

Commission Meeting Minutes

APPROVED

Location of Meeting:

Grand Mound Great Wolf Lodge
20500 Old Highway 99 SW
Grand Mound, WA 98531
(360) 273-7718

Date and Time of Meeting

Friday, July 11, 2014
11:30 a.m.

✓ **Indicates Commissioners and Ex Officio Members Present.**

Commissioners

- ✓ Mike Amos, Chair
- ✓ Kelsey Gray, Ph.D.
- ✓ Chris Stearns
- ✓ Julia Patterson
- ✓ Bud Sizemore

Ex Officio Members

- ✓ Senator Steve Conway
- Senator Mike Hewitt
- Representative Christopher Hurst
- ✓ Representative Bruce Chandler

Staff

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

- PUBLIC MEETING -

Please note agenda items may be taken out of sequence at the discretion of the Chair.

1. Welcome

Mike Amos, Commission Chair

Chair Mike Amos called the Gambling Commission meeting to order at 11:30 a.m. at the Great Wolf Lodge in Grand Mound.

Executive Session to Discuss Pending Investigations, Tribal Negotiations and Litigation

Chair Amos announced there would be an executive session working lunch. He excused the audience and asked everyone to meet back at 1:00 p.m. for the rest of the meeting.

2. Director's Report

David Trujillo, Director

a) Staff Recognition

- Michelle Rancour, Executive Assistant, recently received a B.A. in Literature, History and Culture from The Evergreen State College.
- SAC Rick Herrington and S/A Jim Dibble received an award from Ontario Provincial Police (OPP) – The two recently provided training for OPP.
- S/A Jim Dibble received an award from the Seminole County Sheriff's Office for his forensics work.
- Assistant Director Tina Griffin and other staff were recognized for their work on "My Account." It was reported that 81 percent of licensees are now using My Account. Our original goal was 80 percent.
- Director Dave Trujillo was recognized by representatives of the Washington State Society of CPAs. Specifically, he was recognized by Rich Jones, President and CEO, Kimberly Scott, Vice-President of Member Services and Glenn Wisegarver, Board of Directors Member as one of two Outstanding Volunteer Leader Award recipients. Director Trujillo has volunteered his time since 2003 and served on various committees, including the society's Professional Conduct Committee and Board of Directors.
- All Staff, with a special mention of Gary Drumheller, were recognized for outstanding work on the agency accreditation by Mike Painter, Director of Management Services at WASPC. Mr. Painter (Kent PD retiree) went over some of the highlights of accreditation. He said that this really is a proud day for the Gambling Commission. Of the 55 law enforcement organizations that are accredited, the Gambling Commission and State Patrol are the only two accredited state agencies. He said accreditation increases public trust and has other benefits as well. He said other law enforcement agencies would love to be accredited. He said they recently opened up a class for law enforcement organizations interested in accreditation and the class filled up in two days with 40 attendees.

b) Monthly Update Reports

Commissioner Patterson asked about staff's role in cases where licensees are under-reporting tips. Staff responded that this involves the licensee's honesty.

c) Follow-up on Assignments from October 2013 and January 2014 Strategic Topics Discussion

Director Trujillo shared the schedule for follow-up assignments from October 2013 and January 2014 Strategic Topic Discussions. The schedule was designed so that staff can continue to keep discussions alive and coming back to the Commissioners regularly. It is broken into two parts; first is what staff is currently working on, and the second part is what has been completed.

d) Commission Dates, Locations & Agenda Format for 2015

Commissioners were asked to review the draft of possible dates and locations for 2015. Senator Conway asked about the possibility of not meeting in August, as Legislature is

typically off that month, and rather than not meeting in June. The Commissioners liked this idea. However, staff needs to look at whether this change would impact the budget process. The Commissioners typically approve the biennial budget or adjustments to the budget at their August meeting.

Rules Up For Final Action

Please note the items taken out of order. Jump from item #2 to item #7

7. **Staff Proposed Rule Change** Tina Griffin, Assistant Director
Manufacturer's Special Sales Permits
WAC 230-03-025 Applying for a manufacturer's special sales permit.
Staff proposes adding language to answer questions we frequently receive from applicants about this permit:
- Who can apply for this permit;
 - How long the permit is good for;
 - Activity allowed with this permit; and
 - Rules permittees must follow.
- There were no comments from the public.
Commissioner Stearns moved to approve the rules, effective January 1, 2015.
Commissioner Gray seconded the motion.
Motional Approved: 5:0.

