

Commission Meeting Minutes

APPROVED

Location of Meeting:

Red Lion Hotel SeaTac
18220 International Blvd.
Seattle, WA 98188
(206) 246-5535

Date and Time of Meeting

Thursday, July 9, 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

- 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 10:30 a.m. and introduced the members present.

Cheat Detection Presentation (10:30 a.m.) presented by *Special Agent Rick Schulte & Special Agent Kelly Main*

Special Agents Rick Schulte and Kelly Main did an excellent presentation. Their normal cheat detection class lasts 8 hours, and they condensed this into a one-hour presentation for the meeting (with videos). The agents covered the basics of “bet pinching,” “bet capping,” “past posting,” “card swapping,” and chip theft. All of these cheating incidents and thefts are

crimes of opportunity and inattentiveness, and involve a break in procedure in order to occur.

Commissioner Gray asked about card counting, and Special Agent Schulte responded that card counting is not illegal in Washington, although card rooms and casinos always have the right to refuse service, as long as there's no discriminatory reason. Someone in the audience asked whether card games involving digital/facsimile of cards posed less of a cheating risk. The answer was yes, less risk because the human element of opportunity and inattentiveness doesn't exist. **Chair Stearns** asked about cheating involving TLS machines, and the agents said they would follow up with Chair Stearns later so as not to divulge cheating techniques, prevention, etc.

Executive Session to Discuss Pending Investigations, Tribal Negotiations, and Litigation – Working Lunch (11:30 a.m. – 1:00 p.m.)

Chair Stearns excused the audience for executive session at 11:45am. **Director Trujillo** explained the public meeting would resume at 1:00p.m.

Chair Stearns called the meeting back to order at 1:00p.m.

Demonstration – Mini-Baccarat (1:00 p.m.) *presented by Julie Lies, Assistant Director*

Assistant Director Julie Lies did an informal and interactive demonstration on the table game of Mini Baccarat for the Commissioners, and had them role play as patrons so they would have firsthand knowledge on how the game is played. AD Lies explained there was no strategy to the game; it was all based on chance. The only decisions players need to make are how much to bet, and whether to bet against another player or the house. The Commissioners appreciated the hands-on demonstration and caught on to the game quickly. Some of the questions from the Commissioners included, “how does someone become a good player?” The answer is most good players bet against the house (bank). Another question was whether there was more risk for chip theft with more players’ (potentially, yes). **Chair Stearns** thanked AD Lies for the demonstration.

Director’s Report *presented by Director David Trujillo*

a) **Staff Recognition**

Rick Herrington was recognized, and the Director read emails about how much Rick will be missed, how much he contributed to collaboration, and information sharing, and how valuable a resource he was to state, federal and foreign law enforcement agencies. Rick received the annual Northwest Assn. of Gaming Regulators’ award for Excellence in Gaming.

Director Trujillo also recognized Cameron Baker who was in the audience. Dolores Chiechi, Director of the Recreational Gaming Association later remarked how much she relied on the information Mr. Baker supplied her over the past 15 years, and how much she would miss her “go-to-guy.”

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b) **Request for Moratorium of Enforcement**

Director Trujillo explained about the moratorium request for the agency to consider not conducting enforcement actions against senior citizens who play cards in a somewhat organized manner. It doesn't hurt anyone and why should we stand in the way of it.

The answer is it probably doesn't hurt anybody, so why should we stand in the way of it. The technical answer is the law was written in such a way that only certain organizations are authorized certain gambling activities. Their activity is not authorized. So when the Commission does get a complaint, staff has to follow-up on it.

The request was for you as a Commission to approve a moratorium. The writer has offered up some language that would change the definition of gambling. Staff would work with legislature so that all parties can come to an understanding. Director Trujillo asked AAG Matt Kernutt what the Commissioners were required to do.

Commissioner Troyer asked can the Commission take action to go ahead and let this happen for a one year time limit so they could work on legislation and change it, and we don't have to respond anymore.

AAG Kernutt conferred with Deputy Director Amy Hunter.

AAG Kernutt explained his general concern is that you may not have the statutory authority to issue a moratorium. Commissioners may issue direction to staff for the use of resources for these types of activities, but it would not be a formal moratorium on enforcement. One of the reasons was the Gambling Commission was not the only law enforcement entity out there that enforces this statute. So while it would be the Gambling Commission staff in a moratorium situation, it may not solve the entire problem. AAG Kernutt also said he had a legal concern regarding an official moratorium. But thought Commissioners could issue direction to staff.

Commissioner Troyer called for a motion that we direct our staff to use our resources correctly, where they feel needed best, and at the lower level, at their discretion to not use our resources.

Commissioner Gray seconded.

