



STATE OF WASHINGTON  
GAMBLING COMMISSION

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

November Gambling Commission Meeting Minutes

Hampton Inn & Suites 4301 Martin Way E. Olympia

Public Meeting

November 15, 2018

**Commissioners Present:**

Bud Sizemore, Chair  
Julia Patterson, Vice Chair  
Chris Stearns  
Ed Troyer  
Alicia Levy (Via Phone)

**Ex Officio Members Present:**

Senator Steve Conway

**Staff Present:**

David Trujillo, Executive Director; Tina Griffin, Assistant Director; Brian Considine, Legal and Legislative Manager; Julie Lies, Tribal Liaison; Julie Anderson, Executive Assistant; and Suzanne Becker, Assistant Attorney General.

**Public Meeting Call to Order**

**Chair Bud Sizemore** called the Gambling Commission meeting to order at 11:10 a.m. and immediately went into Executive Session where the Commissioners will discuss litigation, pending investigations and tribal negotiations for approximately one hour. Closed session is dedicated to discussing summary suspension and/or the petition for a declaratory order. Estimated time for the public meeting to start will be 1:00 PM.

At 1:00 p.m., **Chair Sizemore** welcomed everyone to the Hampton Inn & Suites and introductions were made.

Commissioner Levy joined the meeting via phone. There were 30 people in attendance.

Chair Sizemore announced a slight modification to the agenda starting with Tab 2 so that Senator Conway would be present for the Nooksack presentation and vote before he had to leave.

**Tab 2**

**Nooksack Indian Tribe Negotiation**

The Honorable Ross Cline Sr. of the Nooksack Indian Tribe, Director Dave Trujillo, and Tribal Liaison Julie Lies presented the materials for this tab. **Chair Sizemore** introduced the members of the Nooksack Indian Tribe who were present. **Director Trujillo** introduced Chairman Cline and spoke about the Nooksack compact negotiation process. **Chairman Cline** spoke about the history of the Nooksack Indian Tribe. He stated that the Northwood Casino opened 14 years ago on trust land owned by the tribe and that it is part of the 23 trust lands administered by the federal government. The Nooksack Indian Tribe signed its Class III gaming compact in October 1991, and operated the Nooksack River Casino from April 1993 to December 2015. The Nooksack Indian Tribe has operated a Class III facility for 22 years. The amendment revises language in the compact to better align it with other tribes' compacts. This amendment also adds

some responsible gaming program language, as well as some additional problem gambling funding. Included in the amendment is community contribution language, consistent with other compacts. **Tribal Liaison Lies** spoke about the specific negotiated amendments. **Senator Conway** asked Chairman Cline how many tribal members there are currently in the Nooksack Indian Tribe. Chairman Cline answered that there are 1,870 members to date. **Commissioner Stearns and Commissioner Patterson** congratulated Chairman Cline and thanked him for everything the tribe has accomplished so far. **Tribal Liaison Lies** commented that staff recommends that the commission forward the proposed compact to the governor for review and final execution.

**Chair Sizemore** asked for public comment. There was no public comment.

*Commissioner Troyer moved to forward the proposed compact to the governor for review and final execution.*

*Commissioner Stearns seconded the motion.*

*The motion passed. 6:0.*

*This vote included Senator Conway and Commissioner Levy (via phone).*

At this time **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.

#### **Tab 1**

##### ***Consent Agenda:***

*Commissioner Patterson moved to approve the new licenses and Class III employee licenses as presented by staff.*

*Commissioner Stearns seconded the motion.*

*The motion passed. 5:0*

*Commissioner Patterson moved to approve the Class III certifications for the Snoqualmie and Cowlitz tribes.*

*Commissioner Troyer seconded the motion.*

*The motion passed. 4:0*

*Commissioner Stearns abstained.*

#### **Director's Report**

**Director Trujillo** announced that on Oct. 30, Governor Jay Inslee signed a proclamation that November is Native American Heritage Month and Nov. 23 is Native American Heritage Day. He also announced that the latest tribal relations policy for the Gambling Commission was finished after working together with tribal leaders for a year on language, and the policy is now ready for signatures. Director Trujillo invited commissioners and staff, along with tribal members in attendance at the meeting, to be included in a photograph. **Commissioner Stearns** commented on the importance of National Native American Heritage Month to celebrate the achievements, culture, traditions and the diversity. Especially all the gifts that the tribes and Native American people bring to Washington.

