

Commission Meeting Minutes

Location of Meeting:

Comfort Inn Conference Center
1620 74th Avenue SW
Tumwater, WA 98501
(360) 352-0691

Date and Time of Meeting

Thursday, May 8, 2014
12:00 p.m.

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

Commissioners

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

Ex Officio Members

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

Staff

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

- PUBLIC MEETING -

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

Welcome

Mike Amos, Commission Chair

Chairman Mike Amos called the Gambling Commission meeting to order at 12:00 p.m. at the Tumwater Comfort Inn Conference Center and introduced the members present, as well as two new Commissioners, former Senator Julia Patterson from SeaTac, and Bud Sizemore from Olympia. Chair Amos also asked for a moment of silence for a great man, Billy Frank of the Nisqually Tribe. Commissioner Stearns will have a few things to say after the moment of silence please.

Commissioner Chris Stearns added that we lost one of our greatest leaders in the Northwest. Billy Frank, Jr. passed away earlier this week. He was 83, and he had spent so much of his life

improving our lives. He was the father of the fish wars and the Boldt decision. But he meant a lot to not just the Nisqually people, but to all people, Native and non-Native. It seems only right to recognize him.

Executive Session to Discuss Pending Investigations, Tribal Negotiations and Litigation

Chair Amos announced there would be an executive session working lunch. He excused the audience and asked everyone to meet back at 1:30 p.m. for the rest of the meeting.

Chair Amos called the meeting back to order at 1:40 p.m. and announced the next item on the agenda.

Cowlitz Indian Tribe Compact

David Trujillo, Director

After about two hours of discussion and testimony from about eight members of the public, the Cowlitz Indian Tribe's Compact was approved 6:3 (Senator Hewitt, Representative Chandler and Commissioner Gray voted "nay.") The Compact will now be forwarded to the Governor. From there, it will go to the Secretary of the Interior.

Chairman Bill Iyall thanked the commissioners and stressed what an important event this was for the Cowlitz people. He introduced some of the tribal members present and gave a brief history of the compact.

Mike Iyall spoke in favor of the Compact and explained that he was the tribal historian. He also gave a brief history of the Cowlitz Indian Tribe dating back to 1805.

John Bockmier, a local business owner representing four non-tribal card rooms in La Center, spoke in opposition to the Compact and asked that it be set aside until the litigation had concluded.

John Thomas, a Tlingit Indian originally from Alaska, spoke in favor of the Compact.

Mayor Jim Irish from the City of La Center spoke in favor of the Compact, and gave some information regarding the ecological impacts to the land in the area.

Philip Harju, Vice Chairman of the Cowlitz Indian Tribe, thanked Representative Hurst, and spoke about the fairness to the tribe and its elders.

Jerry Lutz, Attorney, Perkins Coie Law Firm, representing the card rooms and neighboring property, spoke in opposition to the Compact.

Ed Fleisher, Attorney representing the Cowlitz Indian Tribe, spoke in favor of the Compact and machine leasing.

Kevin Lenon, Vice Chair of the Sauk-Suiattle Tribe, spoke in favor of the Compact.

George Teeny, local business owner, spoke not in opposition of the Compact, but of the timing of the matter, and the land trust.

Assistant Director Julie Lies read the 24 names on the public meeting sign-in sheet for the proposed Cowlitz Tribal State Gaming Compact. All were for the proposed Compact. Four of those individuals had already testified in front of Commissioners. The names were, Nancy A. Dakota, Norma A. Joseph, Daniel T. Meyer, Jim Irish, Kevin Lenon, Eileen Stewart, Jennifer Johnson, Mike Iyall, Ron Van Mecklin, Roger Nelson, Nancy Osborne, James Thomas, Jerry Iyall, Carolyn Maderios, Lowell Bridges, David Leighton, Tanna Engdall, Taylor Aalvik, Judy Bridges, Seline Cloqua, Pat Iyall-Barnes, Robert Harju, Cathy Thompson, and Claudia Teeny.

