



STATE OF WASHINGTON
GAMBLING COMMISSION

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

March Gambling Commission Meeting Minutes
Hybrid Meeting held at the
Washington Liquor and Cannabis Board
March 9th and 10th, 2023

Commissioners Present:

Chair Alicia Levy
Vice Chair Julia Patterson
Bud Sizemore
Sarah Lawson

Ex Officio Members Present:

Representative Shelley Kloba (Via Teams)

Staff Present:

Tina Griffin, Director
Chris Wilson, Deputy Director
Lisa McLean, Legislative and Policy Manager
Tommy Oakes, Interim Legislative Liaison
Suzanne Becker, Assistant Attorney General (AAG)
George Schultz, IT
Julie Anderson, Executive Assistant

Staff Present Virtually:

Gary Drumheller, Assistant Director; Julie Lies, Tribal Liaison; Kriscinda Hansen, CFO; Jess Lohse, Special Agent

There were 11 people in the audience and 56 people attended virtually.

Chair Levy welcomed everyone to the Washington State Liquor and Cannabis Board for the Washington State Gambling Commission's March 9 & 10, 2023 meeting. The meeting began at 9:35AM and called the roll to ensure a quorum.

Tab 1

Consent Agenda

Chair Levy asked the Commissioners if they had any changes to the consent agenda. Commissioners had no changes.

Public Comment:

Chair Levy asked for public comment. There was no public comment.

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

Commissioner Patterson seconded the motion.

The motion passed unanimously. 4:0

Tab 2

Petition for Review – Chanmalaty Touch, Case No. CR 2021-01221

Doug Van de Brake, Assistant Attorney General (AAG) and Attorneys Frank Huguenin presented the materials for this tab. Assistant Attorney General (AAG) Matt Kernutt stated there was a motion to strike filed by Commission staff of certain exhibits filed by the petitioner. He also stated that this proceeding is before the Commission as a review of an initial Order, and so part of the appeal, petitioner submitted certain exhibits for consideration that were not included in the record for OAH, The Office of Administrative Hearings. The motion to strike is specifically dealing with that issue about whether or not the Commission in reviewing the initial Order can consider those extra filed exhibits. We have a motion to strike as well as the review of the initial Order.

Chair Levy stated that the Commissioners would hear the motion to strike first, then go into closed session to discuss and rule then come back to hear the petition for review giving each side five minutes for your discussion.

AAG Van de Brake representing the Commission staff stated that *“The basis for motion to strike is about the evidentiary hearing, which lasted nine days, provided the ample opportunity for the parties to submit exhibits and witness them. And despite this ample time and opportunity to do so and including an extension, the Judge granted to Mrs. Touch to file exhibits, she simply never did so prior to the hearing. And then during the hearing, at no point during the hearing did Mrs. Touch offer to admit any exhibits for the record. And the Judge noted that in the initial Order Mrs. Touch did not offer any exhibits.*

And the Petition for Review, Mrs. Touch submitted Exhibits A and B. Exhibit B contains 16 subparts, so essentially, they submitted 18 exhibits that were not part of the record before the Administrative Law Judge throughout the evidentiary hearing and should not be considered for that reason on a Petition for Review of the initial Order. It simply doesn't, it's not part of the record for review, and we respectfully request that those 18 exhibits be stricken and not be considered for purposes of the Petition for Review of the initial Order.”

Mr. Frank Huguenin, representing Ms. Chanmalaty Touch stated that Mr. Carl was unable to be present. Mr. Huguenin then asked if the Commissioners received the responsive rebuttal materials that were submitted yesterday afternoon in regard to both the motion to strike and the reply from the Commission staff.

Vice Chair Patterson and Commissioner Sizemore said they had not received anything.

AAG Kernutt said they are being distributed to the Commissioners currently.

Mr. Huguenin stated *“In light of that because I do think that it touches both on the response to the motion to strike as well as the Petition for Review. I would appreciate that my client, who I just appeared for in the context of this petition review and was not involved with the evidentiary hearing whatsoever, be afforded opportunity for the Commission to make an informed consideration of the presentation. And so, I would request that this hearing be continued to the next Commission time slot so that way they have an opportunity to review the materials.”*

Chair Levy asked AAG Van de Brake if he had any objections to that? **AAG Van de Brake** stated *“Yes. Staff objects to a continuance of this matter if filed the Petition for Review with 18 exhibits. Mrs. Touch was represented by Counsel through the evidentiary hearing and had ample opportunities to present exhibits and never did for nine days of testimony. Now she has filed a*

