are regulating a huge portion of this activity. Mr. Kealy said, to Senator Conway's point, that the activity being seen in Pierce County is enormously under the purview of the Puyallup Tribal Nation and under their regulatory body. The Commission helps that body, so is now a supplemental agency, where in 2002 it was that regulatory body. He thought that after seeing that re-regulation shift, this body lost a significant portion of its mission. That is just the reality of it. So this agency has gone from 170 or 190 people to about 146 FTEs today, and it was his thorough suggestion that it needs to be about 80 FTEs because the mission has shifted and public demand on gambling was and is huge. It was, and it was ignored, but now it is acknowledged and taxed, or organized in ways that policy makers have chosen to let the activity occur. So there is no particular interest in running an illegal gambling operation because they do not have a customer base. They have a source for what they want to do. So the regulation, or the need for the Gambling Commission in their mission surrounds money laundering and protecting our country's assets via terrorism, drug money laundering, and other activities that clearly are not even really a part of, but people are vulnerable to, because it is heavy cash businesses. Mr. Kealy said understanding what the mission is today versus ten years ago is the first step to then identifying what this agency really needs to look like. As they watched the mini-casinos melt down, it was not just that. It was a policy decision on where the activity would occur and then who, in fact, would regulate it, which happens to be their tribal partners in this process. He said the Commission has got to identify the problem before they start guessing at solutions. He said he has heard the Commission ask several times, what do they do to increase revenue. The market has shifted, and the people that are responsible for that activity are not the Commission anymore.

**Ms. Dolores Chiechi**, Executive Director of the Recreational Gaming Association, stated this process was very encouraging and, in fact, it appears as one of the vision statements on the website that states "anticipating and responding to the evolving gambling industry," is actually coming to bear now. She has been watching that statement on the website for a number of years and saying when might that happen. As Mr. Kealy mentioned, there has been a lot of statements made, and conversations and topics. And as her mind was buzzing, she finally just started jotting down some things. In regard to the initiatives and them being touted as public opinion, or what the public wanted at that time, if you look back to history, the tribes ran two initiatives and both of them were defeated by over 70 percent. The public said no, they did not want them to have slot machines. The tribes negotiated through the friendly lawsuit and they obtained slot machines. When the card room industry, along with another entertainment industry, ran Initiative 892, they got it on the ballot and were all excited about that, but they did not have any money left. There was \$6.7 million spent to defeat the Initiative. That was

the adjustment of the public opinion. Had the industry had \$6.7 million of its own to run its own “yes” campaign, it may have come out a little differently. So it was much easier to get a no vote than it was to get a yes vote. Ms. Chiechi wanted to make clear that it should not be touted as a public opinion and what the public wanted, because the public got one message, they did not get the other message.

As far as expansion of gambling, it has been stated what is an expansion of gambling, but it has never been defined. Past attorneys from this Commission have attempted to define it, the Attorney General's office attempted to put it in a category, and the President of the Senate has certainly made rulings on a number of occasions. But when the house-banked card room legislation was passed, that issue was never raised, nobody asked the question, and the card room industry was created to be what it is. Every time the Commission approves a new location, is that an expansion of gambling? Every time they approve a new game, for example the third bet on the mini-baccarat, is that an expansion of gambling? She thought it was really a squishy subject. Unless and until somebody challenges it in court and there is an outcome, it is really a squishy outcome of what that looks like, who is defining it, and what does it mean. Ms. Chiechi said she did not know how to answer that unless there was a court battle on that issue, but she did not think anybody had the money or the desire to go into court and get that outcome.

Ms. Chiechi noted that Commissioner Simpson had stated that it was the design of the Legislature to create a separate agency that was separately funded and was not part of the Legislature. And that has worked. For 30 plus years, this agency has done what it has done under the guise of the powers and duties that have been handed down by the Legislature to say this is what they want the Commission to do, this is what they do not want the Commission to do. All it takes is someone to write a letter or call a legislator and say, “Do you know what they're doing over there? No, I don't; tell me. Well here's what they're doing.” That's what they learn, and they knee-jerk react, and the Commission gets a letter saying cease and desist or else. What they do not get is the other side of the story, or sitting in the room of the ex-officio members who actually hear the full picture of the two-year dialogue that occurred. All it takes is for a legislator to hear from an opposing view that they should be concerned. And guess what? The legislator is going to come to the Commission and say “What are you doing? I don't really know the whole story, but I just know I'm being told I shouldn't like it.” So that is where the politics of this Commission and the Legislature get kind of merged together.