**Chair Sizemore** introduced Assistant Director (AD) Tina Griffin to report on the house-banked card room financial statements. **AD Griffin** stated that each year, the house-banked card rooms, by rule, must submit to the Gambling Commission their financial statements within 120 days after the end of their business year. They can choose their business year. A majority of them have year-end of Dec. 31. They can ask for a 60-day extension. So, typically, we receive a majority of the financial statements on June 30. For the last few months, we've been reviewing those and compiling them. The financial statements are set out by rule. They have to be either compiled, audited or reviewed, based on the gross receipts. If they report gross gambling receipts of less than one million dollars, they can do a compiled report. If they report gross gambling receipts of \$1 million to \$6 million that is a reviewed statement. If it's over \$6 million, they have to submit an audited statement. AD Griffin provided a summary of the financial statements received for 2017. **Commissioner Patterson** asked if the licensed card room downturn was as a result of the recession. **AD Griffin** concurred; however she also added that it could be because of the no-smoking rule in public buildings, the Legislature voted on. AD Griffin asked for further clarification from the licensed operators in the audience. There was no comment at this time.

**Chair Sizemore** introduced Legal and Legislative Manager (LLM) Brian Considine to provide the commission with the latest sports betting update. **LLM Considine** reported that there is a work session scheduled for Nov. 16, 2018 at 1:30 p.m. in the House Commerce and Gaming Committee, which will include a discussion on sports gambling. The Liquor and Cannabis Board will report first, followed by a panel from the Gambling Commission consisting of Commissioner Stearns, Director Trujillo and LLM Considine. LLM Considine mentioned that the Gambling Commission's agency request legislation has not been approved yet. When agency request legislation is approved. Appointments with House and Senate will then be scheduled. He reported that the problem gambling study is moving along and expects to have the results within the month. This study will be presented to the Legislature in February 2019.

**Commissioner Patterson** asked for clarification on the agency request legislation. **LLM Considine** reminded Commissioner Patterson of the self-exclusion bill and reviewed the timeline for the problem gambling study, and explained what he would be presenting at the January commission meeting.

### **Tab 3**

#### **Presentations- NIGA and Four Directions Conferences**

**Commissioner Stearns** spoke about his attendance at the National Indian Gaming Association mid-year conference in September at the Pechanga Casino and Resort in Southern California. He moderated a panel on regulating sports betting as well as emerging gaming. He also spoke at the Four Directions Conference with Professor and Director Bo Bernhard. **Commissioner Patterson** thanked Commissioner Stearns for actively participating in the conferences. She spoke about attending the G2E conference in Las Vegas for the first time and says she learned a lot. **Chair Sizemore** reiterated that G2E is a conference that Gambling Commission staff attend and work the whole time they are there. He says that it's not inexpensive to attend, but he feels that, as a commissioner, it is a very valuable investment by the commission and there's a ton of great education. He also said that, in his opinion, the staff is able to make great contacts and get a lot of good work done.