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Commissioner Stearns made the motion to approve.

Commissioner Sizemore seconded the motion.

Motion approved. 6:3.

Comments from the public

Chair Amos thanked everyone for their participation. He then announced a 15 minute break.

Break at 3:30 p.m.

Chair Amos called the meeting back to order at 3:45 p.m.

Commissioners & Ex Officio Members Work Session *Mike Amos, Commission Chair* *Discussion to be facilitated by Commissioner Kelsey Gray*

- a) The Work Session is a follow-up to the Commission's Strategic Issues discussions on October 9, 2013, and January 17, 2014. The Commission's funding was one of the topics discussed, in addition to these topics:

- 1) Technology, including Internet Gambling
- 2) Working within the Legislative Environment
- 3) Problem Gambling
- 4) Conducting the Business of the Gambling Commission
- 5) Legislative Reports
- 6) Technical Assistance and Training

Goal – provide an opportunity for Commissioners and ex officio members to talk with each other and staff about the Commission's funding structure and discuss options for future funding.

- b) WSGC Fee Structure (PowerPoint Presentation)

- c) Future Funding Options Discussion

This was about a 2 hour discussion, with the Commissioners and ex officio members asking many questions. The Commissioners will have a meeting/work session in June (likely Thursday, 6/12, in Sea-Tac) to continue the discussion. The PowerPoint presentation focused on the revenue the Commission receives. This led to questions about the Commission's expenses.

Comments from the public

Chair Amos opened the meeting for other business, general discussion, and comments from the public. There were none.

Adjourn

Chair Amos adjourned the meeting at 5:26 p.m.

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9:00 a.m.

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

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- ✓ Chris Stearns
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- ✓ Senator Steve Conway
- Senator Mike Hewitt
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- ✓ **Mark Harris**, Assistant Director – Field Operations
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- ✓ **Michelle Rancour**, Executive Assistant

- PUBLIC MEETING -

Chairman Mike Amos called the Gambling Commission meeting to order at 9:00 a.m. at the Tumwater Comfort Inn Conference Center and introduced the members present. He welcomed Commissioner Sizemore and Commissioner Patterson.

Director's Report

Director Trujillo thanked Chair Amos and Commissioners. He announced there would be a change in the schedule to accommodate a short 15 minute executive session at the end of the meeting to discuss litigation. Senator Conway would like to be present for item number 11, one of the rule petitions. If we can hold off on item number 11 until he arrives, that would be helpful.

Approval of Minutes - January 17, 2014, Strategic Session - Commission Meeting

Chair Amos requested a motion to approve the minutes from the January 17th meeting.

Commissioner Gray made the motion to approve.

Commissioner Stearns seconded the motion.

Motion approved. 5:0.

Approval of Minutes - February 13-14, 2014 , Commission Meeting

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

Commissioner Gray made the motion to approve.

Commissioner Stearns seconded the motion.

Motion approved. 5:0.

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

New Licenses and Class III Employees

Assistant Director Griffin explained with regards to the house-banked card room report there have been no changes since last month. There still are 53 licensed and operating house-banked card rooms, with no applications pending at this time. Ms. Griffin also shared a pre-licensing report on 50/50 Central, a new manufacturer located in Ontario.

Commissioner Sizemore made the motion to approve.

Commissioner Gray seconded the motion.

Motion approved. 5:0.

Presentation of Stipulation and Final Order on Petition for Review

- a) McCoy's Cavern, Organization

AAG Rosen explained this matter comes before the Commission regarding the proposed Stipulation and Final Order in McCoy's Petition for Review. The licensee failed to submit its activity report for the first and second quarters of 2013. This was the second time the licensee has violated a prior settlement order for the same violation. This is the fifth time in the last six reporting periods that the licensee has failed to timely submit its activity reports.