Petition for Review with 18 exhibits and then about 4:30 P.M. yesterday, she filed the reply to the response that staff replied to another Petition for Review. That should not be considered either. And there is no sound reason for continuing this for the purpose of deciding whether to continue to consider 18 exhibits that are simply not part of the record. The Commissioners are here to review the record from the Evidentiary Hearing and the findings and conclusions that the Administrative Law Judge issued as a result of the evidence and testimony that the Judge heard during those nine days. It is not to consider 18 exhibits that were never part of the proceeding. So, we object to a continuance of this matter.” **Commissioner Sizemore** replied by saying “*I’m glad I haven’t seen anything yet as far as these new exhibits. So maybe a two-part question. It almost feels to me inappropriate for 18 new exhibits for us to consider at this point when we are doing a review. So, is it even appropriate for us to see those things at those junctures based on where we are? And my second question would be if the Commission upholds the initial order, what are the options available to the petitioner?*” **AAG Kernutt** answered Commissioner Sizemore by saying “*In relation to the second question, the options for the petitioner set forth in the Administrative Procedures Act should the Commission decide to uphold the initial order either now or at another date in the future. There are appeal rights to the Superior Court set forth in the Administrative Procedures Act available to the petitioner.”* **Commissioner Sizemore** reiterated at that time can new materials be considered at the Superior Court. **AAG Kernutt** replied, “*The Administrative Procedures Act does authorize a Superior Court Judge to consider those based on the Superior Court Judge’s determination, but it is for very limited purposes and generally does not happen.*” **Commissioner Sizemore** asked again if it is even appropriate for the Commissioners to consider those new exhibits for review at this time. Whereas AAG Kernutt said that would be something to discuss in closed session.

Mr. Huguenin stated that “*I only made argument as to the request for continuance to review the material that was submitted yesterday afternoon. And I did not actually make a substantive argument with respect to that. It’s actually in the material that was submitted yesterday afternoon, and so that’s part of the reason why I want the Commission to consider the continuance so that way they can see my client’s response to the motion to strike as well as the rebuttal to the WSGC’s staff’s reply. And so that is really what is -- before, first I have put together a motion to continue this matter in total. I have not put in for any argument against the motion to strike.*”

Chair Levy excused Commissioners to closed session for further discussion at 9:40AM. The Commissioners reconvened after closed session at 10:07AM.

Chair Levy announced that the Commissioners will grant the continuance so that Commissioners will have enough time to review all the materials. This item will be on either the April or May 2023 agenda.

Tab 3

Presentation – Perry Technical Foundation

Sandra Shah, Special Agent (SA); Cathy Sterbenz, VP of Finance and Administration and Tressa Shockley, Perry Tech Director of the Foundation presented the materials for this tab. **SA Shah** introduced Perry Technical Foundation to the Commissioners and stated that they are seeking approval to exceed the \$40,000 single prize and for the approval to exceed the \$300,000 annual prize. Perry Technical Foundation would like to Raffle off a house that is estimated at \$380,000. If approved, the Raffle will begin April 1, 2023, and conclude on

December 30, 2023. The drawing will be conducted on Saturday, January 27, 2024, at 12:00 P.M.

Perry Technical Foundation was issued a Raffle license in July 2019, and this will be their fourth time requesting approval from the Commissioners to conduct a Raffle exceeding the \$40,000 single prize and to exceed the \$300,000 annual prize. **SA Shah** introduced Tressa Shockley, Director and Cathy Sterbenz, CFO of Perry Technical Foundation to finish the presentation. **Director Shockley** thanks the Commissioners and gave a short PowerPoint presentation highlighting their work. She stated that they were not able to give away the house this last year. They hope to dramatically increase their marketing budget as a result to do more marketing during the final quarter. She wrapped up her presentation with a formal request that Perry Technical Foundation be able to continue this Raffle.

Chair Levy asked if the Commissioners had any questions. They did not.

Commissioner Sizemore moved to approve Perry Technical Foundation to offer a Raffle prize in excess of \$40,000 and to exceed the annual Raffle prize limit of \$300,000 for their license year ending June 30, 2024 so long as they have a valid license with the Gambling Commission.

Vice Chair Patterson seconded the motion.

The motion passed unanimously. 4:0

Commissioner Sizemore announced that a couple years ago he was concerned about Perry Technical Foundation and reached out to the building trades and asked them how they felt about the Raffle and the Foundation giving away a house. He even spoke to Legislators from Central Washington. He was pleased to hear the replies he got and he feels like this is a “top-notch” program. He also said that this program is truly building journeymen building trade folks in this industry. He will continue to make the motion on this every year as long as they keep running it well.