Commissioner Patterson added she would like to just take it one step farther and say that if she had the statutory ability to issue a moratorium as a Commissioner, which would be the direction that she would give to Commission staff, but we do not have the authority to do so. Duly noted for the record.

Motion passed 5.0.

c) **Organization Restructure Update (taken out of order)**

Director Trujillo discussed the difficult decisions and history of the agency budget. He provided a short PowerPoint and reviewed past and future organizational charts of the agency.

Director Trujillo also brought attention to a letter where the Gambling Commission was nominated by one of our own Special Agents for the Secretary of Defense Freedom Award. As you know, the agency has been undergoing a lot of changes during the past year. One of our staff has taken their time and energy to nominate the agency for this. The agency did not receive the award, but the nomination process is not an easy one, and it's lengthy, because you are competing against other employers.

Director Trujillo shared a copy of the statement of support for the Guard and Reserve. This was the employer support of the Guard and Reserve. It is a statement that staff has made. The nomination came from a Special Agent who was operating in one of our northern counties. Director Trujillo passed the letter around for Commissioners to read at their leisure.

Legislative Update *presented by Managing Attorney/Legislative Liaison Arlene Dennistoun*

Legislative Liaison Arlene Dennistoun reported the final state budget bill for the 2015-2017 biennium, ESSB 6052, was signed by Governor Inslee on June 30, 2015, avoiding a government shutdown. Senator Hill introduced an amendment to SB 5681, adopted on June 28, removing the automatic transfer of lottery funds to the Gambling Commission's revolving fund. Instead, transfers were provided and specified in the final budget bill, ESSB 6052.

The final budget contains a one-time transfer of \$1M, conditioned and limited by the Commission maintaining "working capital reserves in the gambling revolving account of no more than five percent of projected expenses in the account." The practical effect of this restriction means if our working capital balance gets below \$1.3M, we would qualify for funds transferred from the lottery account. SB 5681 provides the directors of both agencies "may determine the timing of the distribution, which may include incremental distributions over the course of the fiscal year." Commissioner Patterson asked whether for details about how a transfer would occur: is this a onetime transfer of \$1M (yes), and is there a specific time during the 2015-2017 when we'd qualify for the \$1M transfer? (no specific time provided in the bill; it could be anytime during the biennium).

The operating budget signed by the Governor allows for a 3.0 percent cost of living adjustment (COLA) for most state employees. In our agency, this applies to all of our employees below the Director.

The final budget bill also removed the Commission's authority to "approve any electronic raffle systems to conduct fifty-fifty raffles until the legislature has reviewed all impacts to the state lottery." Ex-officio, Representative Bruce Chandler who is on the House

Appropriations Committee was opposed and spoke out against this provision, stating that the Commission was best prepared to make these types of decisions.

2015 was a busy session, and we completed fiscal notes for internet poker (HB 1114), involving a lot of staff hours, amusement games (HB 2001), and adjudicative proceedings (SB 5686). Fantasy sports (HB 1301) involved a lot of staff time, although it died quickly and we were not asked to complete a fiscal note. Although these bills died, they are still alive for the next session.

Special Olympics of Washington – Enhanced Raffle Plan Approval *presented by Assistant Director Tina Griffin*

Assistant Director Tina Griffin explained the request from Special Olympics of Washington (SOWA) was in regard to their second enhanced raffle for 2015. The enhanced raffle sales for this raffle would begin on August 17th. There would be two early bird drawings, both in October. The grand prize drawing would be held December 3, 2015. This enhanced raffle is a little bit smaller in scope than the previous ones that have been before you. For example, this one doesn't have a house as the grand prize. They're also going to max the ticket sales out at 45,000. The grand prize would be a \$1 million annuity, or a \$700,000 one time cash option, if at least 40,000 tickets were sold. If at least 40,000 tickets are not sold, the grand prize would be 50 percent of the net raffle proceeds in an annuity paid over 20 years, not to exceed \$1 million, or a one-time cash payment of 70 percent of the annuity value, not to exceed \$700,000. The breakeven point is 12,125 tickets for the raffle to continue on. There will be 899 other prizes, besides the grand prize, ranging from cars, vacations and cash. The funds generated from the raffle would be used to further the mission of Special Olympics, which is to serve individuals with intellectual disabilities. Staff recommends approval of the second enhanced raffle to be conducted in Western Washington in 2015. Mr. Dave Lenox is the Special Olympics of Washington President, and he is here today to answer any questions you might have.

Mr. Dave Lenox added the impact that we've had so far from the raffle has been amazing. It has been a big game changer for us dealing with intellectual disability and social change, inclusion and all those things. It has allowed us to add some new programming, and that is what this fund is targeted for. It will go directly into our local county programming to make sure that they can offer more inclusive, and more unified sports.