As far as what the Commission's duties should be or what their relationship in the legislative environment should be, Ms. Chiechi thought what Ms. Hunter, the past director, and the current director have done in meeting with legislators and informing them and educating them, that has to take place just within this Commission. There are five Commissioners who come from all walks of life who do not understand a lot about gambling. She said she would not use the word ignorant, they just do not know what they do not know. When it comes to mini-baccarat, they do not know how it is played. Ms. Chiechi thought that, perhaps monthly they have a “game of the month” and set it up at the back with the layout, and either the licensees

or the staff shows the Commission how it is played. Ms. Chiechi said she would benefit from that because she does not know how mini-baccarat is played. That was the purview of her members to know how that operates. But it makes sense for this Commission to have that education level. And it cannot be expected for 149 people in Olympia to understand it, when some of the Commissioners and staff do not understand it. So there is a good symbiotic relationship that could take place with the industry. There are decades of experience in the audience that come and sit, and just cringe when somebody asks about a mini-baccarat game and the Commission is regulating it. Ms. Chiechi thought there was an opportunity there for a lot of shared information and a lot of education that could take place within this Commission. She said the industry does its best to try to educate legislators as well. So, when the Commission's bill comes up, they have a reason to go talk to the legislators. If there is no bill to talk about, it is likely they legislators are not really interested to have a conversation with Commission staff.

Ms. Chiechi thought the path this Commission appears to be on is taking a more proactive approach to the Legislature in getting to them and saying they would like to come and inform them about what the Commission is up to, rather than waiting for staff to be asked to come forward and give a presentation at a hearing or a work session. Perhaps having conversations that are more broad and specific as well would give the legislators a better understanding of what this Commission does and that it knows what it is doing. When the bill was up for a hearing, there were some mis-statements made by some testimony. And the staff of that committee had no idea that they were mis-statements so the legislators walked away believing what those statements were. It just goes to show if that bill were to pass – they get a mini-baccarat bill, the Commission has how many weeks to get ten legislators that are on that committee to understand and the staff of that committee to understand what that bill would do and what the game would do. It makes Ms. Chiechi very concerned that the Legislature would consider shifting the authority away from this body. The Gambling Commission has the methodical approach of months of discussion, staff analysis, staff presentations, questions and answers, and demonstrations that help the Commission to make an informed decision. By no means would Ms. Chiechi say that this Commission has been knee-jerk or not methodical in its approach to making those decisions. She wanted to just say, as well, the ex-officio roles are huge because it helps the committee; it helps the Commission when they attend, and listen, and pay attention, and then go back and report to their committee what is going on. That committee is a little bit more informed than if that ex-officio chose not to attend and not to communicate back what was happening. Ms. Chiechi thought there were some of those processes that could be reinforced, but she was also very encouraged by this process and the fact that the audience, the public, and the industry are allowed to comment and participate. She thanked the Commission for their time.

**Commissioner Stearns** said he wanted to follow-up on Ms. Chiechi's comments. When he worked in Congress on the committee that dealt with gaming, there was no way they could have done their job except for the fact that they traveled the entire country and exhaustively studied security, the money, and the games. He did not know how many casinos and how

many other operations he visited, in addition to holding hearings on it, but just having that knowledge was absolutely critical.

**Commissioner Gray** repeated what she had heard. One of the effective ways of dealing with the Legislature is to make sure the Commission was informed, that they understand the games, and that they take advantage of anything they can, and to use the legislative liaisons to get information to the Legislature.

