

Commission Meeting Minutes

APPROVED

Location of Meeting:

DoubleTree by Hilton
2300 Evergreen Park Drive
Olympia, WA 98502
(360) 943-4000

Date and Time of Meeting

Thursday, April 9, 2015
1:30 p.m.

Indicates Commissioners and Ex Officio Members Present.

Commissioners

- ✓ Chris Stearns, Chair
- Bud Sizemore, Vice-Chair
- ✓ Kelsey Gray, PhD.
- ✓ Julia Patterson
- ✓ Ed Troyer

Ex Officio Members

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

Staff

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

- PUBLIC MEETING -

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

1:00 p.m. – 1:30 p.m. – Demonstrations:

These demos are related to 2 rule petitions, which are below.

1. 50/50 Electronic Raffle System
2. Proposed Amusement Game Group 12

- PUBLIC MEETING -

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1. Welcome

Chris Stearns, Commission Chair

Chair Stearns called me meeting to order at 1:30pm at the DoubleTree Hotel in Olympia and introduced the members present.

2. Director's Report

David Trujillo, Director

Director Trujillo recognized Secretary Senior Darleen McColley-Guzik for 25 years of state service, of which 15 years of service have been with the Gambling Commission.

Assistant Director Tina Griffin was recognized for the Trilogy award from FBI-LEEDA (Law Enforcement Executive Development Association). Trilogy is awarded after successful completion of LEEDA's Supervisory Leadership Institute, Command Leadership Institute & Executive Leadership Institute.

Special Agent Michael Boone was also recognized for graduating from the Basic Law Enforcement Academy at the Criminal Justice Training Commission with the highest honors.

3. Recreational Gaming Association: State of the Industry presented by *Dolores Chiechi, Executive Director*

Dolores Chiechi thanked the commissioners and staff and explained to please hold questions because they might be answered by other slides. Ms Chiechi explained the formulation of the Recreational Gaming Association.

PowerPoint Presentation, which included five parts:

Part 1: Review of various laws & history of events

- RGA formally incorporated in 1998. Before this, in early 80's, had group of poker operators who were loosely organized.
- 27 of 49 HBCR's are members
- Peaked at \$302.6 m and 97 HBCR's (2001 – 2005 was growth period)
- 34% closure rate between 2006 & 2012
- 2013 to Present – Net receipts increased 1.1% for the first time since 2006
- Expenses are impacted by minimum wage, Affordable Care Act and cost of goods and services (food, liquor privatization, general inflation)

Uniquely Challenged Businesses:

- Moratoriums
- Bans/Closures/Annexations
- Local Initiatives – Tacoma (passed & 3 HBCR's closed), Lakewood (did not pass), & Tukwila (did not pass)
- Local Gambling Taxes – Tax rates would be increased, as a way to keep card rooms from opening
- Legislative proposals
 - Task Force on Gambling – 1998
 - Repeal of law authorizing HBCR's - 1999
 - Zoning for locals
 - 2002 – Gov. Locke proposed 10% state gaming tax – Rallied and had 500 employees on the steps of the capitol
 - 2005 – Another 10% state gaming tax proposal
 - Initiative 892 – to allow machines – Failed

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- 2007 – Freeze on number of HBCR’s
- 2013 – Transfer of regulations to the legislature
- All of these failed

Part 2: Economics of Business Model *presented by Victor Mena, President of RGA*

Mr. Mena oversees ten of the HBCR’s. It is very labor intensive.

Over 50 percent of total operating costs is related to Human Resources (people)

These costs cannot be passed along, for example, if minimum wage goes up, the cost of a \$1 chip is still \$1. It cannot be “raised” to \$1.25. With food and drink sales, for example, you could increase the cost of the hamburger, etc.

Every 10 cent increase in minimum wage costs \$1,000 per month.

Employment:

- 6,000 employees statewide, 4,600 are licensed. At the peak there were 7,600 CRE’s
- Family wage jobs with minimal formal education
- 70 percent of employees are tipped employees; and they can potentially earn anywhere from \$60K - \$90K per year.

Industry creates 12,880 direct and indirect jobs.

Taxes:

- \$3.2 m. in state B&O (1.5% rate)
- Local tax rate – 10% is the most common
- \$280K to state problem gambling program

Part 3: David Fretz, Vice-President of RGA, also President of Great American Gaming

Mr. Fetz spoke about net gambling receipts for the State of WA, which is equivalent of sales in a normal business.

GGR (Gross Gambling Receipts) – equivalent to sales in other businesses

Net income = net gambling receipts minus expenses.

92 percent of growth is captured by tribal entities.