Chair Levy announced a five-minute break.

Tab 4

Budget Update

Kriscinda Hansen, Chief Financial Officer (CFO) presented the materials for this tab. CFO Hansen presented a short presentation on the agency’s financial position. This presentation shows the rise in expenditures.

Commissioners Sizemore asked if the number of organizations would show gross gambling receipts. CFO Hansen showed the active licenses in each category, not organizations.

Vice Chair Patterson indicated that it looks like the agency has fewer licensees but larger revenues. **CFO Hansen** answered that we don’t have larger revenues, but the licensees do. In conclusion CFO Hansen stated that, the agency has to redesign our website, otherwise, we won't have one after November, the platform that our website is on is old enough that it won't be supported after November. And, that's about \$300,000. The rest of the sports-wagering loan is due in May as well as that interest, and the Treasury just sweeps that money from our account. So then our fund reimbursements for the actual sports-wagering startup expenditures and interest will be coming back into our fund. And then some of the purchases that we have made of goods and equipment are eligible for the use of federal forfeiture funds so we can transfer in \$375,000.

So at the end of January, that leaves us \$5.6 million, and I'm going to revisit that number a little later.

Chair Levy asked for further questions from Commissioners. They had none.

Chair Levy asked for public comment.

Tab 5

Petition for Discussion and Possible Filing – Staff proposed License Fee Adjustments

Lisa C. McLean, Legislative/Policy Manager and Rules Coordinator (LPM) and Kriscinda Hansen, Chief Financial Officer (CFO) presented the material for this tab. At the January Meeting the Commissioners accepted a staff recommendation to initiate rulemaking to address licensees. LPM McLean gave an overview of the stakeholdering by staff by holding separate meetings with tribal partners and stakeholders, both on February 13, 2023, and on February 27, 2023.

The cardroom licensees raised concerns about balancing the Commission's need to raise its license fees against their petitions to us to reduce their own costs through adoption of proposed system efficiencies. They felt that some of that was contributing to the reduction in licensees. Electronic Raffle Licensees ask the Commission to consider a slow ramp up of costs until the overall expansion of the Electron Raffle Program across all sports clubs was complete. Wendy Winsor, CFO of WOW Distributing, and a pull-tab distributor asked the Commission to review the cost of licensing and regulating pull-tab distributors.

submitted comments The Gambling Commission also received emails from Brian Keller at Let It Ride Casinos regarding the increased fee for fundraising events, Carolyn Kenyon from Freedom Flies related to the proposed fee increases had its impact on businesses. And then from Richard Fritton from Homeplate Clubs, and John Schaeffler from Swinging Doors, related to pull-tabs license fees. Commission's staff also met with representatives operating electronic raffles in February to hear their concerns about the proposed increases that were expected to be a barrier to expanding the Electron Raffle Program to additional teams in the state.

CFO Hansen said that staff had an initial proposal on the fee adjustments when we met with tribal partners and stakeholders. After hearing some concerns about raised costs gathering and being able to evaluate our revenue that was for December of 2022 that was due in January and re-evaluating revenue that would be required for a single fiscal year rather than the entire biennium. Staff evaluated our initial fee adjustments and are proposing a 10% base fee increase. This is across-the-board, except for electronic raffle. That was evaluated separately since it is a new activity, and also sports-wagering is a different rulemaking conversation.

Vice Chair Patterson asked for an explanation of why the average license fee for the house-banked card rooms is so much higher on a percentage basis than these other businesses. **CFO Hansen** answered that is because of the cap for House-banked card rooms is \$40,000. Its significantly higher than some of the other license types. **Director Griffin** reiterated that because the Gambling Commission statute requires or allows us to set license fees that recoup the costs of licensing, regulation, and enforcement. In 2018, the CFO determined the different gross gambling receipts rates, base fees and maximum license fees based on the actual costs of regulating, licensing, and providing enforcement each gambling activity.

CFO Hansen said staff looked at electronic raffle fees separately because they are a new activity. We have less than a year of information for them. But based on the level of effort that has been invested so far for this new activity, we found that the initial rates that were set are not supporting the cost to regulate them. After some information provided by our other units and some projection about what it might cost in terms of hours to regulate this activity after it's not new. We had initially proposed an \$8,000 base fee and then this same rate and same maximum. After some feedback from the electronic raffle folks, as Lisa mentioned, and some concerns about barriers to entry, we evaluated and found that we could propose that \$5,500 because we are already authorized in statute to bill them for these actual expenses related to verifying their operating and system requirements.

LLM McLean stated in conclusion staff is recommending filing for further discussion.