**Mr. Martin Durkan Jr.**, representing the Muckleshoot Tribe, stated there was obviously a diverse opinion on these issues. He said he was not interested in rewriting history or having a different understanding of what has taken place in gaming and initiatives over the past 20 years. The Commission itself has done independent surveys. They speak on their behalf on their own. A survey obviously is only a point in time. The Commission could certainly do another one, but Mr. Durkan thought they would find that the numbers were relatively the same in terms of where the public is on the amount of gaming that is taking place in the state of Washington. Mr. Kealy and Ms. Chiechi are quite correct in that everyone knows internet gaming is coming. And if it is about new revenue, the opportunity for new revenue for Washington State and for the Commission is with new games and new market sectors. And so the Commission's preparation for that is very wise because it certainly is coming eventually and they have to be prepared for it.

Mr. Durkan said he worked hard with Ms. Hunter last session trying to get the salary freeze lifted for the gaming agents because the Commission was not retaining some very well-qualified staff. And the Legislature needs to be aware that the Gambling Commission has to be competitive in the wage market to retain these people because they are going to go to other police agencies to get better compensation. So there is a lot of brain trust here and it functions well, and they have done a great job regulating the state of Washington. But if the Commission loses more people, there is going to be a problem. The tribes are concerned about the overlap with the Tribal Gaming Agency because they have their own gaming commissioners and their own gaming agency. There is a duplicated process that is going on with the Commission, and as they move forward in the next few years, if the tribes begin to open Compacts, the Commission is going to see a number of tribes wanting to regulate themselves. And that will be a big loss of funding for the Commission. So the Commission has to look at those issues. And Compacts are going to be reopened and renegotiated, and things are going to change, probably more than Mr. Durkan realized and more than the Commission realized. He said he had a small comment on the mini-baccarat. He was not alluding that it was an expansion of gaming, and he did not believe it was. He said he had a problem with somebody that was not licensed in the state proposing a game. He would think that someone would need to be licensed to propose a game, to even evaluate a game, a game that is not licensed anywhere else. The letter from Nevada said they did not license him – they said they did not require a license. Mr. Durkan said his tribe's gaming officials were concerned that nobody would play it and it would be hard to regulate, so they would not do it. That was his comment and that was what he meant. He did not think it was an expansion of

gaming. Like Senator Conway said, it was an evolving issue with the Legislature. He thought the reason the raffles were scoped was because of the size of the prize. It was a major prize and a major change. Mr. Durkan believed the Commission was going to see a lot more expansion of raffles and a lot of nonprofits wanting to do that. So that raffle business has to be watched; not that it impacts the tribes, the card rooms, or anybody else, but it is a big number. Mr. Durkan asked what happens if they never sell enough tickets or they never win the condo. It is very interesting. He thanked the Commission.

**Commissioner Gray** asked if there were any other comments on this topic; there were none.

### 3. **Problem Gambling**

These days, it seems almost everyone knows of someone with a gambling problem. What is our role in this area?

There is a massive increase in online play for points. Such vendors are positioning themselves should internet gambling become legal. Does this tie to problem gambling? Even though there is no charge for the activity, players often buy enhancements that increase their activity. While there may be a legal distinction between such a purchase and a gambling activity, the problem gambler may not see a difference. Is this something we should be looking at?

Online Penny Auctions are not considered gambling by the letter of the law; however, many people consider the activity to be very similar to gambling. This may result in increased problem gambling. Is this something we should be looking at?

**Commissioner Gray** introduced the third topic (excerpted in text box above): problem gambling, both in terms of the kinds of problem gambling that is seen today and the continued – and again it goes back to internet gambling and if it becomes legal, what kind of problem gambling would there be. There are penny auctions now that are not considered gambling, but is that in fact enhancing the gambling problems? She opened it up to a discussion about problem gambling and the role the Commission might have in that issue.

**Chair Amos** asked what online penny auctions were. **Director Trujillo** replied it was something he did not quite understand, and asked if Assistant Director Harris would like to try to explain it in a way that might be understandable. **Assistant Director Harris** explained there have been some ads on TV for penny auctions. Basically, they start out by giving people a certain number of free bids and each bid goes up by a penny. After that, each time someone places a bid there is a fee charged for placing the penny bid. So, technically someone could win something like a cellphone for \$5 if they happened to be the last bidder. But then they also have paid the fees to place the penny bids. Basically, it is like an auction, but people are paying a fee each time they bid, and the bids usually just go up a penny.

