

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
THURSDAY, MARCH 13, 2014
APPROVED MINUTES**

- PUBLIC MEETING -

Chairman Mike Amos called the Gambling Commission meeting to order at 1:20 p.m. at the Tumwater Comfort Inn Conference Center and introduced the members present.

MEMBERS PRESENT: **Commissioner Mike Amos**, Selah
 Commissioner Chris Stearns, Auburn
 Commissioner Geoff Simpson, Issaquah
 Commissioner Kelsey Gray, Spokane

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

Chairman Mike Amos stated the meeting was starting a little late. He thanked Mr. Schulte for his demonstration and suggested anybody that has questions of him, to get with him later. He instructed everybody to pull out their agenda.

Director David Trujillo asked if, for the record, did Chairman Amos need to introduce the head table?

Chair Amos introduced those at the head table, Mark Harris, the Assistant Director; Tina Griffin, Assistant Director; Julie Lies, Assistant Director, Chris Stearns, Commissioner, David Trujillo, the Director; Amy Hunter, legislative affairs; Callie Castillo, from the AG's office; Geoff Simpson from Covington; and Kelsey Gray, from Seattle/Spokane, and some parts in between. He introduced himself and thanked Director Trujillo for the reminder.

Director David Trujillo addressed Chairman Amos and stated that at the last public meeting he had shared a little bit with the Commissioners about agent Rick Herrington. Director Trujillo would now like to share with the Commissioners a little bit more about the agent that provided the staff demonstration. Part of this is to share with the Commissioners the caliber of the people that work for the agency.

Rick Schulte is a certified fraud examiner. He's been with the agency for 13 years. In his prior life he was in the Air Force and he attained the rank of Captain. More importantly though, he spent much time as an ICBM launch officer with the Strategic Air Command. He also has a bachelor's of science in business administration and an MBA. He did work one year with the Olympia Police Department, and he is also President of the local chapter of the Fraternal Order of Police in our area here.

Director Trujillo stated that at every opportunity he has, he will probably do something similar with similar staffers.

1. Swinomish Indian Tribal Community Compact Amendment

Director Trujillo pointed out that in the packet is a PowerPoint presentation with two slides per page that was presented in both sides of the House during the legislative public hearing. Director Trujillo will summarize the purpose and if there are any questions, he would be happy to answer them.

Director Trujillo stated that we are here to talk about the Compact Amendment between the Swinomish Tribal Community and the State of Washington. Just recall that Compacts are originally a result of the 1988 Indian Gaming Regulatory Act. And that Act resulted from court cases and various states asserting, or trying to assert, jurisdiction over tribal gaming activities. As a result, the Indian Gaming Regulatory Act of 1988 was enacted. That Act provides for a regulatory framework for Indian gaming. It also recognizes that the State has an interest if gambling activities that are part of what's negotiated were operated in the State by any person or organization for any purpose.

To touch very specifically on what this Compact Amendment does, is it modifies the Compact to allow persons between the ages of 18 and 20 years old to gamble, as long as they do not purchase or consume alcohol on the premises. That language is currently similar to 10 other gaming Compacts, and it's also consistent with RCW 9.46.228, which allows persons over the age of 18 to play card games.

A few facts about the Swinomish tribal community are that they are a community of coast Salish peoples descending from groups and bands originating from the Skagit and Samish watersheds. The community is comprised of approximately 900 tribal members, the majority of whom live within the Swinomish Reservation in Skagit County. The tribe is one of the five largest employers in Skagit County. And the tribe values collaboration with both tribal and non-tribal governments.

Director Trujillo pointed out that on Page 5, or slide number 9, shows the location of this facility. It is north on I-5 to Burlington, which is north of Mt. Vernon and south of Bellingham. From Burlington take Highway 20 west and this facility is on the way out to Anacortes.

On slide 10, also on page 5, is the proposed language. New language has been underlined, and old language is stricken. In this case the tribe's regulatory authority, or the Tribal Gaming Agency, plan to use a wrist band and a black light stamp method to identify players that are between the ages of 18 and 20 so that they don't drink alcohol on the premises.

Director Ron Williams of the Swinomish Tribal Gaming Agency was present. He is Director Trujillo's counter-part. If there are any questions, he can answer them, or if there are any additional questions of me, please ask.

Chair Amos asked if there were any questions and thanked Director Trujillo.

Director Trujillo asked if there were any questions of Director Williams.

Commissioner Chris Stearns had a question of either Director Trujillo or Director Williams. It says Class III, but are there Class II games involved, and would they be allowed to play Class II games, or non-Class III games?

Director Trujillo replied that for our purposes, Class II really doesn't have a distinction off Indian country. So on Indian country, Class I, II, III gaming. Because Class II itself is the purview of the tribe and the federal government, they do have the ability to operate those gaming activities. Director Trujillo didn't know specifically how this would interact with that because it's really referring to the gaming floor, or the gaming premises, that's conducted under the Class III gaming activity Compact.

Director Trujillo asked Director Williams to come on up to clarify.

Swinomish Tribal Gaming Director Ron Williams stated that to answer those questions, our Class II (inaudible) and he thinks the age limit for (inaudible) requirements is 16 and over they're allowed to (inaudible). The Class II are basically off the gaming floor (inaudible) activities. There's like 20 machines. They only have the Class IIs. It shouldn't be much of an issue, since it's already 16 to play bingo.

The wrist bands have already been purchased from the casino operations side. They've already got the equipment and stuff in place and are ready to move along with the projected plans for this new age group.

Commissioner Stearns thanked Swinomish Tribal Gaming Director Williams and Director Trujillo.

Director Trujillo recommended looking for a motion to forward this language to the Governor's Office for his further consideration and review.

Chair Amos asked for a motion.

Commissioner Stearns made a motion seconded by Commissioner Gray to move forward to the Governor the Amendment of the Swinomish Indian Tribal Community Tribal State Compact. The vote was taken; the motion passed with four aye votes.

Director Trujillo thanked Chair Amos and stated he would take care of that. And just as a reminder for those in attendance, this was moved to the very first item in the agenda packet in the event any of the ex-officio members were able to be present and vote today as well, so that they could get back to Olympia if they needed to. But there were none here today.

Director Trujillo said that at this point, staff does not have any additional agenda changes. He shared that information was received from Jay Gerow of ZDI Gaming about WAC 230-14-047. It is before the Commissioners on goldenrod paper. Also in front of the Commissioners are the minutes from our January 16th meeting. The third item that was provided is in blue. That is an update of where the Commissioners are with their strategic topic discussion, in addition to a summary of well over 100 pages of two Commission meeting minutes when it comes to the strategic topic discussions. Commissioner Stearns would also like to share some information he gleaned from attending an iGaming Symposium.

As a brief reminder, during the strategic topic discussion six areas were being looked at. They were generally around technology, working with the legislature, public opinion, Commissioner education, agency operations, and problem gambling.

The first item on the blue sheet talks about technology. **Director Trujillo** recalled the discussion was originally intended to talk about technology in general and recognize the pressures impacting agency operations, expectations of State agency performance, and to begin a discussion about how citizens of Washington will be expecting to access Gambling Commission services online. Almost immediately the discussion morphed into one of online gambling. Our regulatory role is gambling. And there's also a general recognition that other States are becoming more active in this area. The Commission doesn't have any control over what other States are doing, and these actions may ultimately impact the citizens of Washington.

At the time, there was much discussion about how to look at this topic without appearing as if the Commission was advocating for something that it did not have an opinion on, one way or the other. It's easy to say that if staff began to work on every bullet point that came out of that discussion, they could be working through the end of the century. **Director Trujillo** proceeded to discuss each item and asked that if there are certain items that appear to be very near and dear to anyone, please mark those and they will be discussed at the end.

Director Trujillo stated the first thing to do is check in with other policy makers for feedback and guidance. That was just so that it did not appear as if the Commission was moving forward with something and advocating for something without having legislative guidance. The first item throughout the Commission meeting minutes is a theme to check with the ex-officios. That's something that should be done; check with the Governor's office.

Director Trujillo also shared that there was some discussion about staff providing an Internet Gambling 101 class that discussed the nuts and bolts of how such online gaming actually works. There are plans to provide that presentation for in the future.

Some of the other items that were gleaned out of all of those minutes was staff working to examine the impacts of online gambling; is there an economic impact; possibility of using a professional economist for that; impacts on problem gambling; determining how to capture, retain and track revenue. And there was some additional discussion about has the Commission interacted with Washington representation in D.C. That has not been done. It has since been learned that protocol would be to coordinate such interaction through the Governor's office.

There have been surveys in the past; should the survey assess public opinion; survey now about specifically online gambling or not; involve tribes and licensees; does the agency connect with those they work with today to see the impacts; possibly tie "My Account" which would get to Commission specific stakeholders. **Director Trujillo** shared that as he moves towards the end of the discussion, he will be talking about the survey that the agency currently offers online.

Should other States be contacted -- Nevada, New Jersey, and Delaware. It may be Nevada, New Jersey and Delaware and multiple other States. Commission staff may not be closely monitoring what's going on in other States. Assistant Director Griffin does that with the licensing process, Assistant Director Harris is doing it with field operations. The agency is looking at how internet gambling is evolving. Acquire information at Global Gaming Expo; identify pros and cons and problems encountered; identify enforcement and regulatory issues. These are all things being looked at.

Director Trujillo commented that when he comes to the end of the summary, he will provide some thoughts on the next steps.

He went on to say the future of technology and mobile devices was discussed. It is a very hot topic when it comes to State services in general because currently the State is looking at a very mobile citizenry who want to be able to access government services anytime from anywhere; how will the agency be able to meet that need.

The Agency is presently working with Business License Services because they have also been given a legislative mandate regarding other State agencies that provide licenses, and whether or not the Agency should be operating in conjunction with them.

Educating Commission members; educational tours of the industry. One of the items was to have a gaming activity of the month. That was started and it seems to have gone over very well. Special Agent Schulte gave a presentation. Mark Harris provided a presentation last month, and several others are planned.