Chair Levy asked for further questions from the Commissioners. They had none. She then asked if there was any public comment.

Bill Tacket, Owner and Operator of the Buzz Inn Steakhouses addressed the Commissioners. He said, *"I think I was first licensed in May of 1973. And I've been in the industry steadily since then. And I also operate a house-banked card room in eastern Washington, Wenatchee. Well, I got to say that this industry has changed a lot since we first started. Frank Miller was my Director that I really did a lot of work with. And I got involved with the Compacts with the first one. Wayne Williams was the Tribal Chairman, and Frank Miller was the Director, and Bell & Ingram were the attorneys that put the first compact together. I was President of the Washington State Beverage Association at the time, and we had about 100 members, and we represented the punchboard/pull-tab people. The Governor directed us at the time to negotiate these contracts with the tribe.*

And the only money that we had at the Gambling Commission at the time, I think our first budget was \$3.4 million or something, was punchboard and pull-tab fees. And Frank told me, he said, "Just let us get these contracts done, and then we can move on, and we'll all prosper." So, basically, at the time he said that there's a lot of future in the pull-tab industry. We built that pull-tab industry. I think it was at \$1.2 billion. We had 1970 licensees. We did prosper. It saved the tavern industry back when you remember we used to have way more taverns. Now there are very few of them. But pull-tabs are a stimulus source. It does -- you got to establish the food and beverage program before you can apply for the license. And then however well you do in the food and beverage is how well you can do in the pull-tab industry. But it supports 795 families today and much more than that. And we are facing the same problem that you're facing.

The first thing I looked at with inflation is paper cost. My paper cost went up \$2000 per restaurant in one month. It was like To-go boxes were \$2.00. They used to be \$0.58. We got hit so bad that -- how do you recover from that? You immediately change your prices to-go items, and you add it on, and, hopefully, you can recapture. But before you do that it takes you 90 days to realize how bad off you were. And, and so there's what happened. So we're in an industry right now that, I mean, if we keep going, we should be completely gone in 15 to 20 years. I mean this, it's handwriting on the wall. I'm paying double for paper goods now than I used to pay half

for. And we only have two small manufacturers left in the state. The majority of them are out of state.

We have a product that we only use 30% of. We buy 100% of the product. We put it out. We market it the best we can. And we take 70% of it, and we throw it in landfill because you can't recycle it because of the security. And we've been doing it for years and years and years and years. And I've been coming down here for 45 years. And we buy this product. We used to count it by hand. We didn't get scales until 25 years ago. But if my scale goes down, guess what we would do. We go back to counting it by hand. You know, we should be able to figure out as an Agency and as operators some way to make this industry grow and not diminish. I mean, nobody -- a new operator, this is way too big to take on when you're trying to build a food and beverage program and then add pull-tabs. Well, it's asking for confusion and problems. We should be able to figure out some way just to put something into effect that we can all prosper for.

If we had a different type of a pull-tab industry, the state could prosper, the license fees could be so much. Nobody cares about paying a license fee if you're making money, but the time you take the fees for our licenses, then you take the fees for the extra paper goods, and pretty soon it's down to a point where, oh, and then by the way, another \$1.25 in minimum wage. It's getting to a point where it doesn't make sense anymore. And I mean we can either run this operation to the end and plan for it. Or we can all get together and try to come up with just another way to do the same business that we're doing under the regulatory terms without paying this great amount of money for paper and then throwing 70% of it away. I can't imagine how many millions of pounds of that paper that is, but I'll tell you, it must be great.

I just would like if there was any way the staff and some pull-tab operators -- and I know there's like I said 700 maybe left, there seems to be a way that we could get together and you guys could prosper, we could prosper, and we don't have to pay the great cost to the manufacturers in the other states. Thank you”.

Josh Herschlip representing Buzz Inn Steakhouses said, *“And just to kind of reiterate a couple points on that, as it was brought up by the Agency as to inflation, those are the same things as he was stating that we are dealing with. And it's tough because we can't just shift all that to the customer. We're already having them take our increase on the minimum wage and a lot of the other expenditures we have, so as those license fees go up, and we go from what was 98 rooms or near 100 rooms. 10-20 years ago, we were at 100 rooms. We are down to 38 rooms. I think it was stated 40, but I think we're at 38. On that scale, it showed we were losing slightly over 10% a year. I mean, it's one of those that if we just keep raising the fees, there are less people to collect the fees, right until we're out of business. I mean, that's just one that it doesn't make sense with the cost going up.*

So I was just made aware of the fee increases because I had been working the businesses. So I had been contacted and told they were going up. So I'd asked the Commission doesn't raise fees and re-looks at that and kind of finds another way of helping us generate revenue versus just

increasing our costs and running licensees out. Because, again, I've had several people call me in the last year or so with restaurants and bars that are about to go out of business that are seeing the writing on the wall, and they want to leave. And one of my answers because I've seen it through a lifetime of being a part of the Buzz Inns is like, well, you if you got pull-tabs and you put in pull-tabs, you could generate some revenue out of the same people that you have coming through your door and potentially save your business.