#### Tab 4

##### Presentation-Special Olympics of Washington

**Assistant Director Tina Griffin** introduced Special Agent Donna Khanhasa and Dave Lenox, the chief executive officer of Special Olympics. **Special Agent (SA) Khanhasa** presented results of the independent audit report for the raffle that the commission approved at the November 2017 commission meeting. SA Khanhasa stated that this is the sixth raffle Special Olympics has held since it was authorized by the Legislature in 2013. The grand prize offered was a home located in the Puget Sound area, an annuity of \$4 million paid over 20 years, or a one-time \$2.8 million cash payment; it was based on 65,000 tickets sold. **Mr. Lenox** explained some of the work done by Special Olympics to ensure that the athletes can compete. He mentioned that Special Olympics has added events, such as: stand up paddle boarding, flag football, gymnastics and equestrian. He also mentioned that infrastructure growth is a big priority for Special Olympics. **Chair Sizemore** asked what the impact would be to the organization if it were to lose a year of revenue. **Mr. Lenox** explained that there would be a reduction of staff and services to the athletes and the community. **Commissioner Stearns** thanked Mr. Lenox for the work being done by Special Olympics and asked about the USA Special Olympics Games that were held in Seattle this year. **Mr. Lenox** commented that ESPN and ABC broadcast opening ceremonies live. ESPN did nightly one-hour shows recapping the games. He said that it really brought good awareness to Special Olympics, and it showed the rest of the world how welcoming people are here in Washington. He stated that there was a need for at least 10,000 volunteers to run the games and 15,000 signed up. SA Khanhasa announced that the Special Olympics of Washington is here to request permission to conduct a Dream House Raffle (enhanced raffle) in western Washington in 2019. Mr. Lenox stated the organization's goal is to triple the number of athletes by 2020 and in the years ahead, and to reach everyone with intellectual disabilities. The grand prize that is going to be offered is a house valued at \$4.8 million, a \$4 million annuity, or \$2.8 million one-time cash option. The Special Olympics estimates that the break-even number of tickets to be sold is 17,391 tickets, and the net proceeds will obviously depend on the grand prize that's awarded. They estimate that the net proceeds could be up to \$2 million if a \$4.8 million house is the grand prize. At this time, commission staff recommends approval of the 2019 enhanced raffle plan.

**Commissioner Troyer** was interested to know about the consulting firm currently used by Special Olympics and asked if organizers considered bringing that work in-house so that a larger portion of the proceeds stays with Special Olympics. **Mr. Lenox** said they have had discussions with the consulting firm about that, and asked the firm if the work could be done in-house.. He said that they are doing an analysis of how direct marketing works and that being able to refine the marketing is important.

*Commissioner Stearns moved to approve the Western Washington Special Olympics 2019 enhanced raffle request as presented by staff.*

*Commissioner Troyer seconded the motion.*

*The motion passed. 5:0*

#### Tab 5

##### Default

**Staff Attorney (SA) Haylee Mills** presented the default materials:

**Joey D. Neal, CR 2018-00475 Public card room employee revocation.**

SA Mills reported that based on past criminal conduct and failure to disclose the conduct, Director Trujillo issued a notice of administrative charges on July 17, 2018. The licensee failed to attend a pre-hearing conference in the case and has therefore waived his right to a hearing in the case. As licensee cannot show by clear and convincing evidence that he's qualified to keep his gambling license, staff recommended that commissioners sign the proposed final order and revoke Mr. Neal's public card room employee license, number 68-34678.

**Commissioner Stearns** asked about the underlying offense. **SA Mills** indicated that the licensee is not challenging the revocation, and the underlying offense was a felony theft conviction.

**Chair Sizemore** asked if Joey D. Neal was in attendance. He was not.

*Commissioner Troyer moved to revoke the public card room employee license from Joey D. Neal.*

*Commissioner Levy seconded the motion.*

*The motion passed. 5:0*

After the vote was seconded, SA Mills announced that the theft against Joey D. Neal involved the taking of a purse, which contained financial transaction cards and cash, from an employee of an Elks Lodge.

**James K. Reese, CR 2018-00845 Class III certification revocation.**

**SA Mills** presented the information for this case and, based on criminal conduct by Mr. Reese, Director Trujillo issued a notice of charges on Sept. 11, 2018. By failing to respond to the charges or request a hearing in this case, the licensee has waived his right to a hearing. As licensee cannot show by clear and convincing evidence that he's qualified to keep his gambling certification, staff recommends that commissioners sign the proposed final order and revoke Mr. Reese's Class III employee certification, number 69-38122. **Commissioner Patterson** inquired on the process in which staff of the Gambling Commission contacts the individuals to let them know how serious their charges are. Director Trujillo explained that the guidelines are on the license applications. **Commissioner Stearns** asked if Mr. Reese's felony would be reduced to a misdemeanor if he completed a diversion program. **Director Trujillo** concurred. **Chair Sizemore** asked if Mr. James K. Reese was in the audience. He was not present.

