

Commission Meeting Minutes

APPROVED

Location of Meeting:

Comfort Inn Conference Center
1620 74th Avenue SW
Tumwater, WA 98501
(206) 246-5535

Date and Time of Meeting

Thursday, August 13, 2015
10:30 a.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 B. Hunter, Deputy Director
Tina Griffin, Assistant Director – Licensing Operations
Julie Lies, Assistant Director – Tribal & Technical Gambling
Mark Harris, Agent-in-Charge – Field Operations
Matt Kernutt, Assistant Attorney General
Michelle Rancour, Acting Executive Assistant

Executive Session to Discuss Pending Investigations, Tribal Negotiations, and Litigation –
Working Lunch (11:00 a.m. – 12:30 p.m.)

- PUBLIC MEETING -

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

Welcome

Chris Stearns, Commission Chair

Commission Chair Chris Stearns called the meeting to order at 12:30 p.m. and introduced the members present.

Director's Report *presented by Director David Trujillo*

Director Trujillo highlighted several news articles & press releases:

- Dog fighting case in Seattle (Joint case with Seattle PD's Major Crimes Task Force, us & Seattle's Animal Control) – Got a lot of good press about this.

- Lab's work highlighted by KING 5 TV – Great job, Jamie Aldridge (Chair Stearns also thanked Jamie later on).
- Director's testimony before Congress in Washington D.C. in July on Safeguarding the Integrity of Indian Gaming. Director Trujillo was asked to represent state's perspective. The hearing was a result of a review by the Government Accountability Office (GAO). GAO was asked to review how states and selected tribes regulate Indian gaming. (GAO met with WSGC as part of their report). Number one recommendation of the report was that NIGC should work with state on MIC's (minimum internal controls). Chair Stearns attended hearing also. He said the Director did an excellent job, that the hearing was well attended, members of the Committee were in and out of the hearing. Senator Cantwell (from WA) was there for a little bit. Senator McCain arrived late and aggressively questioned the Chair of the NIGC; he left shortly after this.

Budget Presentation *presented by Julie Lies, Tribal Liaison/Assistant Director*

Assistant Director Julie Lies explained that every August, staff gives a budget presentation. This year Ms. Lies made the presentation. She introduced Cam Dightman and Judy Pittelkau and thanked them for their help with the presentation. The format of the presentation was significantly changed from prior years.

In Aug 2014, the Commissioners approved a budget for the 2015-2017 biennium of about \$24 million and 112.5 FTE's. For FY16 specifically, the number of FTE's approved was 114.5 and for FY17, it was 110.5 (so the average was 112.5 for the biennium). The approved budget also included three decision packages, totaling \$3 million and 14.5 FTE's. [This was our request to the legislature for funding].

Projected Revenue:

We are projecting more revenue now than we did in Aug. 2014. Why?

- Nov. 2014 fee increase was approved in Sept. after budget approval.
- Updated licensee & Tribal billing rates after the budget was approved.
- Updated licensee trends.

Future Revenue Impacts expected:

- New cost allocation method to update billing rates
- Licensed activity changes
- Potential license fee restructure

Projected Expenditures:

In Aug 2014, we expected expenditures of \$24.3. We expect additional expenses of \$867K for a total of \$25.1 m in expenses. Some significant changes include:

- Adjusting FY17 FTE level to 114.0 (Director Trujillo explained we are requesting that the number of FTE's be increased to 114 and that we believe expected revenue can cover this cost).
- Allotment realignment, including some capital expenditures (example: computer upgrades, etc.)

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Agency adjustments = \$867K

Mandated Adjustments = \$909K

Examples of Mandated Adjustments:

- Increase in PERS & PSERS retirement contributions
- Changes in L&I rates
- Statewide salary increase
- Changes in healthcare costs
- Statewide salary adjustments for specific job classes
- Statewide central service costs from other agencies

Future Impacts on Expenditures:

- Closing Everett regional office
- Downsize Yakima satellite office
- Possible move of Lacey office
- Regular review of S/A compensation

Expenditures exceed revenue by about \$448K, but that is fine because our Working Capital Balance (WCB) is about \$4.1 million.

The Office of Financial Management (OFM) recommends working capital balance (WCB) of \$2.1 million.

AD Lies showed two charts of the agency WCB over the past years and explained that our WCB probably would not drop low enough for the Commission to use the “safety net” appropriation from the legislature, as our WCB would have to drop below five percent of our projected expenditures, which is about \$1.3 million. The last time our WCB was below five percent of our projected expenditures was in FY08.

Reasons for our improved financial position in FY16 compared to a year ago:

- Of those receiving layoff notices, some obtained other employment & some retired
- Unexpected vacancies reduced actual FTE level below 114
- Approved November 2014 fee increase was not included in projected revenue [because Commissioners did not vote to approve this until September 2014; Commissioners approved the budget in August 2014]

AD Lies stressed the Commission would need to make sure not to spend it down too far – for example, would need a buffer with a fee restructure.

AD Lies said staff recommends that the Commission approve the revised 2015-2017 biennium budget.

Chair Stearns asked if there were any questions, there were none.

Vice Chair Sizemore moved to approve the budget as recommended by staff.

Commissioner Patterson seconded the vote.