Well, taking that and saying that to someone who is already struggling already can barely pay their bills, doesn't understand the pull-tabs and how they work. And it's like it can be as much as I say that's an easy solution, it can be a detrimental decision if you don't operate them correctly and you open that door, and you have these bowls unmanaged, and theft goes out the window, and you're not controlling your poll percentages, and then it just becomes an added cost and helps you go out of the business quicker. So anyway we can modernize find revenue sources and not ways for us to spend money I think would increase [indistinct] licensees and, hopefully, keep the cardroom industry intact. So, I appreciate it. Thank you, Commissioners.”

Vice Chair Patterson replied that she doesn't hear opposition to the rule.

Josh Herschlip stated, *Well, I'm opposed to any increase, I guess, I would put on the record. I mean, just as that it's one I understand things have to go up and have to be covered. It just seems that that 60% increase is really, large. And although it may only really affect those top three, when we're in business, we all want to be the top three, and it's one of those that it shouldn't be so much always punishment for doing a good job. I mean, it's one of those that we've got to find a way that that I don't think it should just be hammered on those couple businesses and/or the businesses that are right at the bottom. I think we're right in the middle. We're in the top 10. We're in the top 10. We find ourselves in the middle. But it's still a challenge in a small community. We've had a lot of management increases across the board because the labor market has been really tough.*

So as these minimum wages goes up, it's not just minimum wage I'm taking. I mean, my management teams have went up enormously over the last little bit just to maintain my staffs and keep my people and keep the business afloat. So I mean, it seems like they're coming from all angles of increases and very little ways of revenue generating. So, I mean, again, I wish I was there for the discussions previous so I could have contributed to that. I was brought in a little late and didn't call, but I just wanted to voice my opinion of any increases are really detrimental. And it's tough to get new people operating as things go up. So, appreciate it.”

Drew Johnson, Director of Government Affairs and Compliance for the Seattle Seahawks addressed the Commissioners by saying, *“I want to submit a brief comment on behalf of the qualified sports teams to express our concerns of the significant fee hike that is unique to electronic 50/50 raffles. We do recognize the Agency costs have exceeded projections, and we appreciate the Agency working with us to slightly narrow those fees down. But the fact remains that this is a significant jump, especially on gross receipts, and will result in Washington having the highest 50/50 fees in the nation. So that leaves us concern for the long-term viability of the game and its ability to maximize max charitable benefits for Washingtonians. So we plan to submit a letter to further detail out those concerns and have*

some ideas as well as to how to grow the game and make this a long-running benefit for Washington.”

Chair Levy asked if there were any other questions.

Vice Chair Patterson asked about the statement that would make Washington the highest in the nation. Director Griffin said she had no comment in regard to what other states are doing. She said license fees must cover the actual costs that we are bearing right now in regulating and licensing this activity.

Commissioner Sizemore announced that *“In 2014, he expressed some frustration with an across-the-board fee increase at that point, and then the Agency delved into modifying the system to what we have today. and still to the point to where we do need to do this kind of global change to the fee structure for the entire industry. I intend to ask the staff to embark on a greater conversation and a more in-depth evaluation of activity-by-activity of every facet of the structure, base minimum, which when those of you that participated in stakeholder work in 2016-2017, I think that initial base fee was -- we want to make sure that people are invested in the activity that they're doing, so it's kind of the price to get in. And then we wanted the rates to reflect a rational kind of relationship to the total activity that we do in those particular things.*

And then for caps to just kind of knock off the real outliers so that we could kind of do that. I think the systems work well. I think those folks that used to shut down their bowls in mid-December or mid-June because they didn't want to go into the next class. I think those things have worked well. I think at the beginning of the pandemic, had people paid their entire license a year ahead of time in whatever, April of 2020, they would have been disappointed that they couldn't operate. I think because of the structure, it helped tremendously for folks. If they're not having any activity, they don't have to pay anything other than the base fee if they're coming up on a renewal. All of that to be said, I'm a little frustrated we're having to do it across the board, but I find that it's completely necessary for us to do this for now. But I am pledging to invest some time after this to be able to look at it a little more in-depth and a little bit more targeted in the future.”