8. **Petition from the Public: Distributor Representative for Magic Distributing Manufacturers and distributors.** Mark Harris, Assistant Director
Lowmon Petition: Manufacturers and Distributors
New Rule: WAC 230-16-003 Availability of bingo and pull-tab products and equipment.
A Petition for Rule Change was submitted by John Lowman, a licensed distributor, requesting the Commission adopt rules to require licensed manufacturers to make bingo and pull-tab products and equipment available to all licensed distributors for the same price and terms.
- AD Harris** went over the history of past petitions on this same topic. Staff researched whether other states have similar regulations, which was a question previously asked. Staff contacted about 13 states; only Minnesota has laws/regulations in this area.
Senator Conway said he noticed that staff had distinguished between form letters and other letters. Senator Conway felt a form letter was not necessarily a secondary form of communication. It's part of how communities organize. He noted that the Legislature often receives form letters.
- Senator Conway** said he would like to know what correspondence had come in directly to staff since the last meeting. AD Harris responded with the information.

Those who testified included:

Mr. John Lowmon, requested passage of the rules and that staff's recommendation to not pass these rules not be followed. They just want product to sell. He feels the company is viable, and that his company is under attack, by the products not being made available. Part of the intent behind giving notice to the WSGC is so you have notice of what is occurring.

Commissioner Gray asked if Mr. Lowmon gave notice, where would that go.

Mr. Lowmon responded they would probably create a file folder and put the letters in there.

Commissioner Gray asked how that would ensure you get product.

Mr. Lowmon replied he could not guarantee that.

Senator Conway said he wondered about the FTE costs calculation and administrative costs.

AD Harris stated When the old rules were in place it would happen in two ways. One would be a complaint that staff would receive, and the other would be our pro-active inspections where staff go out and verify that at the distributor level and the manufacturer level. Here if there's no price involved but somebody still refuses to sell to a distributor and staff are made aware of it, staff would still have to follow-up and investigate the reason why to make sure it fell into the requirements of the rule.

AAG Callie Castillo clarified for the Commissioners that the rule did not include a "credit worthiness" exception. It says manufacturers must sell to all distributors without any exceptions.

The Commissioners also discussed whether they should request an Attorney General Opinion about the Commission's statutory powers in this area.

Mary Magnuson, NAFTM (National Assoc. of Fundraising Ticket Manufacturers) said she did not support the rule. She did not feel it was workable, as written. Ms. Magnuson went through the history of the various regulations and explained more about how Minnesota's statute works. Ms. Magnuson is from Minnesota.

Senator Conway asked if Arrow International was the dominant player nationally.

Ms. Magnuson said she was not sure of exact numbers. In Washington, Arrow has about 52% of the market.

Ellie Coffey, Owner of Magic Distributing, stated she was in support of the rule. They keep mentioning a check from when she worked for a company nine years ago. She was not the owner.

Commissioner Amos asked Ms. Coffey of the other four that she had mentioned, did she buy from those other four distributors. **Ms. Coffey** listed the other distributors.

Lowell Haugen, President of Gasperetti's Distributing, was in support of the rule.

The Commissioners' discussion lasted about two hours. The Commissioners had questions for each of the individuals who testified. Ultimately, they decided to: Delay their vote, while staff waits for an informal Attorney General Opinion on whether the Commission has the statutory authority to rule make in this area.

Commissioner Patterson made the motion.

Commissioner Stearns seconded the motion.

Motion approved. 3:2 vote with Commissioner Amos and Commissioner Sizemore voting no.

Rules Up For Discussion and Possible Filing

9. Staff Proposed Rule Change

Tina Griffin, Assistant Director

Fee Increase

WAC 230-05-020 Charitable or nonprofit organization fees.

WAC 230-05-025 Commercial stimulant fees.

WAC 230-05-030 Fees for other businesses.

WAC 230-05-035 Individual license fees.

The Commissioners asked staff to bring forward two alternative fee increases for filing at the July 2014 Commission meeting.

Alternative #1: 6% fee increase effective November 1, 2014.

Alternative #2: 4% fee increase effective November 1, 2014, and a 2% increase effective November 1, 2015.

Commissioner Sizemore commented that he felt the work staff put into last month's meeting showed the need for a fee increase. He felt that due diligence had been done. There had not been a fee increase since 2008. He also felt that it was time for staff to tighten the belt.