Amended Charges were issued on November 18, 2013, to reflect that the activity report that was due on July 30, 2013, was received on September 25, 2013.

The Proposed Stipulation and Final Order from staff were approved, deferring the revocation imposed by the ALJ. If McCoy's does not submit their next two reports on time, this case will be brought back before the Commission. We requested this order, in part, because after the ALJ hearing, the owner met with Cameron Baker and received training on how to submit the reports on-line. In addition, the licensee then submitted the reports that were outstanding. During the hearing, Mr. Baker had testified that he is always available to assist licensees.

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Commissioner Stearns made the motion to accept the Stipulation and Final Order on the Petition for Review.

Commissioner Gray seconded the motion.

Motion approved. 5:0.

Defaults

a) Jessica Lamm, Bingo Manager, Revocation

Ms. Lamm is a bingo manager. She took over \$6,000 in cash from the AmVets #1 cash machine, ATM, pull-tab sales, and also from bingo dauber sales. AmVets #1 is located in Tacoma. Ms. Lamm admitted that she did this.

Staff was able to leave Ms. Lamm a message, and then staff played phone tag with her for about a week. Staff was able to talk with Ms. Lamm and explain that staff would be asking that her license be revoked. Ms. Lamm said she was not interested in any further discussions on it. Ms. Lamm is not currently working in the gambling industry, or at least in a capacity that would require licensure. Ms. Lamm did not request a hearing, so staff would recommend that the Commission revoke her bingo manager license.

Commissioner Gray made the motion to revoke Jessica Lamm's Bingo Manager License.

Commissioner Stearns seconded the motion.

Motion approved. 5:0.

b) Panda Woks Restaurant, Organization, Revocation

Panda Woks is a Class B pull-tab licensee, which is one of the smaller licensees. They did not get their report activity reports in on time. Staff still has not received some reports from them. Their history over the last few years is listed on page two of the proposed Default Order. Staff spoke with the licensee. They did not request a hearing. Staff is requesting that the Commission revoke the pull-tab license for Panda Woks.

Commissioner Gray made the motion to revoke Panda Wok's Pull-tab License.

Commissioner Stearns seconded the motion.

Motion approved. 5:0.

- PUBLIC MEETING -

Rules Up For Final Action

Staff Proposed Rule Change

Tina Griffin, Assistant Director

Background checks on landlords.

Assistant Director Griffin explained staff's proposal for a new rule, WAC 230-03-061, fingerprinting persons holding an interest in the building of house-banked card room licensees or charitable nonprofit licensees in regulatory groups III, IV or V. AD Griffin also gave a short history of the rule and explained why staff recommended narrowing those who need to comply with the rule.

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The rule presented incorporates all aspects of the RCW in a minimally invasive way requiring fingerprints only for those individuals who own more than 50% in the building, or have a less than 50% ownership in the building but have actual or potential influence over the gambling activity.

Staff is recommending for final action on the rule marked May 2014 Commission Agenda version, with an effective date of July 1, 2014.

Commissioner Gray thanked staff for all of their work on this rule.

Victor Mena, President of Recreational Gaming Association, echoed Commissioner Gray's comments; they really appreciated being able to work with staff on this.

Dawn Mangano, Caribbean Casino & Macau Casino, said this version was "fantastic."

Commissioner Sizemore made a motion to accept the May 2014 version of the new WAC section 230-03-061.

Commissioner Stearns seconded the motion.

Motion approved. 5:0.

Staff Proposed Rule Change

Mark Harris, Assistant Director

WAC 230-15 card game chapter review.

Assistant Director Mark Harris explained the staff proposed rule change was up for final action.

Commission staff periodically reviews and evaluate regulatory processes, to ensure they meet regulatory goals and are not placing unnecessary burdens on individuals or businesses. We strive to remove duplications from rules, ensure consistency between licensees, and allow maximum flexibility for licensees. These reviews help us meet one of our agency goals of "Anticipating and responding to the evolving gambling industry." In conjunction with the card room industry, we recently reviewed all card game rules to simplify and streamline requirements. Below are recommended changes that resulted from this joint review.