Berry Murray, from Imperial Palace said, *“A couple of quick clarifications, I think, comments that was referenced like the top three, which I think is in the \$15-\$16 million revenue range. And really what that comes out to be, I think it was 0.25% to 0.3% when you really add the fee, even though there are 29 as you go down that are paying that capped fee, roughly. So when you do the math on that, I mean, when you're doing \$15-\$16 million, that doesn't really move the needle as far as it's a blip when you have \$10 million incremental in revenue of, say, the \$5 million or \$6 million revenue [indistinct], so something to keep in mind when there is a percentage basis like that, obviously. Or when it's capped, and it isn't based on a percentage, I guess. So that's one thing that we just need to keep in mind for the middle-of-the-road people and the bottom-third people, etc.*

That's who really is getting punched with this. So, yeah, we are certainly on record as opposing fee increases where we're struggling with all the reasons that Josh and Billy brought up, too, the cost of goods, etc., that I've already commented on previous meetings. And it's not going to go down. And I understand everybody has increased costs, but we got

to think about big picture because that 38 licensees are going to go to 28 sometime in the near future, then we're going to be right back here again, and there is only so much increase that can be done in my opinion before it's just not viable anymore for all of us. So, anyway, thank you very much.”

Commissioner Sizemore moved to file the proposed license fee adjustment for further discussion.

Commissioner Lawson seconded the motion.

The motion passed unanimously. 4:0

Chair Levy announced at 11:30AM that the Commissioners would be adjourning to Executive Session, which will last approximately one hour to discuss current potential Agency litigation with legal counsel, including travel negotiations.

Chair Levy reconvened the commission meeting at 12:32PM and called the roll to ensure a quorum.

Tab 6

Petition for Discussion and Possible Filing – Sports Wagering Vendor License Fee

Lisa C. McLean, Legislative/Policy Manager and Rules Coordinator (LPM) presented the materials for this tab. In January 2023, the Commissioners accepted staff recommendation to initiate rulemaking to re-evaluate license fees for sports wagering. Based on our analysis of the costs related to licensing, regulation, and enforcement. The staff is proposing to decrease the major sports-wagering vendor fee from \$65,000 to \$30,000, mid-level from \$10,000 to \$5,000, and ancillary sports-wagering vendor from \$5,000 to \$2,000. Kriscinda is standing by to answer all your questions on that.

On February 13th and February 27th, we had two separate meetings, one for stakeholders and one for tribal partners to discuss the draft proposals for the adjusted sports-wagering vendor fees. There were a lot of questions about how the fees were calculated, but there were no specific concerns or objections expressed at that time. We did receive, and it is in your packet, a letter from Jeff Efra, General Counsel for iDEA Growth on February 13th. And then on February 27th, we received a letter from Ernest C. Matthews, the fourth Vice President and General Counsel for ISI Limited. In addition, in just the last couple of days, we got a letter from Chairman Dustin Klatush from the Confederated Tribes of Chehalis Reservation in support of lowering the sports-wagering vendor fees.

And we also got a letter from Shoalwater Bay, specifically Michael Rasmussen, CEO of the Willapa Bay Enterprise Corporation, also expressing his support for the ISI Limited letter. Both letters are in support of lowering the sports-wagering vendor fees. With that, the staff recommends that the Commission approve filing the proposed rules for discussion.

CFO Hansen showed a slide that represented the fee reductions that LLM McLean referred to.

Commissioner Sizemore asked for clarification on a new applicant applying for one of the three licenses. What would they pay?

CFO Hansen said, “All of our license applicants, the fee is meant to cover the cost of enforcing and regulating that activity, but in the event that the fee is not sufficient to cover the costs of investigating their application, the licensing unit estimates and ask for a deposit, and if it isn't used in full, a refund is issued, and that would stand for the sports-wagering vendors, as well.”

Commissioner Lawson moved to file for further discussion for proposed amendment sports-wagering vendor license fees.

Vice Chair Patterson seconded the motion.

The motion passed unanimously. 4:00

Tab 7

Petition for Discussion and Possible Filing – Wagering Limits for House-Banked Card Games

Lisa C. McLean, Legislative/Policy Manager and Rules Coordinator (LPM) presented the materials for this tab. This tab is about increasing the maximum single wager limit from \$300 to \$500 for all house-banked gaming tables.

Chair Levy mentioned that there were additional materials on the website for this tab.

Commissioners discussed holding this tab over to the next meeting so that they have more time to review all the materials that were given to the commission. **AAG Suzanne Becker** told the commissioners that they had a couple options. They could move this item to later in the day or tomorrow. Or they could move this item to the next commission meeting. Commissioners unanimously voted to move this item to the next meeting agenda.