The agency provides communication tools for the legislature. There is a three page glossy brochure, a two page legislative newsletter, and a two page handout about the agencies recent request for license fee increase. Are these tools getting out the message in a way that it should? Staff would like to get the Commissioners feedback on that.

Director Trujillo shared that there had been talk about agency funding. Currently the agency is funded through a statutory model that's been in existence for quite some time. It was being questioned if that was the best way to fund the agency.

It is known that illegal gambling activities are growing. The number of illegal gambling cases that the agency is investigating is on the rise, despite the fact that there is more authorized and legalized money spent on gambling than ever before. The illegal activities are on the rise as well. Investigations of illegal activities was to be funded through license fees. For a good number of years,

that worked. It is uncertain if it still does. There is authorized but unlicensed activities that the agency regulates. That's another area that license fees don't cover.

Social gaming is growing exponentially. Social gaming are games that are played online, and not necessarily traditional casino-type games. Depending on how these social games are constructed, the lines begin to blur between gambling and just a game people are playing. As each one of these new types of social gaming gets online, or even when current vendors begin to make modifications, people frequently ask if the activities are authorized. The agency works very diligently to get responses out to those questions.

Generally speaking, Washington's approach to gambling has been very deliberate, methodical, and well thought out over the years. There has been steady growth, and it's been largely successful in Washington because the citizens of this State know that for the most part if it's authorized, it's legal and it's honest. People have confidence to spend whatever they choose to spend in these authorized activities. Outside of Washington, it's not that simple. There are State agencies that don't get along with other State agencies. There are State agencies that don't get along with county agencies. There are tribes that don't get along with either the State or other agencies. And so Washington has enjoyed a well thought out method that's worked.

It may be time to have another comprehensive discussion about where gambling is going so that all parties come to the table.

Director Trujillo pointed out that throughout the summary it shows that problem gambling was something the Commissioners were very concerned about, and rightfully so, because problem gambling can be very devastating for the individuals involved. March is Problem Gambling Awareness Month. Staff had hoped to begin having a greater problem gambling presentation, or awareness presentation each year.

Previous discussions have asked whether or not the Commission should have a customer satisfaction survey. Years ago licensing in the Gambling Commission had a paper survey that was included with successful license applicants when their new license was mailed, trying to hone in on information about the application process. With that feedback, the agency would do what they could to streamline the application process.

In about 2008 Commissioners expressed a desire to use a survey mechanism to get the correct information from people who are interested in gambling. At that time the agency made an electronic online survey, which Director Trujillo shared with the Commissioners to review and ask questions. Assistant Director Griffin and Director Trujillo had previously reviewed the online survey with the comments from the strategic session regarding surveys, and realized that a lot of the information that is being asked about is already solicited. The big takeaway from that was is it visible enough on the new website; it wasn't, so it was moved and made more visible. And it's something that will be promoted, because the more feedback and input received, the better the agency can make our processes.

Technical assistance and training was also looked at, along with detecting cheaters, cyber crimes training and internet gambling training. Other items that discussed included what is the Commission's

role and responsibility in looking at the senior level staff compensation; the Commission demands high qualifications and high performance from enforcement staff. As an example, Rick Schulte's background and education are extraordinary, but most of the staff, if not all, have very similar type qualifications.

Director Trujillo commented that the list contains a lot, but it's much easier to take in than over 100 pages of meeting minutes. If this list appears correct, he would like to come back and take some bite-size chunks out of it and come back with some timelines to accomplish some of these items. He would also like to balance that with a realistic look at what can be done from the items on this list with current staffing and current resources.

Director Trujillo asked if there were any questions.

Chair Amos replied that he had no questions. He asked if anybody had a question. He advised the Commissioners to review and bring something back to the next meeting.

Commissioner Gray: Agreed.

Director Trujillo distributed a handout for Commissioner Stearns.

Commissioner Stearns shared that he had the opportunity to go to the first ever iGaming Legislative Symposium, which was held in Sacramento on February 27th. He heard from people from all over the world. There were regulators from Malta, from Aldernay, from the U.K., from New Jersey, Nevada, and officials from the California State Gambling Commission, as well as people from all over the industry.

The main topic was how will California prepare for and enter the internet gaming market. There were a lot of new terms used. Internet gaming is iGaming, internet poker is iPoker.

There are a lot of numbers in this report, but the reality is internet gambling is already very large and has been going on and regulated in European countries for over a decade, in Australia for over a decade, and it's branching out into Asia. Worldwide internet gambling grossed \$21 billion, and according to Spectrum Gaming, \$6.3 billion was wagered from the U.S. last year. So that was all done illegally. But the market is huge.

One of the leaders of the California Gambling Commission said that currently it's about \$100 million that is used to bet in iPoker currently in California. What they're looking at is can they regulate it since it's going on and spreading.

What was really debated was the technology. The technology is pretty much state-of-the-art. There were some problems in New Jersey that were related to two things when they rolled out iGaming. The first was they had about a 50% decline rate for Visa, 35% for MasterCard. Those are market issues. Someone explained from the banking industry that Visa will process anything, there just has to be consumer demand. And there's not a lot of consumer demand coming from players in New Jersey and

Nevada to process Visa transactions. So if there are problems, they won't be fixed. Once consumer demand hits a certain level, those problems will go away.

Commissioner Stearns continued that in terms of geo-location, there were problems in New Jersey. Most of that had to do with the wi-fi software. New Jersey uses wi-fi only, as opposed to Nevada that uses cell phones, because cell phones are not that accurate. In Nevada, there's not a lot of activity around the border, so that technology works for Nevada. In New Jersey there's Philadelphia, and New York City, and Delaware. So New Jersey is using wi-fi, which has improved. The answer in terms of technology is pretty good.

In terms of what is called KYC, which is know your customer, that's verification of who a person is. New Jersey is actually on the forefront of that. One of the presenters was Mario Galea, who used to be the head regulator of Malta and is currently a consultant for New Jersey's Division of Gaming Enforcement. He explained how the "Know Your Customer" technology works. It is incredibly accurate. Only two data points are needed; who the person is and a social security number. From that, almost everything is learned about someone.

In terms of what internet gambling means in California, the numbers are pretty big; they are all projections. No one really knows what could happen in California. Poker Scout says it could be about \$384 million a year in the tenth year of internet gambling, so it is a lot of money. The trick is, as the Agent said today, and others have said, is taxation. Melissa Blau from iGaming Capital works with Delaware on their tax plan. She said that taxation is the number two determinate of success; number one is the size of the market. But taxation is much more determining than the actual products offered.

Ideally she thought for California a rate of about 5% would be good. That is not even remotely politically possible, but the panel who is talking about taxation suggested about 10% might make sense for California. In New Jersey it's 15%. But it's 15% for internet, as opposed to 8% for casino-based games, or games that are played in casinos. Delaware is incredibly high. It seems that Delaware's taxation rate has actually really hurt their entry into the gaming market.

Commissioner Stearns continued that one of the big things that happened in California is that over the last 15 to 20 years, tribal gaming has been wildly successful. And as a result, the tribes in California are incredibly well positioned to direct the future of internet gaming in California. There is a lot of discussion about what they call cannibalization, which is that if you enter into the internet gaming market, will that actually hurt your business if you own a casino. So far the numbers don't bear that out; that cannibalization is not happening. At least in New Jersey the numbers are not showing that is happening. But that was definitely a concern for the last few years of both the card rooms and the tribes in California. The tribes have basically said because of the risks, they are willing to go as far as iPoker.

Over the last three years there have been Bills to legalize internet poker in California. This year there are two new Bills which have support of different coalitions of tribes. Both would legalize internet poker in California. The Chairman of one of the tribes said the tribes are about 99% in agreement, so they expect to unify the Bills pretty closely. The head of the committee in the California Assembly spoke and said that he thinks he can get that done this year, as long as the tribes agree. The head of the

card room lobby also said that they were strongly behind internet poker too. The horseracing people are not these Bills because neither one would allow horseracing to enter into internet poker. So there is a chance that the internet poker Bill could go through this year.

The licenses range from \$5 million to get in, to \$10 million to get in, depending on the Bill. They are 10 year licenses. The tax rates in both Bills are about 10%.

There are some questions in terms of who can participate. The licenses would go to existing businesses with a five year unblemished track record in California. There can't be someone coming in from outside of California and getting licensed. Secondly, when group's partner with someone, like everyone in New Jersey has done -- partner with poker brands, software companies -- the partner also has to have a solid record. The big issue is that in 2006 the U.S. passed a law basically banning internet poker and a lot of organizations were shut down. Those organizations are now considered "bad actors". These are questions that New Jersey, Nevada, and now California are looking at is how do you, or do you, let the so-called "bad actors" back into operation. That is still hashed out.

Commissioner Stearns said he was really impressed by the quality of people at the summit and the quality of dialogue. Richard Schuetz, the head of the California Gambling Commission, has a long history. He owned the Stratosphere and was involved in gambling in Las Vegas in the '60s.

After Governor Jerry Brown was elected in 2010, Mr. Schuetz met with him. They decided the Gambling Commission was the best Commission in California to study the issue of internet gaming. And they wanted to make it a world class repository of knowledge. So that was his mission, and the Gambling Commission's mission since 2011.

Commissioner Stearns pointed out that he had made a few recommendations at the end of his report that are based on what Richard Schuetz had recommended. The first thing is to create a library of internet gambling knowledge; get all the rules, all the regulations, everything you can from other states and other countries. International regulators have been doing it for over 10 years. Get that information so as to learn from everyone else's mistakes. Bring in people as much as you can from the industry; lawmakers, regulators and people from the industry. Have the Commission host a symposium. This was a one day summit that was fantastic. It was busy. It started at 8:00 in the morning and didn't get over until 5:00, and it was a working lunch. But a lot of knowledge can be learned.

This would not be done with the idea of being an advocate, or an opponent of internet gaming; an advocate or an opponent of internet poker. But the Commission is going to be asked, and the Governor's going to want to know, and the legislature's going to want to know, what can they do. This agency is in the best position to help provide those answers.