- **WAC 230-15-025 Hours of play.** Licensees would only be required to get initial approval from us to operate during the hours of 2:00 a.m. – 6:00 a.m. After the initial approval, they can change their hours without sending in additional requests. Licensees will document their hours of operation in their internal controls.
- **WAC 230-15-111 Destruction and disposal of gambling chips.** Removes specific procedures for destroying chips from the rule as licensees must use our recordkeeping forms to account for chips that are destroyed.
- **WAC 230-15-335 Internal controls.** Removes requirement for class F card rooms to include items in their internal controls that are already addressed by other rules or included as part of our required recordkeeping for fee collection, and card/chip inventory.

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- **WAC 230-15-430 Internal control requirements.** Removes items that are general in nature, addressed in other rules, or may be areas where licensees would have procedures that are not regulatory concerns.
- **WAC 230-15-465 Dealing all house-banked card games from a dealing shoe:** An exception was added to allow single deck card games to be dealt by hand.
- **WAC 230-15-505 Selling gambling chips to players.** Removes specific chip selling procedures from rule. Instead, licensees will need to develop their own procedures and include them in their internal controls.
- **WAC 230-15-565 Access and entrance to cashier's cage.** Removes requirement to keep, in the accounting department, names of persons with access to the cage.
- **WAC 230-15-570 Cashier's cage bank requirements.** Repealing this rule will allow cashier cages to be operated on a float basis without getting approval from us.
- **WAC 230-15-575 Separate imprest bank allowed for nonhouse-banked card games.** Moves the definition of "imprest" from WAC 230-15-570 to this rule.
- **WAC 230-15-580 Accepting checks at the cashier's cage.** Allows checks to be accepted at the poker podium. Removes the requirement for checks to be stamped "for deposit only" and takes out specific procedures for accepting traveler's checks.
- **WAC 230-15-380 Seeding a player-supported jackpot.** Removes the \$5,000 limit on the amount licensees can start (seed) a player-supported jackpot (PSJ) with or replenish a PSJ that has been won.
- **WAC 230-15-385 Collecting funds for a player-supported jackpot.** Removes the \$2 limit on the amount licensees can collect from the pot to fund a PSJ.
- **WAC 230-15-480 Commission on winning hands.** Removes the five percent commission limit that may be taken by licensees on winning hands.
- Minor changes are proposed to the following rules to bring them in-line with current recordkeeping requirements.
 - **WAC 230-15-250 Recordkeeping for card tournaments.**
 - **WAC 230-15-355 Counting procedures for fees.**
 - **WAC 230-15-400 Accounting for player-supported jackpot funds.**
 - **WAC 230-15-530 Completing the credit process.**
 - **WAC 230-15-560 Operating the cashier's cage.**
 - **WAC 230-15-620 Concluding the count.**

Senator Conway had a few questions about the rule dealing with hours of operation.

There were no comments from the public.

Commissioner Gray made a motion to adopt the staff proposed rule changes.

Commissioner Stearns seconded the motion.

Motion approved, effective 7/1/14. 5:0

Rule Up For Discussion

Petition from the Public: Distributor representative for Magic Distributing
Requiring bingo and pull-tab manufacturers to make products and equipment available to all distributors.

Mark Harris, Assistant Director

- a) New Section: **WAC 230-16-003** Bingo and pull-tab manufacturers must make related products and equipment available to all distributors.

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We have received a petition from a licensed distributor representative requesting the Commission adopt a new rule to require licensed manufacturers of bingo and pull-tab products and equipment to make their products and equipment available to all distributors for the same price and terms. The new rule also sets out the following:

- In the absence of an established line of credit with terms, all bingo and pull-tab products and equipment must be made available on a cash basis; and
- Manufacturers must not dictate purchasing requirements to distributors, such as quantities and mix of products that must be purchased; and
- Any denial by a manufacturer to sell to a distributor must be detailed and provided in writing to the distributor with a copy provided to the Commission.

