



STATE OF WASHINGTON
GAMBLING COMMISSION

"Protect the Public by Ensuring that Gambling is Legal and Honest"

June Gambling Commission Meeting Minutes

The Great Wolf Lodge
20500 Old Highway 99, SW
Grand Mound, WA
Public Meeting
June 7, 2018

Commissioners Present:

Bud Sizemore, Chair
Julia Patterson, Vice Chair
Chris Stearns
Ed Troyer
Alicia Levy

Ex Officio Members Present:

Senator Steve Conway

Staff Present:

David Trujillo, Director; Amy Hunter, Deputy Director; Tina Griffin, Assistant Director; Brian Considine, Legal and Legislative Manager; Julie Lies, Tribal Liaison; Heather Songer, Public Information Officer; Julie Anderson, Executive Assistant and Sharon James, Assistant Attorney General.

Executive Session Call to Order

Chair Bud Sizemore called the June Gambling Commission Meeting to order at 11:35 a.m. and immediately went into Executive Session to discuss Tribal Negotiations, Pending Investigations and Litigation. Executive Session ended at 1:20 p.m.

Public Session Call to Order

Chair Bud Sizemore called the Gambling Commission meeting to order at 1:40 p.m. after Executive Session and a short break. Chair Sizemore welcomed everyone to the Great Wolf Lodge and thanked the individuals that attended the tribal consultation meeting that was held before Executive Session. He introduced the Commissioners and staff that were present.

Chair Sizemore asked for a moment of silence to recognize law enforcement officers across the country that were lost in the line of duty since we last met.

There were 35 people in attendance.

Tab 1

Consent Agenda:

Commissioner Patterson moved to approve the consent agenda as presented by staff.

Commissioner Stearns seconded the Motion.

The Motion passed. 5:0

Commissioner Patterson moved to approve the Snoqualmie Tribe and Cowlitz Tribe of Indians Class III Gaming Employees Certifications as presented.

*Commissioner Troyer seconded the Motion.
The Motion passed. 4:0
Commissioner Stearns abstained.*

Election of Officers

Chair Sizemore asked for nominations for Chair of the Gambling Commission. One nomination was made.

Commissioner Troyer moved to nominate Bud Sizemore as Chair of the Gambling Commission for the term beginning immediately after the June 7, 2018 meeting for a term through May 2019.

*Commissioner Patterson seconded the motion.
The motion passed.5:0*

Chair Sizemore asked for nominations for Vice Chair. One nomination was made.

Chair Sizemore moved to nominate Commissioner Patterson as Vice Chair of the Gambling Commission for the term beginning immediately after the June 7, 2018 meeting for a term through May 2019.

*Commissioner Troyer seconded the motion.
The motion passed. 5:0*

Director's Report

Director Trujillo provided a written report that was sent out to the Commissioners ahead of time. Chair Sizemore asked the Commissioners if they had any follow up questions for the Director. They did not.

Commissioner Stearns Presentation

Commissioner Stearns presented a PowerPoint presentation on three conference he attended in the last several weeks. Those conference were the National Indian Gaming Association (NIGA), Focus on the Future, and GiGse 2018 convention and Tradeshow.

Commissioner Stearns attended the NIGA Convention and Tradeshow April 18-20, 2018 in Las Vegas, NV. NIGA is one of the largest conventions and tradeshow in the nation. NIGA is a non-profit organization of 184 Indian Nations representing organizations, tribes and business engaged in the tribal gaming industry. He then attended the "Focus on the Future" Conference May 1-3, 2018 in Vancouver, WA. The Focus on the Future conference is the largest and oldest conference on problem gambling awareness in the Pacific Northwest. This conference was coordinated by the Evergreen Council on Problem Gambling. Commissioner Patterson also attended the Focus on the Future conference. **Commissioner Patterson** mentioned that this conference was a great opportunity for everyone to learn and network on the topic of problem gaming, and also share the successes and challenges around problem gambling. **Commissioner Stearns** said that the 32nd National Conference on Problem Gambling will be held in Cleveland Ohio on July 20-2, 2018. The Four Directions Conference that is hosted by Evergreen Council on Problem Gambling will be held October 1- 4, 2018 at the Little Creek Casino. In late May

Commissioner Stearns traveled to Florida May 29-June 1, 2018 to attend the Global iGaming Summit and Expo (GiGse). He attended a Sports Betting – State Legislator Panel as well as a Sports Betting Operators & US Markets Panel.