Chair Amos thanked Commissioner Stearns and asked if there were any questions.

Commissioner Gray commented that Commissioner Stearns recommendations really meshed a lot with the discussions in October.

Director Trujillo stated that Commissioner Stearns had talked about the quality of discussion and the fact that staff, Commissioners, members from the public who have had input as well are actually talking about gambling and the future of gambling here in Washington is fabulous. It really is a good discussion to continue to have. You are fairly new to the Commission.

But it's something that hasn't been done to this extent in the past. One of the reasons why it's so important to stay on top of this is financial information is digitized now all over. There are all sorts of cloud operation functions that people are taking advantage of. So even ensuring that enforcement staff is up to speed on those applications when it comes to illegal activities is something of a priority.

When Rick Herrington started internet gambling enforcement, there were well over 2,900 sites that would accept bettors from Washington. That number is just something north of 400 right now, which is a huge decrease. That is in large part because technology-wise that unit is up to speed and can do that. **Director Trujillo** thinks it's great to even be having this discussion.

Commissioner Stearns said he did not include this in the report, because it wasn't actually part of the discussion in California. He has read reports in terms of internet poker players from Washington State pre-2006, and pre-Black Friday, which is 2011. There were a lot. Washington is in the top 10 in the nation in terms of poker players. That goes to liquidity, having the number of players needed to have an actual market.

2. **Director's Report**

a) News Articles

Director Trujillo directed the Commissioners to the articles in their packet. The first one is an article regarding Special Olympics enhanced raffle. There are two articles in the packet to review. It is believed that they have surpassed their break-even point, which was the sale of 10,000 tickets. And it is believed that they have sold over 26,000. Could Mark Harris confirm?

Assistant Director Mark Harris stated it is 23.

Director Trujillo remarked 23,000. More successful than anticipated.

Director Trujillo pointed out the next article entitled "Ex-ATF Supervisor for Seattle Admits to Raiding Undercover Account". The name might be familiar, because that name is also the subject of a default order later today.

Director Trujillo clarified that the article said 19,700 and the default says 197,000. It is 19,700. That is important for you to know this afternoon when you consider that. The next is a series of problem gambling articles, which seem to be appropriate to share with at this March Commission meeting, being that March is Problem Gambling Awareness Month.

Another article is "Five Men Make First Court Appearance on Animal Fighting Charges". That is another one where Commission agents were involved, along with sheriff's deputies and police officers from Kennewick, Pasco and then also officers from the Washington Department of Fish and Wildlife.

Director Trujillo pointed to another article titled "Nevada/Delaware Signing Online Poker Partnership". There is no over-arching federal guidance on how to manage this online or intra-state gambling, so states are beginning to implement their own approaches. Commissioner Stearns spoke about this earlier, there is the Delaware model, which is really a State lottery platform, Nevada is online poker, and New Jersey is casino style games online. California was also mentioned. These various State approaches are marching west, and there may be one marching north. There are probably 10 other states, at least, that are looking at this seriously.

The next article, "New Jersey Okays Multi-Slot Jackpots With South Dakota Participating". It just shows the continued evolution, but fractured approach, that's becoming more prevalent. The next article talks about other states that are interested in looking at it as well.

The next article is about the two online poker Bills in California that Commissioner Stearns discussed. Another article talks about "Online Gambling Will Fuel Terrorism and Organized Crime". That is a possibility, and has been seen in some of the agency's investigations.

The last article is entitled "10 U.S. States Eye Internet Gambling Bills". Those states are California, Colorado, Hawaii, Illinois, Iowa, Louisiana, Massachusetts, Mississippi, and New Jersey, but they already have a form of it, and then Pennsylvania. As awareness for this grows, keep in mind that the agency wants to be the resource to the legislature as they face these decisions in their future.

Director Trujillo concluded his report.

Chair Amos asked Amy Hunter for a Legislative Update.

3. Legislative Update

Ms. Amy Hunter thanked Chair Amos and pointed out a short memo behind the Legislative Update tab. Today is the last day of the 60 day session. It seems there is a budget agreement. This will be the first time in quite a few years there has not been a special session.

Everything has stayed on track, which means that there are not a lot of Bills that are alive. But there are two Bills that have passed, which are in the packet. House Bill 2121, which is in the packet, and the companion Engrossed Senate Bill 5964 did pass both chambers and was delivered to the Governor yesterday, and is expected to be signed. The Commissioners have heard about this Bill since January that requires training of public officials, which would include Commissioners, on the Open Public Meetings Act and the Public Records Act. This can be internet based training and needs to be completed when a person is initially appointed, and then every four years after that. It is unclear how that training will be implemented for Commissioners that have already been appointed. As the information is available, the Commissioners will be notified.

House Bill 2192 is for agencies that issue permits. The Commission issues mainly licenses, but do issue six permits. The law will now require that certain information be available on the agency website. This was delivered to the Governor on Tuesday.

The last item is the agency's request for authorization for a fee increase. This request was in the Governor's budget and in the House's version of the budget, but was not in the Senate's version of the budget. It is not in the final version of the budget that the legislature is voting on.

Ms. Hunter stated that she appreciates the Commission's assistance with legislative items. This has been a year with a lot of work with the request for authorization for a fee increase, although not a lot of Bills.

Chair Amos asked if there were any questions. There were none. He then thanked Ms. Hunter for her update.

4. Approval of Minutes - January 16, 2014 Regular Commission Meeting

Chair Amos asked if everybody had a chance to review the Minutes from January 16th Commission meeting. He then asked for a motion.

Commissioner Gray made a motion seconded by **Commissioner Stearns** to approve the minutes from the January 16, 2014, Commission meeting. The vote was taken; the motion passed with four aye votes.

4. New Licenses and Class III Employees

Assistant Director Tina Griffin greeted the Commissioners. She shared there are currently 52 licensed and operating house-banked card rooms. There are no pending applications currently, and nobody shut down last month either. So that's good.

In the packet is a pre-licensing report on Ace's Casino Entertainment in Spokane. They received a Punchboard/Pull-Tab A and an eight-table house-banked card room license on February 7th. That report is at the end of the packet. The previous owner took the business assets back over after the business closed in November of 2013. That takeover triggered a licensing event. The owner is now back and Ace's has reopened with 53 card room employees. The agency conducted a pre-licensing investigation verifying all owners and substantial interest holders. They were identified, and staff made sure that they qualified for licensure. Staff also reviewed all the financial records, the funding sources, to ensure that they were from a qualified source, and Field Operations completed their pre-operational inspection and found Ace's to be compliant with all the rules. Ace's Casino is included in the list of new licenses.

Staff recommends approval of all new licenses and Class III employees listed on pages 1 through 15.

Commissioner Stearns made a motion seconded by **Commissioner Gray** to approve the new licenses and Class III employees listed on pages 1 through 15. The vote was taken; the motion passed with four aye votes.

6. Defaults

a) Shay's Restaurant, Licensee, Revocation

Ms. Hunter thanked Chair Amos and advised that staff is requesting four defaults today.

The first one is for Shay's Restaurant, which is in Shoreline. This is based on the owner admitting that he provided inaccurate gambling records to the Gambling Commission on their Quarterly Activity

Reports. Twice a year a licensee has to report to the Commission what they have brought in. The licensee must report what their pull-tab sales were, and prizes, and other information. The licensee is able to do that online. An agent was doing a pull-tab compliance inspection and noticed that the numbers didn't match up with the monthly income summary records. This caused the agent to give this a closer look. The licensee under-reported their gross gambling receipts by more than \$150,000 to the City of Shoreline. That was seemingly done as a way to not pay as much in taxes by under-reporting.

This is a good example of agents going out and doing inspections. This would be a basic pull-tab module that the agent did, which then led to this discovery. Given the amount of money, the Director ordered an issue of summary suspension, which is an order notifying the licensee to stop operating the day that they receive that order. We did try to make a reminder call to the business; left a message letting them know about the date to request a hearing, and the licensee did not respond. So based on that, staff would recommend that you enter a default under the Administrative Procedure Act and revoke the amusement game license and the pull-tab license. With that I'm happy to answer any questions.

Chair Amos asked if there were any questions. There were none. He asked if anybody here from Shay's Restaurant was present. There was no response. He asked for a motion.

Commissioner Gray made a motion seconded by **Commissioner Stearns** that the Gambling Commission revoke the organization license of Shay's Restaurant. *The vote was taken; the motion passed with four aye votes.*

b) James L. Contreras, Class III Employee, Revocation

Ms. Hunter explained that the next three are for individuals. The first one is for James Contreras. He had a tribal gaming license which was suspended by the Snoqualmie Gaming Commission because of his pending criminal history. Director Trujillo mentioned the news article where Mr. Contreras pled guilty. The amount should be \$19,700. Ms. Hunter will correct the amount on the final order that is Commissioners sign.

The charges were issued by certified mail. The certified mail receipt has been received back, so he has received them. Mr. Contreras called staff with some questions. Staff was never able to actually talk with him, but they were able to leave a message back and let him know that the recommendation would be for the Commission to revoke his license at today's meeting.

Ms. Hunter recommended that James Contreras' certification be revoked, based his embezzling during a 25 month period when he was working for the Bureau of Alcohol, Tobacco, Firearms and Explosives with the order being corrected to reflect \$19,700. She offered to answer questions. There were none.

Chair Amos asked if there were any questions. There were none. He asked if James Contreras was here or anybody representing him. There was no response. **Chair Amos** asked for a motion.

Commissioner Gray made a motion seconded by Commissioner Stearns that the Gambling Commission revoke the Class III Certification of James L. Contreras. The vote was taken; the motion passed with four aye votes.

c) Robert E. Brooks, Class III Employee, Revocation

Ms. Hunter stated that the third one is for Robert Brooks. The Swinomish Tribe revoked Mr. Brooks' tribal gaming license after they determined that he had violated policies and procedures by deliberately concealing and taking a \$100 tip for himself. At the Swinomish Tribe, the tips are all supposed to be pooled, and Mr. Brooks did not pool that particular tip.