Regulatory Environment – Highly regulated

WSGC, health departments (state & local), LCB, Employment Security, etc.

Part 4: Problem Gambling – Dolores Chiechi, Executive Director

Industry Working Group established by former Gov. Locke

1999 – Funds allocated from Lottery’s budget

2005 – State tax of .13 created (Lottery, Horse Racing & licensees contribute). Tribal governments make contributions at the same .13 rate.

Ms. Chiechi shared information about specific charitable and community contributions HBCR’s make. **Ms. Chiechi** passed around a list that was nine pages long.

When police officers were killed in 2009, Great American Casino in Lakewood provided free meals (breakfast, lunch & dinner) to the Lakewood police officers and their families.

Part 5: Challenges for Sustainability - Victor Mena, President of RGA

Mr. Mena spoke about sustainability in the industry, and operating expenses, along with the challenges of a shrinking demographic base.

Unsustainable returns based on current economic model

- Increasing costs – human resources, operating, occupancy, taxes & licensing
- Limited organic growth
- Shrinking demographic base for established products
- Limited technological advancement of product offerings

A study from five years ago showed card games appeal to less than 15% of the population

Chair Stearns thanked Ms. Chiechi for her presentation. He commented it was a great report. It was great to hear about what Great American did in Lakewood.

Commissioner Patterson commented she was extremely impressed by this massive nine page list of contributions, both in kind and cash contributions.

Chair Stearns referred to Fantasy sports, and asked how this impacts the RGA.

Victor Mena replied, we compete against all of those discretionary dollars. There is a national push for sports betting. It was very common to see gambling on sports and so many other things in Europe.

Chair Stearns asked “Do you have a sense of where you’ll be in 10 years?”

Mr. Mena replied, really no because of the unknown of minimum wage. If minimum wage goes to \$16 in a short time frame (ex: 2-3 yrs), he thought only 10 HBCR’s would survive. Minimum wage discussion is over with for this legislative session.

4. Legislative Update presented by Arlene Dennistoun, Staff Attorney

Arlene Dennistoun reported that various bills have been stripped of provisions that were of concern (ex: SB 6019 – no longer requires agencies to apply for the Baldrige award)

Budget: OFM sent a five page letter to legislators expressing concerns about their budget proposals.

- One area/example the letter addressed were the different approaches the House & Senate took for salary increases for state employees. Collective Bargaining Agreements (CBA’s) & \$1,000 salary increase approach taken by Senate – would be unworkable to have to go back to table & renegotiate the CBA’s
- There are differences in funding for Gambling Commission – Senate - \$500K from Lottery’s unclaimed prizes. House - \$500K per fiscal year from general fund.

Bills that may come back next session – fantasy sports, etc.

Ms. Dennistoun reviewed the Agency Request Legislation process for 2016.

Commissioner Patterson replied that she wanted to reinforce the idea of looking at bills and what Commissioners think those laws should look like, instead of waiting to react. If we do that, it should include how we might better address problem gambling.

The Commissioners discussed writing a letter to legislative committees listing various gambling-related topics that the committees might want to review more closely. **Ms.**

Dennistoun replied staff would bring a draft letter forward at the May Commission meeting.

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

5. New Licenses and Class III Employees Tina Griffin, Assistant Director

Assistant Director Tina Griffin explained there are currently 49 HBCR licensed and shared the pre-licensing report for Clearwater Saloon and Casino located in East Wenatchee.

Ms. Griffin requested the approval of licenses and Class III employees listed on pages one through 21.

Commissioner Troyer called for a motion.

Commissioner Gray moved to approve the new licenses

Commissioner Patterson seconded

Motion approved 4:0.

Rules Up For Discussion and Possible Filing

6. Petition from Harmon Consulting for Class 12 Amusement Games presented by Assistant Director Mark Harris

Proposed Amendatory Section: WAC 230-13-005 Amusement Game Authorized

Proposed New Section: WAC 230-13-067 Group 12 – Electronic puzzle and pattern solving game standards.

Assistant Director Mark Harris explained the petitioner is proposing a new amusement game, group 12, which would allow electronic puzzle and pattern solving games, if played according to specific standards set forth in the rule. The Commission's current amusement game rules allow for eleven groups or types of games to be played. The new rule would authorize an electronic amusement game that would allow players to discern a pattern and choose the correct symbol to complete that pattern, such that no prize is ever awarded unless the player correctly completes the skill puzzle. WAC 230-15-050 will need to be changed to allow for more than eleven groups of amusement games.

Commissioner Troyer asked why it looks so much like a slot machine. It seems like you could do same thing that doesn't look like this. Commissioner Troyer suggested the rule and needed more review before proceeding.