*Commissioner Patterson moved to revoke the Class III certification for James K. Reese.*

*Commissioner Troyer seconded the motion.*

*The motion passed. 5:0*

**The commission took a 15-minute break.**

**Tab 6**

**Petition for Rule Change: Soft Count**

**Assistant Director Tina Griffin** presented the materials for this tab. This rule petition was submitted originally by Stacey Hess of Great American Gaming. GAG operates four house-banked card rooms in Washington. The petitioner submitted the rule earlier in the year. Mr. Ziegler of Emerald Downs sent an email in support of the petition. Mr. Mena spoke in support of the new rule language and indicated that his properties would save \$1,000 in payroll. No other

comments have been received. Ms. Hess is here to answer any questions, and staff recommends final action with an effective date of Jan. 1, 2019. **Chair Sizemore** asked for public comment. There was no public comment.

*Commissioner Troyer moved to file the petition for final action as presented by staff.*

*Commissioner Stearns seconded the motion.*

*The motion passed. 5:0*

## **Tab 7**

### **Rotary Club of Everett**

**Assistant Director Tina Griffin** presented the materials for this tab. The Rotary Club of Everett-Port Gardner has submitted a request to offer a raffle prize in excess of \$40,000. By rule, this requires submission of the raffle plan and commissioner approval prior to offering that raffle prize. The Rotary Club has submitted the plan and it outlines the information required by rule. Staff recommends approval of the request to offer a raffle prize in excess of \$40,000.

Representatives from the Rotary Club were available for questions. **Commissioner Troyer** asked if the limit request is a one-time ask or if the rotary is planning to make it permanent. **Mr. Scott Eastham**, representative for the Rotary Club, replied that he would like to make it permanent.

*Commissioner Patterson moved to approve the request to exceed the \$40,000 raffle prize limit as presented by staff.*

*Commissioner Stearns seconded the motion.*

*The motion passed. 5:0*

## **Tab 8**

### **Petition for Review: Motion for Reconsideration**

**Legal and Legislative Manager (LLM) Brian Considine** presented the materials for this tab. LLM Considine explained that this presentation is regarding Yen Trinh, case numbers 2016-01284 and 2016-01569, and Dung Huynh, case numbers 2016-01285 and 2016-01570. On March 8, 2016, Director Trujillo issued charges for both licensees.. Both individuals had a joint hearing before the administrative law judge on Jan. 23-24, 2018. The initial order was issued by the judge on May 7t, 2018. The licensees filed a petition for review, which was heard at our public meeting on Sept. 14, 2018 in Spokane. Both of their attorneys, as well as our assistant attorney general, Mr. Rosen, presented arguments before the commissioners. At the time, the commissioners affirmed and upheld the administrative violations and the revocation of both o licenses. An order to that effect was mailed to the licensees on Sept. 20, 2018. The licensees filed a motion for reconsideration, which was received by staff on Oct. 1, 2018. This is the first opportunity to bring it before the commissioners for consideration. Lastly, the Gambling Commission has a rule that relates to reconsideration, but it basically just mirrors the Administrative Procedure Act RCW 34.05.470 for reconsideration. Commissioners have the ability to deny or grant the petition, and either dissolve or modify the final order which the commission issued in October or September, or grant the petition and set the matter for further hearing.

**Chair Sizemore** asked that the room be cleared so the Commission could go into closed session.

The meeting reconvened after a 10-minute closed session.

**Chair Sizemore** reconvened the meeting and stated that, as the presiding officer in this matter, the petition for reconsideration by Dung Huynh is denied. The petition for reconsideration by Yen Trinh is partially granted. The commission is affirming the violation, but modifying the sanction to a six-month suspension, effective upon filing of the modified order. Our AAG is going to be putting that together. **Commissioner Patterson** stated for the record that she did not agree with the prevailing position to modify the sanction from a revocation to a six-month suspension.