The charges were issued by certified mail. The certified mail receipt has been received back, so he has received the charges. He did not respond. Staff tried to make a reminder call to him, and left a message giving him the date when he needed to respond, and he has not responded. Staff is requesting that the Commission revoke Mr. Brooks' certification.

Chair Amos asked if there were any questions. There were none. He asked if Robert E. Brooks was in the audience. There was no response. He asked if there was anybody present representing Mr. Brooks? There was no response. **Chair Amos** asked for a motion.

Commissioner Gray made a motion seconded by Commissioner Stearns that the Gambling Commission revoke the Class III Certification of Robert E. Brooks. The vote was taken; the motion passed with four aye votes.

d) Jacob C. Shepherd, Card Room Employee, Revocation

Ms. Hunter advised that the last default being requested is for Jacob Shepherd. He violated a 2012 settlement agreement that he had with staff. He is now the subject of three bench warrants, including one for a gross misdemeanor charge. The process is to get licensees to clear their bench warrants.

The Director issued charges to him by certified mail and regular mail. The certified mail came back as unclaimed, so he did not pick that up. But the one sent by regular mail was not returned, so the presumption is that he did in fact receive the charges. Staff tried to make a reminder call to him, but were unable to leave a message. He did not respond to the charges, and staff would recommend that his card room employee license be revoked.

Chair Amos asked if there were any questions.

Commissioner Stearns asked to clarify that he is not working now.

Ms. Hunter stated that she believes he is not working, but would check.

Commissioner Stearns asked how long would his license last.

Ms. Hunter directed the Commissioners to page 2 of the order. It states that he is not currently linked to an employer, but has an active license and could become employed by a house-banked card room or a tribal casino. His license will expire on April 1st. So it would still be valid for a few more weeks.

Chair Amos asked if there were any other questions. There were none. He asked if Mr. Jacob Shepherd was in the audience? There was no response. He asked if anybody representing Mr. Shepherd was present. There was no response? **Chair Amos** said he would entertain a motion.

Commissioner Amos made a motion seconded by Commissioner Stearns that the Gambling Commission revoke the card room employee license of Jacob C. Shepherd. The vote was taken; the motion passed with four aye votes.

Rules Up For Final Action

7. **Petition for Rule Change from the Public: Steve Berven, Pull-tab licensee**
Increasing the threshold for recording identification information for punchboard/pull-tab winners from over \$20 to over \$50
- a) Amendatory Section: **WAC 230-14-110** Recording winners
 - b) Amendatory Section: **WAC 230-14-265** Retention requirements for punch boards and pull-tab series

Assistant Director Harris addressed the Commissioners. Item number 7 is a petition from Steve Berven, owner and operator of four commercial businesses that sell pull-tabs. The item is up for final action today. The petitioner is requesting to increase the threshold for recording winner information from over \$20 to over \$50, and decrease the threshold for retaining winning tickets from over \$20 to over \$50.

The rules currently require the operator to record winner information, which is basically the name, date of birth, bartender's initials and date paid on pull-tab winners of over \$20 and retain those tickets for three months. The petitioner stated that the rule was adopted when all the games were basically 25 cent tickets, and the top tier winners were smaller. There was also no casino gambling at the time. The change would save operators a lot of time and increase customer service and satisfaction.

Staff uses the pull-tab winner information in theft and fraud investigations, as Special Agent Schulte demonstrated in the pull-tab presentation he made. Increasing the threshold from over \$20 to over \$50 would decrease the evidence available for such investigations. However staff believes the benefits to the licensee may outweigh that regulatory risk. If the rule change is made, it may decrease the amount of time staff spends determining regulatory compliance, as the information is being recorded on the winning tickets.

The Agency received feedback from 16 people supporting the rule change, and one opposing it. Two of the operators stated that the dollar amount threshold has not kept up with inflation. They said the value of a \$20 prize in 1984 would equal about \$40 today. **Assistant Director Harris** did the calculation, and found it is actually closer to \$45. The one that was opposed to it was a place that had a point-of-sale system. And they felt if the threshold was changed, they might have to reprogram their system so it would only print out receipts for tickets over \$50, as opposed to \$20. And if they didn't do that, they would print out a ticket and wouldn't have to use it.

Staff recommends final action. The petitioner is not present today. He was planning on being here, but called and said he wasn't able to make it. He was present when the petition was originally filed.

Assistant Director Harris asked if there were any questions he could answer. There were none.

Chair Amos asked if there were any questions for Mr. Harris. There were none. He asked if there was motion.

Commissioner Gray made a motion seconded by **Commissioner Stearns** to approve the amendment to WAC 230-14-110 and WAC 230-14-265 effective 31 days from filing. *The vote was taken; the motion passed with four aye votes.*

8. Staff Proposed Rule Change

Allowing pull-tab prizes of \$20 or less to be added to cash cards used in electronic video pull-tab dispensers

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

Ms. Hunter shared that this rule is up for final action. This is the fourth month it has been scheduled before the Commission. This rule proposal is in response to an October 2013 Thurston County Superior Court decision where the Court directed the Commission to allow a specific electronic pull-tab dispenser which permits the purchase of a pull-tab at the dispenser, and then allows pull-tab winnings of \$20 or less to be added on to a cash card at the dispenser.

This issue began in 2005 and led to several different court proceedings involving many different legal issues. In the Commission packet is a history of those different court cases, including a review by the Washington State Supreme Court. Also in the packet is their decision, as well as the Judge's more recent October 2013 ruling. This rule is consistent with the Thurston County Superior Court's Order.

At the January meeting, Mr. Gerow, the owner of ZDI Gaming, was at the study session. He had asked that staff let the Commission know that ZDI planned to offer alternative language, and the Commissioners had mentioned that he had mentioned the same thing at that meeting. Again at last month's meeting Mr. Gerow came and he asked the Commissioners to hold the rule change over until this meeting. ZDI's rule proposal language is on goldenrod paper, which was received yesterday. The attorney for ZDI, Joan Mell, is here today, as well as Mr. Gerow. Ms. Hunter will let them speak to their proposal.

Ms. Hunter stated that staff recommends that final action be taken on the rule and that it be effective 31 days from filing. She offered to answer any questions.

Chair Amos asked if there were any questions of Ms. Hunter.

Commissioner Stearns asked what Ms. Hunter thinks of the proposed language by ZDI on the goldenrod paper.

Ms. Hunter replied that she thinks it's beyond what the Judge ordered the Commission to do. When the rule was being drafted, efforts were made to mirror what was in the Judge's order. It is assumed that Ms. Mell has some other reasons why she's proposed this language. The two have not talked about why the additional language.

In case it helps the Commission to have a side-by-side comparison, the introductory language has been changed. ZDI added that "the Director may approve any dispenser that meets the requirements below". And then those are similar to what staff has for the four requirements. The new language that has been suggested is "any feature or function not described below may be approved by an affirmative vote of three out of the five Commissioners for any dispenser that meets the requirements below when the additional feature or function either improves the Commission's regulatory control, or does not impair the Commission's regulatory control of pull-tabs."

In comparing the two, the language in (1) is the same and had no changes to it; same for (2). In (3) there's just a little difference in the language that has been suggested. Staff's version added in gift certificates and gift cards, which is not in ZDI's version. There is some additional language in (c). ZDI's wording of (d) is not worded the same as the language that staff has in (4). The other significant change is ZDI is recommending that the definition of cash be repealed. That is included on the back page. ZDI is recommending that this rule the Commissioners passed in January of 2008 be taken out.

This is a point that had been raised during this litigation about cash and what it means. Staff had gone back and looked at how the term is used. Sometimes cash in the rules was used as a verb, and sometimes it was used as a noun. It was recommended to the Commission in 2008, which included none of the current Commissioners, that a definition of cash be added in. ZDI is now asking for that definition to be taken out.

Commissioner Stearns clarified that the problem was cash could be a verb or a noun. He asked if no one ever thought of using currency.

Ms. Hunter explained that when a rule is changed, a 101 is filed, which is a notice to the public that says the rule is up for changes. When the 101 for this rule change was done, the language would have talked about pull-tab dispensers, not about the definition of cash. At this point staff would recommend that filing the staff proposal. Staff feels that it is consistent with the Judge's order. It would be very appropriate to hear from ZDI on their alternative.

AAG Castillo clarified that the Commission actually cannot consider the cash proposal. ZDI has to submit it by RCW 34.05.330 through the OFM's specific form to repeal a rule. That would have to be submitted by ZDI on that form, go through OFM's process, and then it would come back to the Commission for consideration. For today's purposes, the Commission can only consider the rule change with respect to the pull-tab dispenser. Cash will have to go through a different process.

Chair Amos thanked AAG Castillo.

Commissioner Stearns asked AAG Castillo if the Commissioners have to choose one or the other, or can they be combined?

AAG Castillo explained it is within the Commissions purview to mix them. It would be up to the Commission to draft the language of this rule.

Chair Amos asked if there were any other questions.

Ms. Joan Mell introduced herself to the Commission and stated she is here on behalf of ZDI. She outlined that she would first like to address the staff proposal, then give her opinion on why it should not be adopted. She would then address the proposal drafted on behalf of ZDI. Lastly she would address her overall recommendation which would be that the Commission not take action today. If it's necessary, file a different rule proposal to do that so the Commission can incorporate the issues with regard to cash. **Ms. Mell** stated the Commissioners should do that with one rule filing, and let it work its way through the process appropriately so that it's clear what's being done and that it's being done comprehensively.

Referring to the staff's rule proposal, she had issue with the presentation with regard to what it is. In looking at the Court's ruling on ZDI, this rule was not before the Court. The Court was not making a determination in the matter discussed by Ms. Hunter what the content of this rule should be. There is a challenge to this particular rule that's before the Court of Appeals Division II where ZDI is requesting that this rule be declared void for a lack of sufficient vote, and also because it is a rule that ZDI contends goes beyond the authority of the Gambling Commission. In particular, incorporating a concept that pull-tab technology and electronic dispensers in particular, have to be a static thing, and that all features must be fully described in the rule in order to be approved. It's ZDI's understanding and impression that really the better rule for the Gambling Commission is to set the criteria for what features are subject to innovation and approval by the Commission. And those features that are mandatory and have to exist in order to not go over that clear delineation, or black line, into what's a slot machine, or what's no longer the traditional pull-tab dispensing approved concept.