Monty Harmon, petitioner commented...

- It's a hybrid of other items that are out in the market now.
- Want to appeal to adults.
- Has an alternative version to make this where minors are prohibited from entering. Would prefer the Comm. file this version.
- If in Seattle please check out Gameworks, some of the games look more like slot machines than this. [Gameworks is one of our licensees].
- Would like to test this in the market. The industry needs something. Would help modernize the industry. It's low on labor.
- You have to be able to preview the results.

Commissioner Troyer stated this goes back to my question. Then why don't you use giraffes and put animals back in the zoo. Why does it have bars? Does anyone here want their kids around it? Maybe we do need to go out and look at these.

Mr. Harmon responded this product requires interaction; I'd rather have my kids do this than other games that are out there now.

Commissioner Patterson asked Commissioner Troyer whether he was concerned about the alternative version of the rule, which limits locations where minors are prohibited from entering.

Commissioner Troyer said he did not. He further commented he still did not think it needed to look like a slot machines. People who have had too much to drink may sit down and think this is a slot.

Commissioner Gray moved to file for further discussion the alternative version.

Commissioner Patterson seconded

Motion approved 4:0

7. **Electronic raffle systems** *presented by Mark Harris, Assistant Director*

Proposed New Sections:

WAC 230-11-999 Pilot project allowing the use of electronic raffle systems to conduct 50/50 raffles.

Assistant Director Mark Harris explained this new rule would authorize a pilot project to test the regulatory and economic impact of charitable/nonprofit licensees using electronic raffle systems to conduct 50/50 raffles. In a 50/50 raffle, 50 percent of the proceeds from ticket sales are awarded to one winner with the remaining 50 percent going to the charitable/nonprofit organization operating the raffle. Applicants and licensees that choose to participate in the pilot project will pay a fee to offset agency costs to administer the pilot project. Manufacturers, service suppliers and raffle operators will need to sign an Operating Agreement with the Director and follow technical and operating requirements in their relevant Appendices. **AD Harris** shared a brief description of the Electronic Raffle System: In other states or provinces (Illinois, Colorado, North Dakota, Ohio, and British Columbia), electronic raffle tickets are typically sold at major sporting events by persons staffing kiosks equipped with touch screen devices and other staff moving around the facility with handheld wireless equipment.

The electronic raffle system is used to print raffle tickets and customer receipts, account for raffle ticket sales, and show progressively increasing prize amounts.

All other aspects of the raffle, including a manual drawing of winning tickets, must follow existing raffle requirements.

Electronic raffle systems will be reviewed and approved by commission staff. Any conditions or restrictions for operating the system would be included in a letter to the manufacturer approving its use.

Kevin Lovitt, President of Pointstreak 50/50 was available for questions.

Commissioner Troyer asked who decides which charity the money goes to. How would the decision be made on who could participate? How does the prize work? Commissioner

Troyer said he liked the technology. Just trying to clarify how the money gets downhill (meaning to recipients).

Mr. Lovitt commented that he had a game in Canada where \$700K in tickets was sold, so \$350K prize. All kids in that area didn't have to pay for equipment because of the raffle. Prize ranges - \$300 to \$800K. Prize range can vary depending on the venue.

Commissioner Patterson asked how the YMCA would become a licensee. For the pilot program, would participants be restricted to sports venues? She wanted to know if this gave the sole power to the sports arenas.

Commissioner Troyer commented the Tacoma Dome has basketball games, so could do there.

Ric Newgard, Seattle Junior Hockey Association, commented there are 50/50 raffles that take place at Silver Tips games at the Comcast Arena in Everett.

One of the Commissioners asked if people ever give back their winnings.

Mr. Lovitt replied yes, this has happened. It happened in Boston, and people did give back their winnings for the Boston Marathon victims.

Commissioner Patterson said she was curious about how we regulate these. Are we watching people as the tickets are being sold up and down the stands?

Director Trujillo responded the current rules are specific for the paper system. The Commission would probably have staff at all drawings so the Commissioners have confidence in any to continue the program, stop it, etc.

Discussion ensued by Commissioners about the proposed fees. The asked how was one percent (1%) of gross gambling receipts (GGR) chosen? Why not one and a half or two percent?

Director Trujillo responded staff made estimates on what they thought it will cost to regulate. The actual cost could be greater or less so the percentage could be greater or less.

Chair Stearns had a similar question, and stated it seems like it might be expensive for the Commission to operate the pilot program. He suggested a higher rate be set.

Commissioner Patterson commented that as long as you're not establishing precedent and saying it won't ever increase. She said this needs to be thoroughly considered.