Tab 8

Petition for Discussion and Possible Filing – Debit Card Rules ATOM

Lisa C. McLean, Legislative/Policy Manager and Rules Coordinator (LPM) presented the materials for this tab. This petition was submitted in April 2022, and it was proposing to amend WAC 230-15-150 to allow chips to be sold using debit cards. In May 2022, the Commission agreed to initiate rulemaking, and at the time staff noted that other rules in addition to WAC 230-15-150 needed to be amended. Staff brought some draft language for amending rules, and in addition to that adding new rules.

Vice Chair Patterson has concerns with the individual not getting up from the table to rethink getting more money from an ATM Machine. **LLM McLean** said the petitioner feels that by allowing debit transactions at the tables may allow for more control over cash withdrawals. In Nevada, operators can set daily limits on the amount of cash patrons are allowed to withdraw from their accounts. Those limits are set for each patron and require a 24-hour waiting period prior to any change to their limits. Currently, any limits on ATM withdrawals will be imposed by a patron's bank in addition to a responsible gaming message displayed either near the system or on a printed item given to the patron.

Vice Chair Patterson would like to hear more about the proposed rule change that would result in there being more control over what their customers spend. **Commissioners Lawson** stated that the petitioner is the manufacturer. **Michael Vizzo**, Senior Product Manager with Light & Wonder addressed the Commissioners. He said, one of the benefits is limits based on regulatory guidance to prevent problem gambling and lower thresholds than what are available on an ATM

and we can set lower transaction limits. We can set time interval and daily limits. This will be implemented directly at the table and could limit the players from exceeding funds that they don't have.

Commissioner Sizemore asked staff if this AToM was considered gambling equipment.

Director Griffin answered yes, this is considered gambling equipment. **Commissioner Sizemore** asked if staff has already had one of these machines in the lab for evaluation.

Director Griffin answered yes. **Bill McGregor**, Special Agent Supervisor (SAS) stated, that this equipment is not in play currently. Their equipment that we have in the lab does have the ability to set limits, and in the rules, you will see that staff has purposed some daily limits on the amount that a patron would be allowed to withdraw at the table using that card.

Vice Chair Patterson asked what would be the limit staff is asking for. **Director Griffin** said \$500.00 for a single transaction and \$2,500 within a 24-hour period. **Commissioner Lawson** asked if it would possible to have a problem gambling tag line on the receipt that is printed out at the ATM? **Mr. Vizzo** said it cannot do that at this time. **Chair Levy** asked if the Commissioners could view the machine next month. **Vice Chair Patterson** has an uneasy feeling about this because she said *“it feels like a direct correlation between speed of play and problem gambling”*. And, in her opinion it feels like we are moving into a cashless transaction.

Tana Russell, Assistant Director with The Evergreen Counsel on problem gambling and a Certified Gambling Counselor stated, *“I have recently read about self-imposed limit-setting devices and tools versus agency-imposed limit-setting devices and tools. There is some evidence that suggests that setting limits is helpful for players in terms of a responsible gaming resource and tool. There are certain circumstances where it seems to have backfired in terms of increasing risk. Some of those include the agencies may set limits higher than what players tend to set for themselves. So an agency may set a limit for \$100 or \$500 but a player if given the opportunity to set it or themselves might set it at \$20 or \$50.*

There is also some consideration in terms of just how the tool displays options for limit-setting to a player if it sorts them in order of highest to lowest. And so, the player sees the highest limit option first. They just happen to see it first. That also can increase risks for the player in terms of spending more than they can afford just because of the way it was shown to them”.

Chair Levy asked if there were any further questions.

Vice Chair Patterson stated, *“I just wanted to say, Madam Chair, because of my experience over the last three years on the Problem Gambling Taskforce, I feel very uncomfortable about this. It feels like we're moving toward a cashless transaction system here. And I know that that break is sometimes lifesaving for people who have addiction. So I just wanted to let you know that I probably am not interested in moving forward”*.

Commissioner Sizemore moved to file the amended draft language for further discussion with the amendment being in WAC 230-15-506 (10) and change OR to AND on a printed item given to the patron.

Vice Chair Patterson seconded the motion.

The motion passed unanimously. 4:0

Tab 9

Petition To Initiate Rule-Making

Lisa C. McLean, Legislative/Policy Manager and Rules Coordinator (LPM) presented the materials for this tab. In February, we received a petition from Tiffini Cox, representing Galaxy Gaming from Las Vegas, Nevada, who was proposing to amend WAC 230-15-685(4)(b) to allow house-banked card rooms licensees to connect more than one progressive jackpot of different card games. Currently, the rule only allows licensees to connect a progressive jackpot on different card games, so they are asking to connect more than one to different card games.