Ms. Mell stated that she and Ms. Castillo and had recently argued in front of the Court of Appeals, Division II. One of the queries of the Court of Appeals was whether or not the proposal before the Commission would moot the courts inquiry and make it unnecessary for them to make a determination. Ms. Mell represented to the Court that indeed, a final determination and ruling from the Court was necessary because this rule proposal under consideration now does not resolve ZDI's concerns. In particular, it doesn't resolve the scope of what the Gambling Commission can do. But secondarily, that it doesn't resolve this vote count question; how many of you must vote in order to adopt a rule that relates to licensing activities, and pull-tab dispensers and equipment in particular.

The Court asked some very interesting questions. It has taken up to a year to receive a ruling from them, and it has taken three months. So who knows?

It's important for the Commission to understand that the proposal before them does not resolve that. The ZDI proposal could resolve that if the Commission so chose to go down that path.

The concluding point on the existing litigation is that the administrative action where ZDI's pull-tab dispenser was approved by the Court -- the Court did not express anything with regard to the rule. **Ms. Mell** asked why this language is now being articulated as what the Court has ordered -- the Court hasn't ordered the Commission to do anything with regard to this rule. She doesn't understand that portion of the presentation, other than to suggest that it addresses the things that ZDI's technology does do, which it in part does.

Ms. Mell directed the Commissioners to look at (3). There's a proposal to strike out of the rule the term gift certificate and gift, which previously would have been associated with gift card, and change that to cash cards. But then in (a), there's an interlineation that would re-introduce the concept of gift certificates or gift cards. But there's an omission of cash cards.

What's happening with this language is creating a lot more confusion about what it is being talked about. It's derived from some of the arguments being made early on in the litigation on what the card was being called that was developed for ZDI's technology. In order to understand what it was, it was commonly referring to it as a gift card, because that's the way the facilities were using it. It wasn't a card that was just for the ZDI technology. It would be a facility type gift card where players, customers, could have currency value loaded on the card and use it to buy food, whatever, or they could also put it into ZDI's technology by buying the pull-tabs and redeem the prizes automatically at the dispensers.

Existing in the law presently and at that time, pretty good definitions of gift certificate, and there were definitions for gift certificates and an agency policy on gift certificates that allowed the use of gift certificates at facilities. So the ZDI gift card concept is likened to gift certificates, and equating it that way.

There was no specific definition of cash that applied to pull-tab gambling. There was a definition of cash that applied to card games. But that definition allows for the use of electronic forms of cash, or non-currency, non-dollar bills and non-quarters. There could be checks, there could be point-of-sale something or another -- there was another definition. But its cash equivalents were clearly recognized so there wasn't a need to have currency, there were cash equivalents.

It is also being argued that at the same time what ZDI was using is a cash card, which is a better understanding of what it is. The value stored on it at any given time can immediately be converted into actual currency.

So there are three concepts. The proposal on the table jumbles that all up and creates a lack of clarity in terms of what is being prohibited, and what is permitted. **Ms. Mell** asked if the Commissioners really intend to prohibit the purchase of any of these things -- oh, there it is -- electronic point-of-sale bank transfer -- with a cash card. If somebody has a cash card from a particular facility, they are still allowed to use it. And a cash card isn't really anything different than a gift card. Or if it is, what are the differences? Cash cards and gift cards are not defined.

AAG Castillo expressed to Ms. Mell that she is trying to figure out the argument. As the rule is read, it appears that cash cards can be purchased by cash gift certificate.

Ms. Mell understood the concern to be how a cash card differs from a gift card because a gift card is a cash card. She asked for clarification of what was being said.

AAG Castillo stated that an example would be if Inferno's Pizza has gift cards and a VIP machine. Somebody could then use the Inferno's gift card to purchase the cash card and that could be used in the VIP machine. That list is all the things that can be purchase with cash cards.

Ms. Mell added that she thinks it needs to have cash cards too.

AAG Castillo clarified that it was so that cash cards can purchase other cash cards.

Ms. Mell doesn't think that there's a difference between cash cards and gift cards. She doesn't think there was any decision by the Court, and doesn't think that there's any regulatory reason why the Commissioners would want to insist that only the ZDI VIP card be used only in the ZDI VIP. It takes away from the marketability of having a cash card. **Ms. Mell** thinks what the Commission really wants is a uniform term of art for it. She stated that she tends to be biased now, given the Court's decision and how much this has been talked about. She has been calling them cash cards and not gift cards. That's a choice point to be made. She just wouldn't introduce both concepts, and then create a question as to which one is meant, and is there really a difference, because down below it specifically says cash cards. So does that mean not a gift card? And what's the difference?

Commissioner Stearns asked what it says in the court order. He asked if 1.2 explained it. It says ZDI's electronic video pull-tab dispenser upgraded with cash card. He asked if that is what is being discussed.

Ms. Mell stated that in the administrative matter where ZDI was just challenging the technology, and ended up going to the Supreme Court and back down on, and before the Superior Court this last time, she was commonly referring to what ZDI used as a cash card, rather than a gift card. And the Court's analysis mirrored that in saying that cash includes a cash card because it's a cash equivalent.

Commissioner Stearns asked of Ms. Mell what was her interpretation of what the court order directs the Commission to do?

Ms. Mell answered that the court order does not direct the Commission to do anything, nothing. The Commission does not have to have this rule to comply with the Court's order. ZDI can use its technology according to the court order, period. The Commission doesn't have to change the rule to accomplish that.

AAG Castillo explained that what this rule does do is that it allows other manufacturers to do the same features. As is recognized in 1.2, to make the rule mirror what that feature does so that other manufacturers would also be able to employ the same technology. It creates uniformity, as opposed to the order which only addresses the VIP machine.

Ms. Mell agreed. If that's what the Commission is trying to accomplish with a rule like this, then she urges them to be even more cautious about how to describe what it is that the Court approves so that when the Commission goes to approve other technology, that they are approving the kind of technology that the Court approved for ZDI.

Commissioner Gray asked Ms. Mell what she is asking the Commissioners to do.

Ms. Mell replied that she is asking the Commissioners to reject the proposed rule, which she believes needs work, and to consider her proposal. **Ms. Mell** asked the Commissioners to adopt as much of her proposal as they would like and to reject what they don't approve of. She asked that they address more of the issues that were argued in front of the Court of Appeals.

Ms. Mell stated that she is inviting the Commission to address more of the issues that were argued in front of the Court of Appeals. She believes that as a Commission they need to clearly express what the voting count requirements are, period. She doesn't think the Commission needs to do that specific to this rule, they need to do it as to all of the rules. It was interjected into this rule to drive a discussion before this body to make that determination.

If the Commission addresses it specifically in this rule, what they're inviting and encouraging is a very clear ruling with regard to how many votes it will take to approve technology. **Ms. Mell** feels that what this Commission needs to address as well, that really has never been discussed openly, is the process. It was touched on a little bit in the litigation, and Mr. Trujillo was directly involved in a lot of the administrative level proceedings when he was second in command. But it's an interesting question.

The way this Commission is set up, there is Mr. Trujillo as the Director and all of the staff who do this initial review process. Before this rule, there wasn't any mandate that electronic pull-tab dispensers be submitted for approval. It was a permissive provision with another separate provision that say they have to do these things. So the technology people, the manufacturers out there, could look at the list of things that can't be done, make sure that it didn't do that, and then they could elect to put the technology out there. Or the manufacturers could submit it to the lab to make sure that the equipment complied with this list. The other reason that the manufacturers would submit it to the lab would be to get a stamp because the lab would want to have a unique identifier for the computer software program that it was actually using.

With that status, what ZDI would do, is come up with technology and submit it to the lab and expect approval, because ZDI would have thought through whether or not it complies with the rules and request stamps. What happened with ZDI is that it initially got feedback that yeah, it's going to be approved, but then it was reversed internally within the agency, with the GET team at the time. The GET team was involved in ultimately saying no. So Mr. Trujillo wrote a letter to ZDI saying it's not approved. And then ZDI started through the appeal process.

The question is, if staff is saying it's not approved, then what is the Commission's authority to override that? Does the Commission want staff to be approving technology at all, or should all submissions to come before the Commission? The past practice has been at the Director level. Staff can review the technology and the Director can make the initial determination, yes or no. Then if the manufacturer doesn't agree with that determination, they can appeal to the Commissioners as a body. It can then be given to an administrative law judge to review and opine on; make the decision. The manufacturer would have to go to the courts to get that reversed.

So this proposal interjects the concept that in rule one can set out some basic parameters for the technology that gives the Director an idea of what mandatory elements have to be met. And a baseline for saying okay, it meets it and it is approved.

It also recognizes that in gambling, and with pull-tabs in particular, given the definition of pull-tabs in the Statute which says and gives the Commission the authority to define pull-tab gaming as they wish, as it was considered at the time it was initially adopted and whatever is needed to do to regulate it appropriately -- that it's a fluid process. That there is necessarily going to be innovation in the technology. As much as the Commission may want to say they want it to be static, that's not realistic. The Commission can say they don't ever want any changes and that could done by rule saying it can't do anything other than these things.

But the better concept to interact with the manufacturers in a productive way to keep the gambling working for the purposes for which it's designed, is to set some minimum standards that have to be met, and then allow for an approval process where innovative technology that's added that isn't articulated and described with specificity in the rule, can be reviewed by you as a Commission to decide whether or not it goes too far, or it's consistent with what the Commission defines pull-tab gambling to be.

This is kind of a two step process. It says the Director can yea or nay it. If there is new innovative changes that aren't clearly expressed in the rule, a new rule does not have to be adopted, but it can looked at to see if it's within the parameters of what pull-tab gambling is. The criteria for whether it's in or out is whether or not it improves the regulatory control of the activity, which really ZDI has always been maintaining and contending is the Commission's purpose. That is what should be used as an in or out measure. I should be weighed whether or not something is approved against that standard.

