

# Commission Meeting Minutes

## APPROVED

### Location of Meeting:

DoubleTree by Hilton Olympia  
415 Capitol Way N.  
Olympia, WA 98501  
(360) 570-0555

### Date and Time of Meeting

Thursday, November 12, 2015  
11:00 a.m.

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

### Commissioners

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

### Ex Officio Members

- ✓ Senator Steve Conway
- ✓ Senator Mike Hewitt
- Representative Christopher Hurst
- Representative Brandon Vick

### Staff

David Trujillo, Director  
Amy B. Hunter, Deputy Director  
Tina Griffin, Assistant Director – Licensing Operations  
Julie Lies, Tribal Liaison  
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 (11:00 a.m.)**

*Chris Stearns, Commission Chair*

**Commission Chair, Chris Stearns** called the meeting to order at 11:30 a.m. and immediately went into Executive Session working lunch. Executive Session to Discuss Pending Investigations, Tribal Negotiations, and Litigation.

Working Lunch (11:05 a.m. – 12:30 p.m.)

**Chair Stearns** called for a 15 minute extension of executive session at 12:30p.m.

**Chair Stearns** called the public meeting back to order at 1:00p.m. and introduced the members present. **Chair Stearns** also recognized Senator Pam Roach.

**Staff Presentation – A Brief Look at Fantasy Sports and Daily Fantasy Sports**

*Dan Frey & Tyson Wilson, Special Agents*

**Special Agent Tyson Wilson** gave an overview of Fantasy Sports to the Commissioners. He presented a video on the basics of fantasy sports, where football was used because it is the easiest to understand. SA Wilson gave a brief overview of the history of fantasy sports.

He then played a video and explained the differences between Daily Fantasy Sports (DFS) and Season long Fantasy Sports (FS).

Fantasy Sports attract a median age starting in the early 30's, tech savvy, use driving service, use multiple devices, tablet, phone and watching television, while tweeting, etc. There is a recent surge in daily fantasy sports. Viewers can't really watch a game these days without seeing an advertisement. It is geared towards instant gratification. If you choose correctly you could win lottery type pools.

**SA Wilson** pointed out differences between regulated and unregulated wagering in the US. He showed the website affiliations and investors. The main sports groups are all invested in the DFS sites. He also pointed out the news changes daily with information leaks and insider trading. On Tuesday, November 10<sup>th</sup> the New York Attorney General came out and said that DFS was gambling. New York happens to be the largest market for DFS.

**Special Agent Dan Frey** explained the map of the U.S. categorized for Fantasy Sports. In Nevada, Daily Fantasy Sports falls under gambling and must be licensed. SA Frey explained the differences each state has in relation to fantasy sports.

**SA Wilson** concluded with pros and cons of regulating fantasy sports in Washington.

**Chair Stearns** thanked SA Wilson and Frey for their report and called for public comment, and introduced Senator Pam Roach.

**Senator Pam Roach** thanked Chair Stearns and members of the Commission. She commented that she had introduced one of the Bills this last session that had to do with fantasy football. She explained the purpose of the Bill she had in front of legislature right now was to put some sideboards around the definition of a game of skill. She proposed a 50/50/50 cash only to play, which entailed the maximum number of people per pool of 50, maximum bet would be \$50, and players must participate in 50% of the games throughout the football season. She also addressed the advertising on television, and the relation to problem gambling. (For a full transcript please contact the Gambling Commission.)

**Senator Conway** also commented on the subject of advertising in WA, as many families watch the games together, and children are exposed to the commercials promoting fantasy sports. He also commented on the subject of problem gambling.

**Commissioner Patterson** spoke in favor of drafting a Resolution to the Senators regarding problem gambling.

**Maureen Greeley**, Executive Director, Evergreen Council on Problem Gambling, thanked the

Commissioners and provided a copy of the National Council on Problem Gambling Resolution regarding fantasy sports, and the guideline available to help with responsible gambling and gaming programs.

Other speakers included; **Kyle Canell** (player), **Bruce Taylor** (Editor Fantasy Football Index magazine), **Dolores Chiechi** (Executive Director, Recreational Gaming Association), **Ian Ritchie** (Scout Media), **Jeff Brubach** (Member, Fantasy Sports Trade Association), and **Jamie Durkan** (Muckleshoot Tribe).