**Chair Sizemore** asked for public comment.

**Victor Mena**, chief operating officer for Washington Gold Casinos and president of the Recreational Gaming Association, addressed the commission. He said that he wanted to make a couple comments in regards to the original financial reports that were given to commissioners earlier today: “There were some questions regarding, basically, the bar graph showing the rise and then the dip through the recession and then the flattening in the last several years. In my opinion, it looking at a very mature market. We're seeing product that has been established for the last 20 years in the market. The card rooms have flattened out as far as by numbers based on, I think, the volume, the velocity of what that product generates. The reason you're not seeing a lot of growth is because that established market isn't growing per se. The product that is growing in the market is going to tend to be more of a newer type of gaming product. Could be, obviously, electronic video. Those types of products are going to create growth in any gaming industry but I do believe that you're starting to see also the impacts of wage. For instance, in 2016, it showed there was less card rooms in the red than 2017. 2017 was the first year of the \$1.50 hit impact, taking our minimum wage up that dramatic bump. We're in the second year of the ¢50 bump and then the coming year is another ¢50 cent bump, but at 2020, it'll go to the \$1.50. You're going to see that red figure probably increase as far as the number of card rooms and that's because, like I said, there just isn't any new product introduced to be able to sustain that.”

**Commissioner Stearns** asked Mr. Mena if there is an issue with player retention. Does Mr. Mena see the demographics changing and are player acquisition costs higher?

**Mr. Mena** commented: “In this market, I would say player acquisition costs are extremely high. You've got a very competitive market set, which creates a lot of promotional spend for the player per capita, which is probably greatly higher than what you see in any other jurisdiction. But that's because the card room industry only has 15 tables, it only has cards, where a traditional casino that has multiple products, multiple items, for a broader range of the populace brings in a higher ratio of the public. Honestly speaking, I think the card rooms are 7% of the gambling public, and so the demographics isn't changing; if anything, it's getting older. Our employees are getting older. It's very fascinating, I started back in 2001, and we had a lot of youngsters back then that were wanting to be dealers, people between 21 and 30. And today, the employment labor pool is so challenged, and it's challenged for multiple reasons, but we can't find 20-somethings that want to do this job any longer. Now that's not a product of the game or gambling in general, that's a product of socioeconomics, as far as the public goes, because these are people that no longer want to deal with interaction. The interaction that the public has is very limited, especially at that age, they're living with a cell phone society, and they'd never had to have person-to-person conversations any longer. And so you're seeing a whole generation of people that have a challenge interacting socially with guests. Restaurants are much challenged, there's no servers to

find, there's no dealers to find, because once somebody has that challenge of confrontation, they tend to just quit. So it's interesting, the employee base is getting older, the customer base is getting older, and so that's why you're seeing Commissioner Patterson's question, 'why isn't there this up uptick with the economy?' It's because it's a maturing business.”

**Chair Sizemore** thanked Mr. Mena for his comments and called for the next person to address the commission.

A gentleman from the audience addressed the commission and was reluctant to give his name. After some insistence by Chair Sizemore, the gentleman stated his name as Mr. Todd Ruzicka [sp?] **Mr. Ruzicka** thanked the commission for hearing his question. He asked about current events at the Puyallup Indian Tribe's Emerald Queen Casino. **Commissioner Troyer** stated that he recognized the reporter Mr. Ruzicka was sitting next to during the meeting and asked him if he was acting as a media agent. Mr. Ruzicka said no. **Commissioner Troyer** responded to Mr. Ruzicka's original question and stated that the Gambling Commission is a limited-jurisdiction law enforcement agency and, as such, investigates those types of accusations all the time. **Commissioner Troyer** stated that criminal cases investigated across the state by the Gambling Commission are prosecuted in the same manner as any other law enforcement agency. Until any investigation is concluded, the Gambling Commission would have no comment. **Mr. Ruzicka** thanked the commission for their time and left the meeting.

#### **Other Business/General Discussion/Public Comment**

**Chair Sizemore** called for any further comment. There was no further comment. Chair Sizemore reminded the audience that the next commission meeting will be Jan. 10, 2019 at the Hampton Inn and Suites in Olympia.

The Commission meeting adjourned at 3:35 p.m.