Petition for Review of Summary Suspension Initial Order

Chair Sizemore introduced Greg Rosen, Senior Council for the Washington State Attorney General's office. **AAG Rosen** is representing the Gambling Commission staff in the case involving Gregory P. Means of Federal Way, license number 68-07011 and case number CR2017-01110. Gregory P. Means has requested a continuance. Commissioner Troyer is familiar with the attorney involved in the case before the Commission and recused himself from the deliberations. AAG Rosen is offering a technical objection to the continuance because counsel indicated, essentially implied, he didn't get sufficient notice. AAG Rosen explained in detail the lengths taken by Ms. Haylee Mills, Staff Attorney for the Gambling Commission, to contact the petitioner appropriate to the WAC. The attorney for Gregory P. Means, Mr. Hershman indicated by the motion that he didn't receive Ms. Mills' email on May 31st. **Commissioner Patterson** asked if the Gambling Commission could verify whether or not the email was received or was just overlooked somehow. **AAG Rosen** explained that the Commission would have to take his word for it. He also explained that Mr. Hershman filed the petition on May 30th, relevant to the WAC provision, WAC 230-17-175, that the petition would have to be heard at the next regularly scheduled Commission meeting June 7, 2018. Staff does not object to the motion for any other reason that the Commission finds, other than the contention that Mr. Hershman did not receive notice until June 5th.

With no further questions for AAG Rosen the four Commissioners deliberated in a separate room. The Commissioners reconvened after 10 minutes. **Chair Sizemore** asked for motion.

Commissioner Levy moved to grant the continuance, based on the lack of availability of the counsel and reschedule the summary suspension hearing to the July 12th Commission Meeting.

Commissioner Stearns seconded the motion.

The motion passed. 4:0

Commissioner Troyer abstained.

Tab 3

Defaults

Staff Attorney, Haylee Mills presented the default materials.

1) Giovanni Gonzalez, 2017-01457, Class III Employee Certification Revocation.
Chair Sizemore asked if Mr. Giovanni Gonzalez was in the audience. He was not.

Commissioner Levy moved to revoke the Class III Certification for Giovanni Gonzalez.
Commissioner Patterson seconded the Motion.
The Motion passed. 5:0

2) Juan A. Vazquez Gonzalez, CR2017-01685, Class III Employee Certification Revocation.

Chair Sizemore asked if Mr. Juan A. Vazquez Gonzalez was in the audience. He was not.

Commissioner Levy moved to revoke the Class III Certification for Juan A. Vazquez Gonzalez. Commissioner Stearns seconded the Motion.

The Motion passed. 5:0

3) Wayne B. Miller, CR2018-0046, Public Card Room Employee License Revocation.

Chair Sizemore asked if Mr. Wayne B. Miller was in the audience. He was not.

Commissioner Stearns moved to revoke the Public Card Room License for Wayne B. Miller. Commissioner Levy seconded the Motion.

The Motion passed. 5:0

Tab 4

Legislative/Sports Betting Update

Legal and Legislative Manager Brian Considine presented the materials for this tab. Mr. Considine reported on the 2019 agency request legislation and gave a quick update on the Big Fish-Churchill Downs 9th Circuit Court of Appeals case. Churchill Downs Inc. was sued in Washington State Federal District Court and prevailed. The plaintiffs appealed the decision to the Ninth Circuit. This was a plaintiff's lawsuit alleging various different civil liability theories, but essentially asked the Federal District Court, and then Ninth Circuit that Big Fish's online casino, sometimes termed as a social casino or free play casino, was actually gambling. The Ninth Circuit ruled a few weeks ago with a decision that said, "Yes, it is gambling." Mr.

Considine explained to Commissioners how the process works.

Churchill Downs has indicated that it will vigorously defend itself, even though it no longer owns Big Fish Casino. Mr. Considine believes Churchill Down sold Big Fish over the last two years. But because of this ruling, there have been at least five additional lawsuits that have been filed, in either Seattle Federal District Court or Tacoma Federal District Court, with the same theory against additional online operators. Game Show Network, is the most recent, Huge Games, and DoubleDown Interactive, which is owned by IGT and is one of our licensees.