**Chair Amos** asked if it was basically like buying off eBay. **Assistant Director Harris** replied it was similar to that, except there was a fee for each time someone places a bid on the item that they might not necessarily win. So, even if someone has placed a couple bids, they get charged for those bids – even if they are not the end winning person for the item, they are still paying that fee to place those bids. **Director Trujillo** asked if that fee could be several dollars. **Assistant Director Harris** affirmed. **Director Trujillo** said it may cost someone to bid a penny, \$3, \$4, or \$5. And then if they want to bid that again, it would cost them that fee again, so it just continues to go up. So in the end, it may cost \$5 for the item, but that was not the true cost because it cost \$5 in pennies, plus all the fees that were paid for the bids. And in the end they win the prize. **Chair Amos** asked if that was going on in this state. **Director Trujillo** affirmed, adding that it is currently a consumer protection issue under the Attorney General's office. **Director Trujillo** said it was very similar to gambling and there were not a lot of people who report those items to Commission staff as gambling issues. Staff would then refer them to the Attorney General's office, but as Commissioner Gray talked about, it may be enhancing a gambling problem.

**Commissioner Gray** asked if there were any comments about the gambling problems that are in Washington.

**Director Trujillo** said Dolores Chiechi and Maureen Greeley from Problem Gambling have made presentations to the Commission. Tribal representatives have described the programs that they are in charge of, and Ms. Chiechi and Ms. Greeley have partnered with them a couple of times.

**Commissioner Gray** thought the question for the Commission was whether there were attempts to deal with problem gambling within the gambling industry. She opened the discussion up to what the role of the Gambling Commission was with respect to problem gambling.

**Senator Conway** said that, having been in Olympia, Commissioner Prentice and he both were there when the problem gambling issue really took off in the 1990s. That was when the Legislature finally got around to putting together some funding mechanisms for problem gambling. And keep in mind that that became the method. Then the Compacts picked up on it and started placing problem gambling into the Compacts. He thought one way in which an industry ensures the public that it is sensitive to the problems it creates is to be engaged fundamentally in the problem gaming issue. The stories are sad – stories of people who have lost their home, lost their lives, or been put in jail because of a problem gambling problem. Senator Conway said the gambling industry is expanding in Washington State and the question was whether sufficient resources and strategies were being generated to address it. As a legislator involved in this for years, Senator Conway thought the Legislature was looking for that kind of role. When he looked at the statute, he did not think it says the Gambling Commission will be the agency that manages problem gambling. He thought it was almost a health care issue, a DSHS issue in fact. But the gambling dollars are not with DSHS, and he

thought it was their game really to bring together the parties to work on problem gambling. **Director Trujillo** affirmed there was no specific mandate in the statute that the Gambling Commission shall be in charge of a problem gambling program.

**Senator Conway** said he was reminded a little bit about liquor. Liquor has all of its consequences. And of course what has happened very carefully with the liquor issue is that the liquor tax revenue was used to address the problem drinking and everything that came from all of that. He said that, to him, problem gambling was a similar kind of challenge, because it was critical. The public thinks the revenues to address problem gambling issues are generated by the industry that was created the problem. Senator Conway thought therein lies the issue that the Commission is trying to get at here, what the role of the Gambling Commission is in this. To some degree, it was the responsibility of the state to address the problem, but he did not think anyone was saying that problem gambling was not with us. One of our legislative bodies saw what happened here just recently, and it is not as if problem gambling was not out there. The question is the industry needs to be responsible and to ensure that their resources are being developed to address those problems and help control them. **Commissioner Gray** asked if there were any other comments, or any comments from the audience.