Stakeholder Input: We have received 22 letters of support (about 18 were form letters), 4 letters opposing and one stakeholder was neutral.

In total the Commissioners spent about one and a half hours on this rule. The following includes some of the discussion:

Commissioner Patterson asked about the legal remedies available. AAG Castillo explained how the anti-trust laws and consumer protection laws work.

Senator Conway asked about the ID stamps. AD Harris explained these are for tracking; they aren't a "stamp of approval." There was discussion about cigarette tax stamps. Senator Conway emphasized that products require stamps from the state; it's not like other products in state. He feels the stamps give the state a role in the product.

Senator Conway mentioned a few times that he would like staff to analyze what is done in other states. Senator Conway explained that his constituents have brought this to him several times over the years.

He doesn't want to go back to price lists. He also does not think manufacturers should be on the hook for distributors that aren't paying bills.

Commissioner Patterson had several questions of Senator Conway to better understand the issue. Commissioner Stearns asked if there is a role for studying this and making a finding. He felt a little uncomfortable making a decision without studying this and without knowing if businesses are being pushed out. AD Harris explained that when staff follows up on complaints, they find that reasons are given for not selling. Many of these conversations occur over the phone, so they are harder to follow up on.

Commissioner Gray said she is very cautious about getting into the middle of these business relationships.

Commissioner Stearns said he'd like to know if there is a problem. As a Commissioner, he is being asked to come up with a solution, so he'd like to know if there is a problem. AD Harris said he can look at what other states do and bring that back for discussion.

Public Comments:

- Jay Gerow, ZDI Gaming, said he had a legal question about having this rule apply to all things (such as TLS), not just pull-tabs. AAG Castillo explained that she advises the Commission on legal issues and if the Commissioners have legal questions, she can answer those.
- John Lowmon, petitioner – Provided a handout and went over some of his work history, working for various distributors, and how he wasn't given access to certain products, etc. Commissioners had various questions for Mr. Lowmon.
Senator Conway said it seems that because there are fewer manufacturers, this has led to less access, and that was why we're here. It seems we just need a simple rule to require that manufacturers sell to all distributors.
Commissioner Patterson asked why pursuing anti-trust is cumbersome. Mr. Lowmon said they've gone to the Governor's Office and AGO and they've been referred back to the WSGC, who has referred them back to the AGO and they've been on a constant "spin cycle."
- Don Harris, Distributor – Mr. Harris has been in the industry for 25 years, 20 years as the owner of a distributorship. They cannot do anything without the WA ID stamp.

Senator Conway says some of the distributors don't want to step forward because they are worried that they then won't be able to get any products.

Chair Amos asked how many distributors there are in the state. AD Harris said about 10-15 located in Washington state.

Commissioner Gray summarized:

- Need to know what other states do.
- Do these issues come up with other products, beyond pull-tabs and bingo paper.
- Would like to know if these rules would interfere with credit, pricing, business practices, etc.
- Walt Antoncich, Tri-Focus Enterprises, Distributor
Talked about the Commission's mission and went over how gambling benefits the various businesses, ranging from the manufacturers to operators to the playing public. If the rule is put back in, encourage adherence to the spirit of the rule.
- Lane Gormly, Arrow (Manufacturer)
Mr. Gormly said he has been in industry since 1982. He has worked for two different manufacturers. This really does get down to business practices and whether the Commission wants to get into this area.
He mentioned that many have seen this shrinking of the industry nationwide; it's not a Washington problem. He has seen distributors come together.
Magic distributing grew over the last year.
Commissioner Gray said she doesn't understand why they don't sell to Magic.