The U.S. Supreme Court issued a 6-3 decision in *Murphy v. NCAA*, on May 14, 2018. The Supreme Court found that the Professional and Amateur Sports Protection Act (PASPA) is unconstitutional because it violates the 10th Amendment. The 10th Amendment provides that, if the Constitution does not either give a power to the federal government or take that power away from the states, that power is reserved for the states or the people themselves. The Supreme Court has long interpreted this provision to bar the federal government from "commandeering" the states to enforce federal laws or policies. Consequently, the Supreme Court ruled that PASPA's prohibition on states' legalization of sports betting violates the anti-commandeering doctrine and PASPA is void. Congress can regulate sports gambling directly, and can pass a federal law prohibiting or regulating sports betting. However, it cannot direct states to enforce the Federal Government's decisions. This decision allows each state to regulate sports betting on its own. Currently, sports boards in RCW 9.46.0335, is the only sports betting authorized in the Gambling Act. Washington state constitution, Article 2, Section 24, requires that any new forms of sports gambling pass by a 60 percent vote of the Legislature or 60 percent vote of the people if submitted by referendum or initiative.

Deputy Director Amy Hunter, Agent in Charge Jennifer LaMont, Public Information Officer Heather Songer, and Mr. Considine attended sports betting seminars at the UNLV's International

Center for Gaming Regulation in March and April in anticipation of this decision. Mr. Considine also confirmed that staff at the Gambling Commission is preparing materials for the Legislature to assist them in their analysis in the many policy issues that will be considered as they determine how to proceed on sports betting legislation.

Congress could intervene and act on sports betting. It is highly unlikely Congress would prohibit sports betting in the U.S.

Professional sports leagues (NBA, NFL, NHL, MLB and the NCAA) anticipated this result and are promoting a federal framework that provides a uniform approach to sports gambling in states that choose to permit it. However, they were also actively lobbying state legislatures for certain league-friendly policies before PASPA was ruled unconstitutional.

Commissioner Stearns asked a clarifying questions regarding scalability. He also mentioned that the Supreme Court did not strike down the Wire Act, and explained that it's still illegal to send information across state lines. He also mentioned that if companies such as William Hill or Paddy Power, want to operate in Pennsylvania, New Jersey, Delaware, Rhode Island, they have to have a separate operation in every single state that they're in. They can't just have one national hub. **Commissioner Patterson** asked for an online tutorial that she could watch before the July Commission meeting to help her get the basics down on sports betting.

Mr. Considine will provide that to her.

Commissioner Stearns asked about the study for problem gambling and the resources for the study, but not a prevalence study. **Mr. Considine** explained that the problem gambling study will be an interagency agreement with University of Washington and the Washington State University. **Commissioner Stearns** said that in his opinion he thinks it would be better to ask for a prevalence study in 2019 rather than 2020. **Mr. Considine** said that he would be happy to push that forward if that was agency request legislation for 2019.

Commissioners discussed possible topics for agency request legislation. The six topics identified for agency request legislation are:

- Problem Gambling Self-exclusion Program (Comm. Stearns and Patterson);
- Problem Gambling Task Force (Staff suggestion based on input from Comm. Stearns and Patterson);
- Problem Gambling Prevalence Study (Comm. Stearns);
- Skins/Loot Boxes (Comm. Stearns);
- Involuntary Exclusion from Gambling Establishments for People who Commit Certain Crimes or Acts (staff request); and
- General Fund appropriation for Gambling Commission's criminal enforcement activities (Comm. Sizemore).

Commissioner Stearns said perhaps the Washington State Lottery could fund the prevalence study.

Other Business/General Discussion/Public Comment

Commissioner Troyer commended the Gambling Commission staff and agents on the rooster fighting bust that was in the news recently. Agents seized over 300 roosters that had been given drugs and had weapons on their feet in a big fighting operation. Agents also seized \$35,000, and booked some people in jail.

Chair Sizemore reminded the audience that the next Commission Meeting will be held at the Hotel Murano in Tacoma.

Public Comment

There was no public comment.

The Commission meeting adjourned at 3:30 pm.