For a full transcript of comments, please contact Michelle Rancour, Executive Assistant.

### **Director's Report**

*Presented by Director David Trujillo*

**Director Trujillo** referred to the written Director's report and then turned the meeting over to public comment on Group 12 games as discussed in the morning study session,

### **Regulatory Unit Presentation**

~~*Joshua Stueckle, Acting Agent in Charge &  
Sonja Dolson, Special Agent Supervisor*~~

Presentation held over to the January 2016 meeting.

**Director Trujillo** shared information on rules shared at study session on Group 12 games. Staff would like to give the public time to comment.

**Chair Stearns** called for public comment on Group 12 amusement games.

Public Comment on Group 12 Amusement Games.

**Jamie Durkan**, Muckleshoot Tribe, stated the Group 12 puzzle machines were approved by the Commission, but lacked a set of rules or sideboard around them. He commented there were already machines out in the field that had not been certified by any equipment manufacturer, or your laboratory. And that cash payouts are occurring. He stated he was also concerned about the definition of skill in relation to the Group 12 games.

**Kevin Morse** on behalf of Grover Games and Banilla Games spoke about the games developed that had not been approved in Washington yet. Mr. Morse pointed out that if there were no regulations set in place then Legislature would surely make them go away. He explained how the games were regulated in Ohio and Georgia. **Senator Conway** asked if staff could look into the regulation in Ohio and Georgia. He also asked about the cash payouts in those states and Mr. Morse stated there were no cash payouts, it was strictly merchandise redemption.

**Bill Tackitt, Buzz Inn Steakhouse**, our industry is not in a good position. The pull-tab industry used to be the largest and now there is very little left. They have refused to give us electronic tickets. This is a form of entertainment, and we've been good, and I know it's getting tougher and tougher, we need something. Voluntary compliance, I would get that word out there quick.

**Bill Tackitt** added, we've been suggesting this for 25 years. We only use 70% of the products we buy and throw the rest in the garbage. Frank Miller authorized 20 years ago that we could have \$750 of merchandise. Seems like there is a hand on us holding us down, and the industry is going down and down. Mr. Tackitt stated he only uses gift cards at his location, but the machines were expensive to make the gift cards, and the mom-n-pop places could not afford the machines.

**Monty Harmon**, Petitioner, commented he was the one who started the problem with Group 12. He stated he did not know the laws around gift certificates, But if the Commission has a policy that says you end up with gift certificates that turn into cash, and those certificates came out of one of these machines, you're circumventing the rules.

**Senator Conway** replied what concerned him was the fact that the machines kind of look like slot machines, and that basically they were returning dollars. And that looked like gaming to him.

#### **Recorder Shut Off. Changed batteries.**

**Mr. Harmon** stated his hope and prayer was that the Director and the AG can get together and have something that says if licensees circumvent the rules, they would lose their license and staff would seize the machines.

**Vice Chair Sizemore** asked if staff could draft a notice to have ready to give to field agents by Monday morning.

**Director Trujillo** concurred and said that was possible. He also said there needed to be a discussion on merchandise prizes, and that gift certificates were not mentioned in the rules or statute.

**Chair Stearns** stated the next point was to clarify intent.

**Commissioner Patterson** asked for the other commissioners to state their intent with regard to prizes as merchandise or cash. Each Commissioner stated "No cash".

**Senator Hewitt** commented neither Senator Conway or I vote on this issue, but I heard some pretty good testimony today, and I've been in the legislature for 15 years and seen this industry struggle. I think I heard two people from the industry today say that they are needing all the help they can get, and they would approach this differently if they were instructed to. And I think they've been instructed today that if they don't play by the rules that they're going to be in trouble.

So again, I'm not voting on this. But I'm certainly sympathetic to them and the dilemma that they live in. This Commission does live off the back of those people and we don't want to put them out of business. So I agree with everything you just said. You gave my speech, and I

appreciate that. I think the message has been sent to them that the bad actors are going to cause a lot of trouble for the people who are wanting to play by the rules. And I think this has to be a legislative fix so that we're not in this dilemma. And that's yet another debate to be had. There will be other people who don't agree with this on gift cards probably. But that's not going to be an easy fix.

**Vice Chair Sizemore** deferred to AD Griffin and asked what the time frame would be for the rule changes. **AD Griffin** stated the initial plan was to have something ready for filing in January, up for discussion in February, with final action in March, effective date 31 days after filing.