**Ms. Chiechi** introduced herself again and stated that on behalf of the Problem Gambling Advisory Committee, of which she had been the Chair for a number of years, it was the advisory committee that works within the Department of Social and Health Service's (DSHS) program to monitor, direct, and make recommendations to the state agency with regard to the program that is funded by the industry. The industry pays that .13 percent--horse racing, lottery, bingo, charities, pull-tabs, and card rooms. And then the tribal revenues by way of their Compact agreements also contribute. These are ways which help the public with problem gambling. As far as what role the Commission should play, she thought the Commission has played a tremendous role in coordinating and collaborating with not only the Problem Gambling Advisory Committee and the state program, but also the Evergreen Council on Problem Gambling, which is the nonprofit entity in our state, which is internationally known as one of the top go-getters after this issue. Ms. Chiechi said she would encourage a similar communication, shared information, and also offer the opportunity for the Council, as well as the state program, to come with ideas and concepts to staff and present those as opportunities where there can be partnerships between the Gambling Commission and the programs that currently exist. She then explained that the state program had recently done a sole service contract with Evergreen Council to provide much of the services, the treatment, the training, the awareness campaigns and prevention. The program is successful, the funding is there, and if there was more money that could be contributed, it certainly would be put to good use. She thought a continued collaboration with the Gambling Commission would be a benefit, and thanked the Commissioners.

**Commissioner Simpson** asked if Ms. Chiechi could give an example of someone who was being assisted by the Problem Gambling and how they become engaged with the program and the process.

**Ms. Chiechi** replied there was a 1-800 number that was required by all gambling entities. They are required to have one as it is in the statute. The Gambling Commission has the fliers, brochures, and posters that are to be put near all of the gambling activities that occur in the state. For example, a person calls the 1-800 number 24-hour hotline and is referred either to a Gamblers Anonymous, or to a counselor, or a treatment center. In fact, treatment is free. If a problem gambler calls the state and says they have a problem, they will communicate and work with the Evergreen Council. The Evergreen Council has sent a number of people out of state because currently they do not have an in-state residential treatment center. The Evergreen Council has counselors that will see someone two or three times a week. They also supplement that with Gamblers Anonymous meetings. But the Evergreen Council has the funding through the tribal contributions and other contributions that actually send people away for a 30-day out-of-state inpatient intensive treatment.

The Evergreen Council has also created what they are calling therapeutic justice in Pierce County. For example, if someone who embezzled funds can show that the reason and the cause was because they had a gambling addiction, they could actually get a reduced sentence, and it is kind of like drug court where if you can prove that you are not using, and you are going to treatment, and you are staying off the drugs, they can diminish your fine, or diminish your penalty. Of course, problem gamblers are still going to have to pay restitution and do not get off the hook. It is challenging, however, because there is no drug test for problem gambling. Evergreen Council is talking about doing a lie detector or stress test to see if a person is telling the truth if they have gambled or not. Progress is being made and Ms. Chiechi is hoping they are expanded around the state, as well as tribal court systems. The only program that utilizes the lie detector test that exists in the nation is actually in Amherst, New York. It is a tremendous program. They have had a great deal of success with folks that have gone through that program.

The Council is making progress towards those types of processes. And as Senator Conway mentioned, it is a mental health issue. Recently the DSM-5, which is the diagnosis for the mental health community, has determined problem gambling could be an addiction and it is not just this weakness that people have. Take into consideration how far the medical profession has come with alcohol and drug addiction into believing that it is not just a weakness and admitting it is a brain chemistry thing, and they have found the same thing with problem gambling. Even though the program has come a long way, it is still further behind alcohol and drug addiction. There are advocates out there that are promoting that problem gambling is an issue and the public needs to be cognizant of it and do what is right for the people that are affected. Ms. Chiechi affirmed that families are also allowed for treatment, and that family members could call. But a person cannot be committed to a treatment unless they want to go. Next month their industry is going to be doing problem gambling training for

its employees to become responsible gaming certified. And they are doing that in concert with the Evergreen Council, who would be happy to come as regularly as they are invited and present to the Commission updates on those activities.

**Commissioner Prentice** suggested that the Evergreen Council come periodically to update the Commission. She referred to the hearings in which she participated in a number of years ago regarding problem gambling where it only skimmed the surface. The problem is extremely serious and it destroys lives. **Ms. Chiechi** replied that the Problem Gambling Advisory Board was also offering those updates in communication with the legislative committees as well to keep them abreast of what is happening out there. **Commissioner Gray** agreed with Ms. Chiechi.