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Approved 5.0 a revised 2015-17 biennium budget of about \$26 m & 114 FTE's.

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

Rules Up for Discussion and Possible Filing

Petition from Bally, Licensed Manufacturer: Connecting card game progressive jackpots within a card room. *Presented by Mark Harris, Agent-in-Charge*

Filed 5/26/2015 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #15-12-031.

- Amended Section: WAC 230-15-685 Restrictions on progressive jackpots.

Agent-in-Charge Mark Harris explained Bally Gaming, a licensed manufacturer, is requesting that house-banked card game licensees be allowed to connect progressive jackpots from different card games on multiple tables within the card room. The games must have the same probability of winning the jackpot prize and the same winning hands. The petitioner uses the example of poker based games such as Let it Ride, Mississippi Stud, and Ultimate Texas Hold'em. All are poker based games with progressive jackpots. Even though the underlying game is played differently the odds of obtaining a 5-card royal flush to win the progressive jackpot is the same since they are all played with a single 52 card deck. Currently, progressive jackpots can only be connected for the same card game within the same card room.

Chair Stearns called for public comment, there were none.

Commissioner Gray moved to file for further discussion.

Vice Chair Sizemore seconded the motion.

Motion Approved 5:0.

Removing excessive reserve requirements for charitable and nonprofit organizations.

Presented by Jennifer LaMont, Agent-in-Charge

Filed 7/21/2015 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #15-15-151.

- Amended Section: WAC 230-07-051 Accumulating excessive reserves.

Agent-in-Charge Jennifer LaMont explained, as part of our regulatory reform process, staff is proposing two changes that will save nonprofit licensees money and time by no longer requiring them to set up an endowment or a restricted trust fund when they want to accumulate excessive reserves to use for future capital projects or start new programs (such as a new HVAC system or soccer field). With the rule change:

- Licensees could accumulate these funds with the approval of a majority of the organization's membership rather than setting up an endowment or restricted trust fund; and
- The threshold amount was increased from \$2 million to \$4 million. As part of our stakeholder outreach, a licensee suggested increasing the threshold.

Each year staff verifies that the charitable and nonprofit licensees who have combined annual gross gambling receipts in excess of \$3 million are not accumulating excessive reserves but spending the monies made from their gambling activities on their programs to further their stated

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purpose. All other restrictions on accumulating excessive reserves remain in effect, such as making sure the funds are saved according to a plan approved by the organization's officers or board of directors. The plan must include the amount to be reserved, the purpose for which the funds are being reserved, and the estimated time the reserves will be used. Commission staff approves the plan, which would exclude these restricted funds from the excessive reserves calculation.

Chair Stearns called for public comment, there were none.

3 licensees would be impacted by this rule.

9 licensees contacted, 2 commented.

Vice-Chair Sizemore moved to file for further discussion.

Commissioner Patterson seconded the motion.

Motion Approved 5:0.

New Licenses and Class III Employees *presented by Agent-in-Charge Jennifer LaMont*

AIC Lamont explained pages 1-20 for approval.

Commissioner Gray moved to approve

Commissioner Patterson seconded.

Approved 5:0.

Staff also recommends approval of Snoqualmie Class III Certifications

Commissioner Patterson moved to approve.

Commissioner Gray seconded.

Approved 4:0 with one not voting.

Chair Stearns explained that the law firm he is of counsel to very recently began representing the Snoqualmie Tribe. He said he would be recusing himself from any future votes dealing with the Snoqualmie Tribe. Therefore, the approval lists will be bi-furcated & those that involve the Snoqualmie Tribe will be voted on separately. The Commissioners approved the new licenses and class III employees with Chair Stearns abstaining from voting on those that involved the Snoqualmie Tribe. In addition, Vice Chair Sizemore chaired the meeting, rather than Chair Stearns, during the vote on new licenses and Class III employees.

Default *presented by Deputy Director Amy Hunter*

a) Toan H. Dinh, Card Room Employee, Revocation

Deputy Director Amy Hunter explained that on March 16, 2015, the licensee, Macau Casino Shift Manager, Toan Dinh, allegedly took \$300 out of the purse of fellow employee Serey Sheri Yim, while it was stored in an unlocked locker in the employee break room. Mr. Dinh had loaned the money to Ms. Yim a few minutes prior, and then took it from her without her knowledge after she stored it in her purse.

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Mr. Dinh was at the Commission meeting & addressed the Commissioners. He said his son signed for the charges, but did not pass them on to him. Mr. Dinh had requested a hearing, but it was one day late.

After much discussion, the Commissioners decided to deny the request for a default order and direct staff to re-issue the charges. The charges will be reissued and Mr. Dinh will have the opportunity to request a hearing.

Commissioner Troyer made a motion to deny the request for default, and direct staff to reissue the charges.

Commissioner Patterson seconded.

Motion Approved 5:0.

- PUBLIC MEETING -

8. Approval of Minutes – July 9, 2015 Commission Meeting – Approved.

Vice Chair Sizemore moved to approve.

Commissioner Gray seconded.

Minutes approved 5:0

9. Other Business/General Discussion/Comments from the Public – None.

10. Adjourn

Chair Stearns adjourned the meeting at 1:48 p.m.