The desire with a 4 percent or a 2 percent was to give licensees more time to absorb the increases. He still felt it was the best approach. It wasn't necessarily a year in between. The first increase could take place November 1st and maybe the second one would be July 1, 2015, not necessarily waiting until November.

AD Griffin responded, explaining that June has our highest renewal numbers, December is second, March is third and September was the fourth highest. A staggered approach that was earlier than November 1, 2015, would mean that some licensees would pay 4 percent when they renew and others would pay the 6 percent, so there really would not be staggering for some licensees.

Dolores Chiechi, RGA, commented that she was against the proposal.

Senator Conway asked what her proposal was. He commented that he assumed she would not want to lose the Gambling Commission. Ms. Chiechi's response was no, she did not want to lose the Commission.

Senator Conway commented that he would appreciate RGA coming forward with their ideas. Ms. Chiechi said they had a few ideas for new activities that would help supplement the Gambling Commission's budget.

Commissioner Sizemore made the motion to file both rules for further discussion.

Commissioner Patterson seconded the motion.

Motion approved. 4:0. (Commissioner Gray had to leave by this point).

Commissioner Gray left the meeting at 3:45 p.m.

- PUBLIC MEETING -

2. Approval of Revised Budget for FY15 and Preliminary Budget for 2015-17 Biennium

Judy Pittelkau, Administrator presented the budget for approval.

Revised budget for FY15 was approved: \$14.1 million & 134 FTE's.

Commissioner Sizemore moved to adopt the staff recommendation for the revised FY '15 budget, which includes a 4 FTE reduction.

Commissioner Patterson seconded the motion.

Motion approved. 4:0

3. Approval of Minutes – March 13 - 14, 2014 Commission Meeting

Chair Amos requested a motion to approve the minutes of the March 13th and 14th Commission meeting.

Commissioner Patterson made the motion to approve.

Commissioner Stearns seconded the motion.

Motion approved. 4:0.

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

4. New Licenses and Class III Employees

Tina Griffin, Assistant Director

Assistant Director Griffin explained with regards to the house-banked card room report we currently have 50 licensed, and two had downgraded to a Class F, and one closed in June.

Ms. Griffin also shared a pre-licensing report on a new manufacturer, Automated Systems of America, Inc. (ASAI) located in California. Staff recommends approval of all new licenses and Class III gaming employees listed on pages 1 through 32.

Commissioner Stearns made the motion to approve.

Commissioner Patterson seconded the motion.

Motion approved. 5:0.

5. Defaults

Amy Hunter, Administrator

a) Hector Gonzalez, Class III employee, Revocation

Mr. Gonzalez has failed to prove he is qualified to hold a certification based on the revocation of his license by the Yakama Nation Tribal Gaming Commission.

Commissioner Sizemore made the motion to revoke Mr. Gonzalez's Class III certification.

Commissioner Stearns seconded the motion.

Motion approved. 5:0.

b) **Christopher J. Smith, Card Room employee, Revocation**

The licensee Christopher Smith, cage cashier for Silver Dollar Casino, took a gaming chip and cash from the cashier's cage and falsified eight documents over a three-day period to conceal the theft. Mr. Smith was also found in the possession of the controlled substances Oxycodone and Xanax without a prescription.

Commissioner Patterson made the motion to revoke Mr. Smith's Card Room Employee's license.

Commissioner Sizemore seconded the motion.

Motion approved. 5:0.

c) **Taliau T. Tigilau, Jr., Class III employee, Revocation**

The certified employee, Tailau Tigilau Jr. was charged with 2nd degree Rape after he allegedly sexually assaulted a co-worker. Mr. Tigilau was terminated.

Commissioner Patterson made the motion to revoke Mr. Tigilau's Class III certification.

Commissioner Stearns seconded the motion.

Motion approved. 5:0.

- PUBLIC MEETING -

10. Other Business/General Discussion/Comments from the Public

Chair Amos announced he would not be available for the August meeting and asked for a volunteer to Chair the meeting. Commissioner Stearns volunteered.

Director Trujillo also discussed adding another decision package to perform a study designed to determine what gambling looks like in the State of Washington in two, four, six, eight, ten years. A study of this nature will be expensive and Director Trujillo thought the Commission should add another decision package for general funds.

Commissioner Stearns moved to have another decision package to request long term gambling study for the State of Washington.

Commissioner Patterson seconded the motion.

Motion approved. 4:0

11. Comments from the public

There were none.

12. Adjourned: 4:45 p.m.