**AAG Kernutt** said a motion was not necessary at this time.

## **- ADMINISTRATIVE PROCEDURE ACT PROCEEDINGS -**

### Rule Up for Final Action

#### **Removing excessive reserve requirements for charitable and nonprofit organizations.**

*Tina Griffin, Assistant Director*

*Filed 7/21/2015 as a Pre-Proposal Statement of Inquiry (CR-101) under WSR #15-15-151. Proposed Rule Making (CR-102) under WSR #15-19-025 with a published date of 10/07/2015.*

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

**AD Griffin** explained up for final action today was a staff proposed rule change that would save nonprofit licensees some money by no longer requiring them to put excessive reserves, or money set aside to start or expand programs or fund capital projects into an endowment or a restricted trust fund. Staff worked with the industry on this and had some licensee feedback. And the other change would also increase the amount of funds that could be accumulated from \$2 to \$4 million. All the requirements are still in place. Even though they don't have to set it aside into an endowment or specifically trust fund, they still have to have a plan and adhere to it, and then let us know if they are going to go over \$4 million. Staff recommends final action with 31 days from filing.

Chair Stearns called for public comment, there were none.

**Vice Chair Sizemore** made the motion for final action.

**Commissioner Troyer** seconded the motion.

**Motion Approved 4:0**

#### **Special Olympics Enhanced Raffle Request**

*Tina Griffin, Assistant Director*

**Assistant Director Tina Griffin** Special Olympics of Washington is seeking approval to conduct an enhanced raffle in Western Washington in 2016. With this raffle, ticket sales would begin in mid-January of 2016. They would hold two early bird drawings prior to the grand prize drawing, which would be on May 13, 2016. In addition they would hold two other raffles on

Commission Meeting

November 12, 2015

APPROVED Minutes

Page 5 of 7

May 13th, and that would be the multi-ticket and a 50/50 add-on drawing.  
Maximum number of tickets 485,000  
Staff recommends approval of the enhanced raffle request.

Dan Wartelle from Special Olympics, thank you this is our 3<sup>rd</sup> raffle. We are at 10,000 athletes for a long time, now we are at 14,500. We want to continue this work, and continue the work of the Special Olympics and serving athletes.

**Vice Chair Sizemore** asked how close they were from selling a house.

Mr. Wartelle stated the first year it was about 50,000 tickets needed to be sold and we sold 28,000. And the winner walked away with \$750,000 as a grand prize because of the 50/50 split. In year two we did a less expensive house in the hopes that it would boost ticket sales, but it actually decreased ticket sales because it was less impressive. We went from a \$5 million house to a \$2.5 million house. We sold 24,000 tickets in our second year, and we needed to sell in the range of 42,000.

**Commissioner Troyer** made a motion to approve.

**Vice Chair Sizemore** seconded the motion

**Motion approved 4:0**

**Director Trujillo** introduced our new managing attorney and legislative liaison Brian Considine.

**New Licenses and Class III Employees**

*Tina Griffin, Assistant Director*

**AD Griffin** explained there are currently 48 licensed house-banked card rooms.

**Ms. Griffin** requested the approval of licensees listed on pages one through eighteen.

Approvals were done in two motions, so Chair Stearns would not be voting on any actions involving the Snoqualmie Tribe (the law firm he is of counsel to represents the Snoqualmie Gaming Commission now).

**Commissioner Troyer** moved to approve

**Commissioner Patterson** seconded the motion to approve.

**Motion Passed 4:0**

**Snoqualmie**

For vote on Snoqualmie Tribe only list, Vice-Chair Sizemore chaired the meeting.

**Commissioner Troyer** made the motion to approve Snoqualmie license certifications.

**Commissioner Patterson** seconded the motion to approve.

**Motion Approved 3:0**

**- PUBLIC MEETING -**

**Approval of Minutes – September 10-11, 2015 Commission Meeting**

Commission Meeting

November 12, 2015

APPROVED Minutes

Page 6 of 7

**Vice Chair Sizemore** moved to approve the minutes from the September Commission meeting.  
**Commissioner Troyer** seconded the motion to approve the September minutes.

**Approved 4:0**

**Other Business/General Discussion/Comments from the Public**

**Adjourn**

**Chair Stearns** adjourned the meeting at 4:25p.m.