Commissioner Patterson asked how many vendors are there.

Mr. Lovitt responded there are three others, and 50/50 is the largest.

Commissioner Troyer stated where the money flows depends on our own actions. He said he would hate to approve and find out nothing was ever received by a true charity, and went to salaries, etc. He wants to make sure the Commissioners fully understand it.

Commissioner Gray asked would the pilot project only apply to 50/50.

Mr. Lovitt responded no, all four could participate.

Bob Nelson, Tri-City Americans -- Volunteer Gambling Manager, answered, the smaller charities run 50/50 raffles now, and they fully support this. He stated it would make their efforts easier. He stated the Tri-Cities Americans non-profit would like to be part of the pilot program, and their intent would be to own the system themselves.

Commissioner Patterson added she thought this would make the system more efficient. She asked if the Commission could look at problem gambling and make a small donation towards problem gambling.

Taylor Graham – Seattle Sounders commented that they have partnerships that are large and small. The Seattle Foundation has a donor advice fund so that smaller charities can receive proceeds.

Chair Stearns called for further comment, there were none.

Commissioner Gray moved to file for further discussion, and directed staff to examine ways we might be able to use part of the proceeds for problem gambling.

Commissioner Troyer seconded.

Motion Approved 4:0.

8. Card game rules streamlining presented by Mark Harris, Assistant Director

Proposed Amendments to:

WAC 230-15-055 Limit on number of players at each table.

WAC 230-15-460 Supervision requirements for house-banked card rooms.

WAC 230-15-630 Restricting access and controlling keys.

WAC 230-06-030 Restrictions and conditions for gambling promotions.

WAC 230-06-031 Using wheels in promotional contests of chance, fund raising events, or gambling activities.

Proposed Repeal of:

WAC 230-15-453 Using match play or similar coupons in a gambling promotion.

WAC 230-15-635 Electronic key control systems.

WAC 230-15-640 Keeping individual key control boxes for departments.

WAC 230-15-645 Keeping a key control log.

WAC 230-15-650 Keys for the gambling operations department.

WAC 230-15-655 Keys for the security department.

WAC 230-15-660 Keys for the accounting department.

WAC 230-15-665 Keys for the surveillance department.

WAC 230-15-670 Keeping a master key control box.

WAC 230-15-675 Key control box for emergency key.

These rule changes save time and costs for staff and licensees, and allow flexibility for licensees to design their own specific controls.

- **Limit on number of players for Mini Baccarat:** This change would allow line betting on Mini Baccarat, as commonly played in Tribal casinos and other jurisdictions. This would increase the number of wagering areas from nine to 18.
- **Supervision requirements for house-banked card rooms:** Depending on the layout of the card room, licensees may be able to reduce the number of supervisors required and save money without impacting supervision of the games.
- **Key control:** Eliminates specific key requirements and allows licensees to develop their own key control system. Nine additional key control rules are being repealed.
- **Gambling promotions:** Allows card rooms to award promotional prizes on card games by using another element of chance and clarifies what is allowed for gambling promotions.

Dolores Chiechi commented these proposed changes show the industry has matured. Appreciate the work that's been done and being included.

Warren Monty from Lucky Bridge Casino commented that he had worked in three different gaming jurisdictions and this was the only one where industry is welcomed to participate. He really appreciates this and wanted to say that. He thought streamlining things would be very beneficial to the industry as a whole, and he really appreciated this.

Chair Stearns called for further comments, there were none.

Commissioner Troyer made a motion to file for further discussion.

Commissioner Gray seconded.

Motion Approved 4:0

- PUBLIC MEETING -

9. Approval of Minutes – February 12 & 13, and March 12 & 13, 2015 Commission Meetings

Commissioner Troyer made the motion to approve with the changes, the minutes from the February and March Commission meetings.

Commissioner Patterson seconded.

Commissioner Gray abstained, as she was not at the March meeting.

Approved 3:0

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

Director Trujillo announced that this would be AAG Callie Castillo's last Commission meeting; she has been promoted to Deputy Solicitor General within the AGO.

Chair Stearns thanked Ms. Castillo for her service as the Commission's AAG. He felt that the Commissioners made the right decisions because of advice she had given. He applauded

the work she had provided on the Tribal Compacts. Further stating Ms. Castillo would be great arguing in front of the Supreme Court or wherever she may be of service.

Chair Stearns called for further comments, there were none.

11. Executive Session (tentative if needed)

Chair Stearns called for executive session at 4:04pm

12. Adjourn

Chair Stearns adjourned the meeting at 4:20p.m.