It is clearest black line standard possible, and still allow for innovation and technology changes over time to keep pull-tabs viable for the nonprofits, as a stimulant for the businesses, etcetera. That's the whole reason for this first paragraph and the changes therein. It addresses the vote count issue; it clarifies that the electronic pull-tab dispensers must do certain things. If the equipment does things that have not been articulated in the rule, make sure the Commission gets a chance to review it, and not just at the Director level, but as the full Commission. And then if the Commissioners say okay by at least three votes, then you're good to go.

Commissioner Simpson stated that looking at the wording of the WAC as it exists today, at the very top it says electronic video pull-tab dispensers must be approved by us prior to use; meet the requirements below and may incorporate only the features below and not perform additional functions.

Commissioner Simpson asked Ms. Mell who "us" is referring to.

Ms. Mell explained that in practice right now, that has meant the Director. Actually it was the Commissioners, not the Director. So in Director Trujillo's Assistant Deputy Director position, there were changes to ZDI's upgrade that were approved at the Director level since this rule was implemented without full Commission approval. So "us" has meant the Commissioners delegated

authority to the Director. Because it was approved in those instances with those changes, it never rose to the Commissioner level.

Historically the reason it rose to the Commissioners level was because the decision of the Director was adverse to the manufacturer. So then it came to the Commission who decided to seek the guidance of an administrative law judge. That came back for the Commission to review again, and made another determination that was adverse to ZDI. That's when the question was taken to the court for judicial determination.

So right now, the manufacturers believe that if the Director and his staff approve the technology they can put it into play.

Chair Amos asked Ms. Mell if she had seen the ZDI handouts before today.

Ms. Mell concurred that she had seen the packet materials before today.

Chair Amos verified Ms. Mell had seen the material before today.

Ms. Mell agreed she had seen this before today.

Chair Amos stated that the Commissioners had not seen this information before today. He asked why Ms. Mell had not tried to get this to the Commissioners a little sooner so they had a chance to digest it and see what they are going to do in regards to incorporating it in this. **Chair Amos** expressed that he understands what she is saying but stated it is kind of short notice.

Ms. Mell stated that she could argue that the notice provided to her had been short, because she understood the Commissioners weren't hearing this rule at this meeting. The last month this was on the agenda, she was actually in court on ZDI, and that's why she understood it was going to be set over. She was instructed it would be set over to April, not March. She apologized if she understood that incorrectly. She agreed the Commissioners need to be able to consider it. She understands that in terms of rule making, there's no pressure here. Nothing requires that the Commissioners have to decide the one before them today that Ms. Mell is aware of.

Commissioner Gray addressed Ms. Mell saying her proposal for change --It's kind of an implementation of that. **Commissioner Gray** asked if that limits the ability of staff to take -- because part of what the Commission does is yes, allow staff to make decisions based upon WACs and rulings that have been made before. Would this limit their ability?

Ms. Mell doesn't think that it would limit staffs ability at all. She thinks it would help clarify what they want to keep within the scope of what they opine on, and approve, without the Commissioners consideration. For instance if it were an innovation that wasn't clearly delineated already in the express provisions of the rules -- and those can get kind of gray sometimes too -- at least staff would know that they need to bring it forward. And at that point staff would take a position as to whether or not it was technology, innovative changes, that enhance the regulatory control, or detracted from the

regulatory control, and further advise whether or not they feel it's within their authority to approve because it's expressed in the rule, or it's not clearly expressed in the rule.

Also it doesn't restrain anyone from deciding to change the rule at any time and add features in the rule that may be really good features to have to control the activity.

Commissioner Simpson expressed that he felt there are some contradictions in the language here because Ms. Mell's proposal says that past practice has been that the word "us" means staff. And yet down below, she has "us" delegating authority to the Director. And if it does not impair the Commission's regulatory control of pull-tabs. **Commissioner Simpson** asked who has regulatory control of pull-tabs now? Is it the Director, or is it the Commission?

Ms. Mell replied Bingo, that's been the in-road for people to come in and argue about the decision making of the Commission over the years. Whether or not this is spot-on on clarifying it, it may not be. It may raise more questions than it answers. But those questions have been in existence, and have been argued. It is argued about in terms of capital "c" versus small "c", meaning the Commissioners get the capital and staff gets the baby letter.

Ms. Mell's interpretation of the way that she drafted this is the Commission has -- means you. And as the Commissioners have delegated and allowed by past practices, approvals to occur at the staff level. That's something manufacturers, have had to work with, whether or not it's clearly expressed. It has been argued that it shouldn't be one way or the other. But it always has to be addressed from whatever the staff is instructing, or the position staff is taking at the time. And if staff takes a position with regard to where that authority lies right now and it's not clearly expressed, it's **Ms. Mell's** burden and obligation to bring that issue up to the Commissioners, either through a declaratory action, or a rule proposal change, or a petition for judicial review if it's an adjudicative proceeding. It's not clear in the Gambling Act, and it's not clear in the rules.

Commissioner Stearns asked if this is something that could be fixed in the Gambling Act.

AAG Castillo stated that it is fixed. 9.46.080 says that the Commission shall employ an Executive Director who carries out the regulations that this Commission puts into place. And this Commission has a WAC, 230-06-002, that defines "us" as being the designated Commission staff. And if a rule refers to the powers or duties of the Commissioners or the Director and Director designee, the rule will specifically state that.

The Statute and the Rule already contemplate that the Director has that authority to carry out these rules, including the opening of what currently is the rule for 047 must be approved by "us" is the Director and his staff.

Commissioner Stearns verified that there is nothing to be done.

AAG Castillo agreed.

Ms. Mell thinks where she has made the arguments though is the delineation -- she's reading from the provision in the Gambling Act that describes the duties of the Director, and then what's included within the duties of the Director includes rule changes. Where it gets murky though is in technology and issues like this. It's not clearly delineated because there is a definition of Commission within the Statute that says it's this elected body. Then there is a debate about the particular issue. This is not just a rule making issue, it's approval of technology. And that certainly was argued throughout the course of the proceedings.

So then there is the quagmire of big "c", little "c". And there are questions that arise because it's not clear within the Statute. It is unclear that the rules have ever been reviewed to try to delineate who "us" is ever; if it's big "c" or little "c".

Chair Amos asked if Ms. Mell had anything else she would like to say.

Ms. Mell stated the definition of cash is very problematic. It's a rule that if it were argued in any other matter, would have no difficulty once it got to the judicial level of review establishing that it's enforceable. And the reason is, a commission doesn't have the power to make up definitions of words. And that's pretty much what the Supreme Court said when it was interpreting the definition of cash.

A Commission cannot decide cash means one thing as a noun, and one thing as a verb. When that happens, it creates such ambiguity and lack of clarity, because then it is left to the judgment of the reader. Okay, is cash being used in this sentence as a noun or a verb, and it has two different meanings. How can it have two different meanings when it's being used as a noun versus a verb that is consistent with any regulatory purpose of the Gambling Commission. In going through it, it doesn't work like that. It doesn't make any sense.

So it seems like it was a knee jerk reaction to the arguments made on ZDI's behalf to stop approval of the technology at the time by defining cash to exclude cash equivalents. That's the way ZDI ended up doing it. But they couldn't do it completely because there were different ways the term cash was being used in the rules. It was a poor choice at the time, and Ms. Mell believes it's a poor choice to continue with. It needs clarity in that.

If you look at each time that it is used within the rules, doesn't accomplish anything for the agency. Ms. Mell thinks it's an unwise decision to leave that on the books. She would get rid of it and continue to recognize that cash includes cash equivalents.

The delineation in (3)(a) includes all the different iterations of cash. So what is the Commission trying to say when you say cash as a noun is one thing, and cash as a verb is another when cash equivalents are already being allowed.

Commissioner Simpson addressed Ms. Mell. He was looking at the section she inserted, (3)(d). It uses the word gift card at the end of the sentence. But in (3) gift card is crossed out. What does (3)(d) allow that the current rule does not.

Ms. Mell stated that was her error. It should say cash card, so that it's consistent. She asked to consider her amendment to change that to cash card.

Commissioner Simpson stated he still questions what does (d) allow to happen that the current rule under consideration does not allow.

Ms. Mell replied that (d) addresses what she understands the Commission staff is asking the Commission to do, and that is to allow other manufacturers to seek the approval, or obtain the approval, of electronic pull-tab dispensing equipment that uses a cash card to record prizes. So without (d), ZDI is the only one approved to use it -- the only one able to add automatically back at the dispenser on to the cash card winning pull-tab prizes of \$20 or less.

AAG Castillo stated that he is asking the difference between the current proposal (4), the language in the proposal, which says the same thing versus the difference between (d) and (4).

Commissioner Simpson confirmed.

Ms. Mell said she doesn't know that there's any difference, other than what she tried to do was rather than having a whole separate (4), her thought was that the whole concept of when cash cards were introduced, to keep that all in one thing rather than have it as a separate enumeration. She thinks (a), (b), (c) and (d) is describing when cash cards used in electronic pull-tab dispensers must do any one of these things. **Ms. Mell** indicated that if she were asked if there were a problem with electronic video pull-tab dispensers that accept cash cards may award any pull-tab cash prize of \$20 or less onto the cash card, she wouldn't have a major objection to that language. It just didn't work as a (d).

When it says pull-tab cash prize -- and the word "cash" in there, which is defined in the WACs as one thing when it's a noun and one thing when it's a verb. She asked what that means; a pull-tab cash prize being a currency prize because that's a noun in that instance? She said she just tried to stay away from that. So she just took out the pull-tab cash prize.

Chair Amos asked if there was anything else. He asked if Ms. Mell had any other questions.

Ms. Mell replied no.

Chair Amos asked if anybody else had any comments. There were none. **Chair Amos** asked for guidance.