Commissioner Troyer commented he was probably one of the biggest critics last time SOWA came before the Commission for approval, and now he felt they were on the same page. The numbers and the process was a lot better than before. Commissioner Troyer said he did not have a problem, and called for the motion to approve.

Commissioner Troyer moved to approve.

Vice Chair Sizemore seconded.

Motion approved: 5:0

Approval of Minutes – May 7, 2015 Commission Meeting

Vice Chair Sizemore moved to approve the May Commission meeting minutes.

Commissioner Gray seconded.

Motion approved: 5:0

- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -

Petition from Harmon Consulting, Licensed Service Supplier: Adding a Class 12 amusement game group presented by *Mark Harris, Agent in Charge*

Filed 3/04/2015 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #15-05-068. Proposed Rule Making (CR-102) under WSR #15-09-074 with a published date of 5/06/2015.

- a) Amended Section: WAC 230-13-005 Amusement games authorized.
- b) New Section: WAC 230-13-067 Group 12 - Electronic puzzle and pattern solving game standards.

Agent in Charge Mark Harris explained the petition from Mr. Monty Harmon. Staff recommends final action on Alternative #3 for WAC 230-13-067 and WAC 230-13-005. The petitioner is present and can address you. Mr. Harmon brought the amusement game again. It's at the back of the room, and he'd be more than happy to answer questions on that.

Commissioner Troyer commented he thought all the items that the Commission wanted taken care of were done. It still has that pull-tab or slot machine look, the gambling look. But if it's going to stay where people have to be 21 years of age and where kids can't see it or have access to it, that was the major concern, and it has been corrected. **Director Trujillo** asked if the bill acceptors could be programmed. **Mr. Harmon** replied yes, they can be programmable. **Chair Stearns** thanked Mr. Harmon for working with Commissioner Troyer's requests and called for a motion.

Commissioner Gray moved to approve.

Vice Chair Sizemore seconded

Motion approved: 5:0

Card game rules streamlining presented by *Mark Harris, Agent in Charge*

Filed 12/04/2014 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #15-01-008. Proposed Rule Making (CR-102) under WSR #15-09-076 with a published date of 5/06/2015.

- a) Amended Sections:
 - 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 Controlling keys and restricting access.
- b) Repealed Sections:
 - 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.

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- 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 the emergency key.

Agent in Charge Mark Harris explained the staff proposed rule change. Staff has worked with members of the card room industry and the RGA who support these rule changes. Staff recommends adoption of the rule package, with the exception of WAC 230-06-030 and 230-06-031, which are the two related to gambling promotions that were pulled out. **Chair Stearns** asked why the rules were pulled. AIC Mark Harris explained that one of the rules had language that needed to be evaluated and clarified before the change could take place.

Commissioner Troyer moved to approve.
Commissioner Gray seconded.
Motion approved: 5:0

New Licenses and Class III Employees *presented by Assistant Director Tina Griffin*
Assistant Director Griffin explained we currently have 48 licensed and operating house-banked card rooms. Also in your packet is a pre-licensing report for VKGS, doing business as Video King out of Omaha, Nebraska. They manufacture bingo equipment and are seeking a Class C manufacturer's license. Staff recommends approval of the new licenses and Class III gaming employees listed on pages 1 through 30.

Commissioner Gray moved to approve.
Vice Chair Sizemore seconded.
Motion approved: 5:0

Defaults *presented by Managing Attorney Arlene Dennistoun*

- a) Gilbert Onepennee, Class III Employee, Revocation
- b) Sophia L. Gardee, Class III Employee, Revocation

Managing Attorney Arlene Dennistoun explained each case. Staff recommended revocation of Mr. Onepennee's Class III certification, and Ms. Gardee's Class III certification.

Default and Revocation granted on all defaults (unanimous).

- PUBLIC MEETING -

Other Business/General Discussion/Comments from the Public

Dolores Chiechi, Executive Director for Recreational Gaming Association (RGA) spoke about the provision in the budget bill prohibiting the Commission from approving devices to conduct 50/50 raffles. She contacted the Lottery Commission and they were not aware, nor asked for this provision. She normally does not address matters involving charitable/nonprofits, but wanted to

share her knowledge with the Commissioners. Ms. Chiechi also thanked Cameron Baker for all his help over the years.

Chair Stearns recognized Mr. Lane Gormley, Plant Manager for Arrow International, Incorporated, because a number of the Commissioners had a chance to tour the Arrow manufacturing plant located in Lynnwood, and it was really fantastic. Thank you for your hospitality. Chair Stearns called for further comments, there were none.

Adjourn

Chair Stearns adjourned the meeting at 2:53pm