Mr. Gormly responded that Arrow has not ever sold to Magic. They have a disagreement about what her [referring to Ellie Coffey] relationship was with a prior company she was involved with; it was related to credit, so they've chosen not to sell to Magic.

It seems there are a few distributors that are in a bad position.

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Lynnwood plant has 150 employees. This is a capital intensive business. They've invested in certain distributors. They should get to choose who represents their product.

Commissioner Patterson asked if there would be a concern if there was a rule that they must sell to all distributors, but not if there were credit problems. Perhaps we could define those parameters (ex: credit, illegality). Commissioner Patterson said it doesn't "settle" with her if manufacturers don't sell because of criteria that the Commission does not know about, such as simply not liking a person. She said she is new to the issue and will listen to her colleagues also, but this is how she is feeling on it right now.

Commissioner Gray requested more information on what other states were doing in preparation for the next meeting.

Rule to be held over to the July meeting for further discussion.

Rules Up For Discussion and Possible Filing

Petition from the Public: Omega Gaming, licensed distributor *Mark Harris, Assistant Director* **Approving non house-banked card games.**

a) Amendatory Section: **WAC 230-15-030** Authorized nonhouse-banked card games

Assistant Director Mark Harris explained the petitioner is proposing an amendment to allow nonhouse-banked card games to be approved by the director or the director's designee. The petitioner's intent is to give staff the ability to approve a variation of the card game poker.

No comments from the public. Petitioner could not be here today.

Commissioner Gray made the motion to file for further discussion the new section for WAC 230-15-030, authorizing nonhouse-banked card games.

Commissioner Sizemore seconded the motion.

Motion approved. 5:0

Filed for further discussion.

Petition from the Public: Rocky Mt. Elk Foundation

Mark Harris, Assistant Director

Authorizing members-only progressive raffles.

Assistant Director Harris explained the petitioner is proposing a new rule and changes to two rules to allow progressive raffles as a part of members-only raffles.

- WAC 230-06-030: This proposed change exempts members-only progressive raffles from the prohibition against giving another chance to participate in a gambling activity as a promotional item.
- WAC 230-11-070: This proposed change exempts members-only progressive raffles from the requirement that all aspects of members-only raffles must take place at the same event and location.

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- WAC 230-11-091: A new rule is proposed that defines a “members-only progressive raffle” as a raffle in which winner(s) of one or more members-only raffle may, without further purchase, receive an entry into another members-only raffle.

The second raffle may or may not take place in the State of Washington. For the petitioner, the national organization which holds a raffle license is located in Montana.

The petitioner, Wayne Marion, spoke in support of the petition and thanked the Commissioners for considering them.

Jamie Durkan, on behalf of Muckleshoot Tribe, said he has talked about “mega raffles” before, the Commission is seeing more and more raffles coming before them.

This can cause a red flag when buying 1 ticket, which leads to entry into another gambling event.

Need to be cautious about this “winning a chance to win again” and where does that lead.

Mr. Durkan said he would like the Gambling Commission to look at the raffle industry. Do people really win these raffles? It is a good way for organizations to raise money?

Director said staff can provide the memo AD Griffin did a couple of years ago about the larger scale raffles.

Commissioner Stearns made the motion to file for further discussion.

Commissioner Sizemore seconded the motion.

Motion approved. 5:0

Filed for further discussion.

Election of Chair

Chair Amos will serve as Chair for another year, or until he leaves, whichever comes first.

(Chair Amos’ term ends 6/30, but he may be reappointed by the Governor soon).

Commissioner Stearns made a motion that Mr. Amos remain as Chair for one more year from today, or until he leaves, whichever comes first.

Commissioner Gray seconded the motion.

Motion approved. 5:0

Other Business/General Discussion/Comments from the Public

Jamie Durkan commented that he is always concerned when authority is delegated to someone else. Mr. Durkan was concerned about WAC 230-15-030, delegation of authority.

Adjourn

The executive session was cancelled. Chair Amos adjourned the meeting at 12:12 p.m.