AAG Castillo volunteered that the current rule proposal is up for final action. The options are; accept the vote to adopt the current proposal on the white paper. Or move to adopt the goldenrod sheet, with the exception of cash because it's repealing it. That has to go through a separate process because it's not covered under the current procedures. Or hold it over and instruct the Commission staff to continue working on language, with some guidance hopefully.

Chair Amos asked for a motion on one of those three options.

Commissioner Stearns moved to table it.

Commissioner Gray would like to direct staff to work with Ms. Mell to work through some of the issues, especially as it relates to the gift card pieces and the new added section (1).

Commissioner Gray seconded the motion.

Chair Amos asked if there was more discussion. Yep, seconded.

Commissioner Simpson addressed the chair stating the he is inclined to vote against this motion. He didn't hear anything that needed to be addressed that's different than is included in the staff's proposal. When the question was asked about who is "us," the AG advises that is defined in current rule. He thinks the proposal is fine the way it is. If there are further modifications that need to be done, there's a process for petitioners to go about requesting those changes. **Commissioner Simpson** voted no.

Chair Amos had a question for AG Castillo. If the motion is voted on with what is here, this would have to be put on a 101 --

AAG Castillo asked if he meant for cash, or for the whole thing.

Chair Amos clarified it was for the whole thing. To change the language if this was adopted.

AAG Castillo advised that the Commission could adopt the current proposal before it. ZDI would have the option, by Statute, just as it does at any time, to do a new rule proposal. It would have to be done under 34.05.330 to open up additional changes. So that is an option before the Commission; adopt this version and then ZDI would have the option in the future to submit a new proposal.

Chair Amos asked if there were any questions.

Commissioner Gray referenced to what Commissioner Simpson had talked about. She feels that Ms. Mell has brought up an issue here because the Director may approve anything with this list. But if there's anything other than that list, then that would come before the Commission.

AAG Castillo stated that is currently -- if the device were disallowed and ZDI wanted to change the rule to allow that feature, or those functions, then yes, they would come before the Commission. This rule takes it out of the rule making aspect of it, and puts it into more of a voting thing where the Commission would have to have the device before them to be considering all the features and the technical standards, or anything that the --

Commissioner Stearns expressed concern about the three out of five. He asked what the case law on this is.

AAG Castillo stated that the law says that a quorum of the Commission must act. So in this instance, there are four Commissioners, so a quorum has to be present. Three have to be present in order for the

Commission to act. But there's a proviso in the same Statute that says for the regulation of licensing, there must be a vote of three members to go forward.

Ms. Mell is trying to put into this rule with respect to the approval of the technology that same requirement. Because the Statute says there must be three Commissioners to vote on the regulation of licensing. So to approve a licensing package, there must be three Commissioners. If only two are present, even though that makes a quorum, it can't be done. There would have to be three. Ms. Mell is importing that requirement into this rule for approval of the electronic video pull-tab dispensers.

Chair Amos asked to clarify that if there are three Commissioners for a meeting, and two of them vote yes, one votes no, it can't be done.

AAG Castillo corrected him and stated yes, it can be done because it would be a quorum present to act.

Chair Amos clarified that a quorum of three, and as long as two said fine.

AAG Castillo agreed that was correct.

Commissioner Gray asked if that is the way it is today.

AAG Castillo said yes. That is today. Ms. Mell is then adding so that it would have to be three, and the Commission would be doing that by rule.

Commissioner Stearns asked if that was a good thing. He asked for AAG Castillo's take on it.

AAG Castillo answered that legally it's something the Commissioners could do. She stated it is not her role to advise.

Commissioner Stearns verified that normally the Commissioners would have staff weigh in on that.

AAG Castillo asked if whether Commissioner Stearns meant when the Commission wants to have a requirement.

Commissioner Stearns replied yes, change how we vote.

AAG Castillo answered that the Commissioners have to consider the constraints that would be put on the Commission as a body. That would mean there would always have to be three present.

Commissioner Stearns remarked that is what he didn't like.

Ms. Mell stated the representations regarding the voting requirements is the issue that's before Division II. The Commission does not presently have an expression anywhere, either in the Administrative Procedure Act, the Gambling Act, or in the rules, that clarifies the number of votes required to approve technology. ZDI is arguing that a rule cannot be adopted such as this if this is a

quorum of three, unless all three vote unanimously. If there is a vote of two, that is less than the majority of the full voting membership of the Commission.

To suggest that this proposal by ZDI changes the voting requirements from what they are presently, is not a correct or fair representation of what the Statute currently requires. It won't be known what the Statute currently requires in terms of a legal conclusion until Division II rules on it, unless the Commissioners as a body choose to say they shouldn't with only two of them voting affirmatively, take any action that directly affects licensees.

Commissioner Stearns asked when is the ruling.

AAG Castillo replied that it isn't known. There was just the oral argument. The difference is, if the Court of Appeals rules against the Commission and says that two was insufficient, then that's the rule and that's the reading. It would be superfluous to then put into a rule an additional requirement. It would still be putting a constraint that doesn't exist on this Commission before the Court rules.

Commissioner Stearns asked if there are other scenarios in other agencies where this is an issue?

AAG Castillo answered that no, the Gambling Commission is unique in what does, when it says the regulation of licensing. And this Commission, and ZDI with respect to the positions taken in court, are different of what that means.

Chair Amos asked if there was anybody that would like to make a comment. There was no response. There was a motion on the floor and a second. **Chair Amos** asked for a vote.

Commissioner Stearns: Aye.

Commissioner Gray: Aye.

Chair Amos asked what the motion was.

AAG Castillo clarified that the motion was to table it and direct staff to work on it.

Chair Amos said there are two ayes. All against say aye.

Commissioner Simpson: No.

Chair Amos said he will vote no. Now we don't have a --

Commissioner Simpson addressed the Chair, moving to adopt the proposed amendment to WAC 230-14-047, standards for electronic video pull-tab dispensers, effective 30 days from filing of the adopted rule change. And that staff be directed to continue discussions with ZDI about potential future changes.

Chair Amos asked for a second. There needs to be a motion before it can be talked about any more. Is there a second? There was no second. The motion died.

Chair Amos asked AAG Castillo for guidance on what to do next.

AAG Castillo advised that something has to be done with this.

Commissioner Stearns asked why something has to be done.

AAG Castillo explained that the rule is up for final action so something has to happen. If the Commission doesn't take any action, then this rule proposal dies, and the current rule would exist.

Commissioner Stearns clarified that the Commissioners would start over again. He asked if the court order would still be in effect.

AAG Castillo confirmed that was correct. So ZDI's machine would be able to go forward per the court order, but until the WAC change, no other manufacturer would be able to do the same thing.

Commissioner Stearns confirmed that the ZDI machine would go forward. He asked if that was just by virtue of the court order, or would the Commission actually have to make a rule change.

AAG Castillo said that by virtue of the court order, the VIP can be put into play. However the rule conflicts with what the VIP does. And so this rule proposal is just to match that.

Commissioner Gray asked if the Commissioners are not going to approve the amendatory section that the staff brought forward, and are not going to approve the amended standards that ZDI put forth, and therefore this dies. Does staff still continue to work? Can the Commissioners direct that?

AAG Castillo stated that under 34.05.330, ZDI would have to file the documents with OFM for a petition for amendment to change the rule.

Commissioner Gray clarified that there would then be a new rule and ZDI and staff would end up working on that.

Commissioner Stearns confirmed.

Chair Amos asked if there were any other questions or if there were any other motions that might want to come up on the floor. He asked if there were any reconsiderations.

Commissioner Stearns said the only reason he voted against sending the one that staff brought worth is that it is pretty close to coming to some kind of agreement. That would start the whole process over again. **Commissioner Stearns** suggested that if things are this close, why start the whole process over again. So that was the reason.

Chair Amos asked if anybody wanted to say something. He asked if there was a motion for reconsideration.

Commissioner Gray said no.

Chair Amos agreed with Commissioner Stearns. Why start over. He expressed that it was unfortunate that this proposal wasn't available a little earlier so staff could have tried to incorporate it into the other one.

Commissioner Simpson said he thought the only opportunity would be to attempt to amend the proposal in a way that is acceptable, on the fly. The choices are to either take final action on this, amend it or don't adopt it. Either way, any further amendment to this has to come before the Commission, whether the Commission amends it right now or ZDI files a new rule change.

Commissioner Stearns stressed that his point was that if the proposal is tabled, it can be considered 30 days from now. With the other option, it could be many months --

AAG Castillo stated once ZDI files the OFM document, she believes it's 60 days the Commission has to take some action on it, including whether to accept the proposal, to put it into the rule making process, or to deny it.

Chair Amos asked Ms. Mell if she would like to say another --

Ms. Mell replied that she hates to not accomplish some sort of resolution here. She doesn't think that the Commissioners have to take final action today. That they can move to set this matter over for continued discussion, and then not be in a bind one way or the other. I understand that that's not your recommendation, as I understand it. But I think that's what the first motion would have accomplished. **Ms. Mell** thinks it can be done without violating the rules. It doesn't have to die right now.

Chair Amos asked if the petitioner can ask for a continuation to another meeting, and not ask for a final vote on this today?

AAG Castillo replied that was the first motion that got --

Ms. Mell stated that it doesn't eliminate all options staying in the air for the Commissioners to ultimately vote on. As a matter of fact, this was done before. There was one version, and then Alternative 1 and Alternative 2, and the Commissioners got to look at all three at the same time and then pick. It gets a little bit confusing, but it does accomplish the result of continued discussions where both parties can work together to integrate some language. It doesn't mean that the initial proposal can't be the final outcome, because that stays alive as well. It also accomplishes the result of not having to start over with a whole new process.

Part of one of the considerations in working together on the definition of cash would be a coordinated, agreed upon filing that repeals it, or does something else. It's not ZDI's burden to change the rules. ZDI is trying to work cooperatively and is trying to give the Commissioners meaningful input.

Director Trujillo interjected that Ms. Mell does refer to a prior Commission meeting where there was a version that was staff's alternative, and then a petitioner alternative. He didn't believe those entered the process at the same time, that staff had a petition, and then had the petitioner submit one as well. Those two came before the Commissioners together to consider.