**Senator Conway** asked if the problem gambling mission had some national notoriety. **Ms. Chiechi** replied, absolutely. **Senator Conway** commented that the statewide organization had its meeting in Seattle recently. He asked if the Evergreen Council has the staff support to be doing the kind of background that other countries are doing to address problem gambling as far as the best practices initiative. **Ms. Chiechi** responded that the conference was a National Conference, and Seattle was the host for the National Conference. There were attendees from Australia, Canada, New Zealand, and all over the world. And, the Evergreen Council's Executive Director, Maureen Greeley, was recently elected their president of the National Council. There is a great deal of resources and information sharing, and the excitement around that conference, and people networking, and sharing those best practices so they know what is happening in other areas so that they are not reinventing the wheel. That is absolutely taking place. The Council is expanding its staff to manage that. It is a tremendous thing to see because five years ago, staff was ready to close the doors at the Council because there was not enough money. Now they are looking at buying a building to be able to operate out of and have come that far. And it goes to say too that the tribes have been a great contributor to those programs by way of their Compacts. They have given more money to the Council than has gone to the state, but now that there is a sort of shared collaboration. It really does not matter where the money goes because it is all being spent on the proper things.

**Senator Conway** commented that according to Ms. Chiechi, regarding the regulatory side, there is great cooperation between the tribes and the Evergreen Council's programs on the issue of problem gambling. **Ms. Chiechi** replied yes, absolutely. That is one area they can all agree on.

### **Closing**

**Commissioner Gray** thanked Dolores Chiechi for her comments and mentioned they were almost out of time. Commissioners and staff covered three topics and she said she would write a summary on the strategic topic of technology. Although there was not a vote, there was an agreement that the Commissioners need to have more education on the economics and all the impacts of what the new technology might bring; to look at what other states are doing; review the legislation; talk with our partners and clients about the new technology and online gambling. She

asked that staff put together some kind of information so the Commissioners' could have some facts and these facts could then also be shared with the legislature and our legislative representatives. While working within the legislative environment, there is still the question of the definition of the expansion of gambling; this would come directly from Legislature. Commissioners would look for a better understanding of funding, and be able to understand and look at connecting our representatives with the Legislature to make sure that the Legislature understands what the Commissions' role would be, and understand what the Legislature expects from the Commission. There was a suggestion from Commissioner Prentice to assemble a one-page document that could be modeled after the brochure that Ms. Hunter has to hand out to legislators.

**Commissioner Simpson** commented that he was going to be in Olympia working as well during the session, and he would be pleased to assist Ms. Hunter. If there was a circumstance where she had to testify on legislation from a staff point-of-view and would like one of the Commissioners to be there to answer questions or testify from a Commissioner point-of-view, he would be happy to help. **Commissioner Gray** thought it would be really helpful, and asked if others would be willing to assist Ms. Hunter with the Legislature.

**Commissioner Prentice** replied she would be happy to help, but did not want to overlook the potential for help from the Attorney General's office. **Commissioner Gray** agreed they should include Assistant Attorney General Callie Castillo to provide some information on the expansion of gambling. As discussed, the third topic was on problem gaming, and what they learned was that there is a lot being done now, both in cooperation between the tribes and the house-banked card rooms. The discussion will be reflected in the Commission meeting minutes and when they are done it would be useful to have a one-page summary as Commissioner Prentice mentioned. Commissioner Gray said she would be willing to work with staff on it. Commissioner Gray also stated there were two more topics that they did not have time to cover today, but they could discuss in the future. She then asked if there were any comments about this process or anything else.

**Commissioner Prentice** thanked Commissioner Gray for her preparation for the meeting. She also stressed the importance of the strategic session and understanding it would bring to the Commissioners.

**Commissioner Gray** thanked Director Trujillo for all the preparation work for this portion of the meeting.

**Chair Amos** thanked Commissioner Gray and asked if there was anything else from Director Trujillo. **Director Trujillo** replied there was nothing further.

### **Adjourn**

**Chair Amos** thanked the Commissioners for their good work and adjourned the meeting at 12:40 p.m.

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