Ms. Mell said she thinks it still was all under the same rule proposal.

Ms. Hunter stated she didn't think Ms. Mell had it in (inaudible). That is the difference between what was being done before and what (inaudible)

Ms. Mell said she always had the cash thing in there. She stated you guys did cash differently. Those two rule proposals may have merged at one point 'cause there was a rule proposal and the definition of cash that was separate.

Director Trujillo clarified he didn't recall the cash discussion, but the electronic video pull-tab dispenser rule was two alternative. He didn't recall how the Commission handled the other portion of it.

Commissioner Gray said it could be held over, direct staff to work with ZDI and bring back something else that they agree on next month.

Commissioner Simpson addressed the chair and clarified the motion as he heard it, directed staff to do more than just work with the proponents of this rule change to find some agreeable language. It in fact directed them to perhaps incorporate some language that I found to be objectionable, and that's why he voted against it. He would not oppose a motion that would say that staff should work for one more month to attempt to reach an agreement with ZDI. But it should be left at that, and staff should not be directed to include any preconceived notion of what should be included in that change.

Commissioner Stearns moved to hold it over for reconsideration next month. And if I leave it vague like that, does that work? And direct staff to attempt to work with ZDI to resolve outstanding issues.

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

9. **Staff Proposed Rule Change**

WAC 230-15 card game chapter review

I. Changing processes and procedures

- a) Amendatory Section: **WAC 230-15-025** Hours of play
- b) Amendatory Section: **WAC 230-15-111** Destruction and disposal of gambling chips
- c) Amendatory Section: **WAC 230-15-335** Internal controls
- d) Amendatory Section: **WAC 230-15-430** Internal control requirements
- e) Amendatory Section: **WAC 230-15-465** Dealing all house-banked card games from a dealing shoe

- f) Amendatory Section: **WAC 230-15-505** Selling gambling chips to players
- g) Amendatory Section: **WAC 230-15-565** Access and entrance to cashier's cage
- h) Amendatory Section: **WAC 230-15-575** Separate imprest bank allowed for nonhouse-banked card games
- i) Amendatory Section: **WAC 230-15-580** Accepting checks at cashier's cage
- j) Repealed Section: **WAC 230-15-570** Cashier's cage bank requirements

II. Changing funding and commission amounts

- a) Amendatory Section: **WAC 230-15-380** Seeding a player-supported jackpot
- b) Amendatory Section: **WAC 230-15-385** Collecting funds for a player-supported jackpot
- c) Amendatory Section: **WAC 230-15-480** Commission on winning hands

III. Recordkeeping

- a) Amendatory Section: **WAC 230-15-250** Recordkeeping for card tournaments
- b) Amendatory Section: **WAC 230-15-355** Counting procedures for fees
- c) Amendatory Section: **WAC 230-15-400** Accounting for player-supported jackpot funds
- d) Amendatory Section: **WAC 230-15-530** Completing the credit process
- e) Amendatory Section: **WAC 230-15-560** Operating the cashier's cage
- f) Amendatory Section: **WAC 230-15-620** Concluding the count

Assistant Director Harris addressed the Commissioners and directed them to item number 9, a staff proposed rule change. It's up for discussion and possible filing. There are multiple rule changes. Staff has grouped them into three separate rule summaries, based on related topics.

Staff regularly evaluates our regulatory process to ensure it adds value, and that does not place unnecessary burdens on individuals or organizations by eliminating duplication that's already in a WAC rule, ensuring consistency between licensees, and allowing for maximum flexibility by each business. This is in line with the agency's goal of anticipating and responding to the evolving gambling industry.

As part of Field Operations reform process, staff has made changes to the Class F and house-banked internal control templates; made changes to the Class F and house-banked daily card room records packet; and reviewed the card room rules for areas that created extra burdens on staff and licensees without contributing significantly to the mission of protecting the public.

These are broken into three separate rule summaries. The first group is related to changing processes and procedures. The following recommendations are made for changes. The first one would be to only require house-banked card rooms to obtain an initial approval from staff to operate during the hours between 2:00 and 6:00 a.m. After the initial approval, staff would then just change the hours within the operator's internal controls. It would also remove language from the specific rule about having a card room employee on duty, because it's already covered in a different WAC rule.

The second one would remove requirements for specific procedures for destroying chips because there is currently a chip destruction log, and licensees have to follow that in the prescribed format in the records packet; removes the requirement for Class F card games to include items in their internal controls that are already addressed in specific rules and is part of the Commission's record keeping packet; remove items that are addressed in other rules that are very general in nature, or areas that licensees have procedures but do not propose a regulatory concern for staff; would allow single and

double-deck card games to be dealt by hand; remove specific chip selling procedures because it's already covered in internal control requirements; removes the requirement to keep a list of names in accounting who can access the cage because staff already requires an access log into the cage that requires a signature.

To repeal the rule would allow card rooms to only operate their cage on a float basis after the Commission has approved it. Currently the Commission can either do a float or imprest. Because of that repeal, the Commission would have to add a definition of imprest into a separate rule, so it would be addressed specifically. And then would allow checks to be cashed at a chip podium, which is current industry practice for podium; and removes the requirement that checks have to be stamped for deposit and specific procedures for traveler's checks.

These changes would save time for staff and operators.

Assistant Director Harris continued that the second group is related to funding and Commission amounts. The following three changes would be made. It would remove the \$5,000 limit to seed a player-supported jackpot and allow them to do it more frequently. The old rule capped it at \$5,000 and said the licensee could only do it once, and there really wasn't any regulatory reason why that was. It removes the \$2 limit on the amount licensees could collect to fund a PSJ. Currently licensees usually collect in increments where after there is \$10 in the pot, they'll pull a dollar out; \$20 in the pot, they'll pull \$2 out. Awhile back the Commission increased the wager limits for poker, but that was never reconsidered. It allows for a higher game. If a customer would like a higher amount to go into the PSJ for a larger PSJ amount, this would allow the flexibility for the operators to do that. And again, if they started pulling too much out for the PSJ, customers would not participate in that game.

The third one is to remove the 5% commission that's allowed to be taken on specific games. Currently Mini-Bac and Pai Gow are the ones that are out there where a 5% commission can be taken. Again, if an operator started charging too much commission, then the players would not play that game. By removing that requirement, it also opens up for a little flexibility for game manufacturers to offer different types of games with different odds where a commission amount would be a little more flexible for them.

These changes would reduce the time staff spends verifying that the licensees are complying with those specific procedures.

The third section is basically all housekeeping changes related to the changes that we made to the card room record packets. It eliminated some forms, it changed some names on some forms, there was some reduction to the number of copies of some of the forms, and it also reduced some of the information that would be required on some of the forms. So it's basically to put the rules in compliance with what our current records keeping packet is.

Again, representatives of the card room industry, including licensees and the Recreational Gaming Association were provided an opportunity to review and comment on all these changes. Feedback and responses received were all supportive of these changes. Staff recommends filing the petition for further discussion. Assistant Director Harris asked if there were any questions for him.

Chair Amos asked if there were any questions of Assistant Director Harris.

Commissioner Simpson asked Assistant Director Harris, in the first set of rules here, WAC 230-15-505, selling gambling chips to players. There are a lot of controls there that are repealed that seem useful. How is it accomplished that the transaction that occurs between the house and the player is properly accounted for without the things that are stricken out of there.

Assistant Director Harris stated that one specifically is addressed in the internal controls. So when that is pulled out of the rule and it's already in their control template, that leaves the licensee a little bit more flexibility if they want to do something a little different at their location.

Commissioner Simpson asked if the agency has approval of the internal controls.

Assistant Director Harris said yes. Realistically that's the standard industry practice of how the card rooms do it, and that will be consistent throughout their internal controls.

Commissioner Stearns asked that by allowing them to operate between 2:00 and 6:00, if that would affect their ability to serve alcohol between 2:00 and 6:00.

Assistant Director Harris stated the original rule was in place that no card room could operate between 2:00 and 6:00, which corresponded with the alcohol service. The rule had been changed over the years to allow that, with agency and local law enforcement approval. With that variation the licensee could open and close within the window that wasn't available before, now every time the card room wants to change their operating hours even a little bit, they have to resubmit another request letter to the agency and go through the whole process. It's been done for so many years, staff feels it's just as easy to document that change in the internal controls, once the card room has the original approval, the opening and closing hours can vary as needed. So if something happens and the card room decides to close early on a specific day, this would allow for that without having to go through a big formal process.

Commissioner Stearns asked if the card rooms can be open 24 hours now.

Assistant Director Harris replied that they can for a limited number of days

Chair Amos asked if there were any other questions or if anybody wanted to talk about this.

Ms. Dolores Chiechi with the Recreational Gaming Association introduced herself to the Commissioners and staff. She stated that she would agree with what Assistant Director Harris had stated. This has been a great collaborative effort with the industry. It goes to show what can happen when both sides sit down and work through issues and matters and bring them before the Commission where there's no confusion about what the industry wants, what the agency needs, and how both parties work together to bring those to the Commissioners.

She expressed support of the RGA they look forward to continuing to work with staff as more changes are brought forward in the future. Some may not be as agreeable, but today the RGA is here in support of this package. She thanked the Commission.

Chair Amos asked if there were additional comments. There were none.

Chair Amos asked for a motion.

Commissioner Simpson made a motion seconded by **Commissioner Stearns** to file for further discussion the proposed amendments to WAC 230-15 card game chapter review. *The vote was taken; the motion passed with four aye votes.*

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

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

11. Executive Session to Discuss Pending Investigations, Tribal Negotiations and Litigation

Chair Amos announced that the Executive Session was expected to last approximately 45 minutes and at the end of the executive session the public meeting would be resumed solely for the purposes of adjourning. At 3:54 p.m. the Commission went into an Executive Session to discuss pending investigations, tribal negotiations, and litigation.

Adjourn

Chair Amos adjourned the meeting at 4:31 p.m.

Minutes were prepared and submitted to the Commission for approval by:
Hollie Arrona, Administrative Assistant