Chair Levy asked if Commissioners had any questions. **Chair Levy** asked the subject matter expert, what does this look like if I'm at a casino.

Steve Cvetkoski, Director of Product Development at Galaxy Gaming said, *“Essentially what this rule change would offer is, if we had a game type like Pai Gow game of ours, and we can have multiple tables connected with multiple jackpots on each table. So those say those two same jackpots would go across more than one table without any issues, as I currently allowed in the rule. What we also have now is, say a different Pai Gow variant, where there are some rule changes, but the parts that make up the probability of the game, say the number of cards, which cards are used for the evaluation do not change. So because of that, we can connect different game types as is currently allowed as long as they have the same probability and the same winning hand. And it's already allowed for one progressive”*.

Victor Mena, with the Last Frontier and New Phoenix stated that, *“The explanation is very confusing what was asked. I guess in its simplest terms, the two Pai Gow games that he is describing, one is called Exposed, where the dealer's hand is exposed to all the players, and you are dealt the same seven cards at the table. The other game is not exposed. The dealer's hands are concealed. You still get the same seven cards. The progressive jackpot is played off of your seven cards dealt. Right now, we can't put the same jackpot on those two games in the same property because they are considered different games. The probability of the jackpot that was identical to the player so there was no change to the player's outcome on the hand because you are still playing with the same seven cards, so the probability of the payouts are identical.*

And that is what this is trying to codify as to be able to do that exact thing. Could this pass over on multiple different games? It could as long as the cards dealt are the same to the player and the outcome is the same on the same cards”.

SAS McGregor stated, *“a little correction of what Victor just said. We already allow a jackpot to be connected on multiple tables as long as the probability of winning the hand is the same. What this petition is doing is, right now, it is limited so you can only connect one jackpot between tables. In recent history, when we remove the number of games that could be played on a game, what happened is we started getting games with multiple jackpots being offered. The most common that I have heard or seen is they offer a \$1 jackpot and a \$5 jackpot. And so right now, under the rules they could only connect that \$1 jackpot or one of those jackpots, the \$1 or*

the \$5 between tables. This amendment would allow them to connect both the \$1 and the \$5 jackpot between those tables, so all it is, is removing the limit of one. Back when this rule was written, typically we only had one jackpot on a table. We now have multiple jackpots available on a table, and so they want to be able to link. If you link the two tables together for the jackpot, it makes sense to link both the \$1 and the \$5 jackpot or both jackpots on the table. So that's what this rule is really addressing or fixing. Allowing them to link more than one jackpot on a table.

Director Griffin asked if SAS McGregor could answer the second part the Commissioner Sizemore's question regarding how many jackpots are currently offered on games. **SAS McGregor** said currently there is no limit in WAC anymore. **SAS McGregor** asked Steve Cvetkoski if he was aware of anything in their games. **Mr. Cvetkoski** stated that there is only two for progressives.

***Vice Chair Patterson** moved to initiate rule-making for further discussion.
Commissioner Lawson seconded the motion.
The motion passed unanimously. 4:0*

The March commission meeting adjourned day-one at 1:34PM. The Commissioners will reconvene tomorrow at 9:30 AM at the same place.

**March Gambling Commission Meeting Minutes
Hybrid Meeting held at the
Washington Liquor and Cannabis Board
March 10th, 2023**

Commissioners Present:

Chair Alicia Levy
Vice Chair Julia Patterson
Bud Sizemore
Sarah Lawson (Via Teams)

Ex Officio Members Present:

Representative Shelley Kloba (Via Teams)

Staff Present:

Tina Griffin, Director
Chris Wilson, Deputy Director
Lisa McLean, Legislative and Policy Manager
Tommy Oakes, Interim Legislative Liaison
Suzanne Becker, Assistant Attorney General (AAG)
George Schultz, IT
Julie Anderson, Executive Assistant

Staff Present Virtually:

Gary Drumheller, Assistant Director; Julie Lies, Tribal Liaison; Kriscinda Hansen, CFO; SAS Tony Hughes; Jess Lohse, Special Agent and Acting Rules Coordinator

Chair Levy reconvened Day-Two of the March commission meeting on March 10, 2023, at 9:32AM and called the role to ensure a quorum. There were four people in the audience and 43 on Teams.

Tab 8

Petition for Discussion and Possible Rule Filing (Motion Correction)

Lisa McLean, Legislative and Policy Manager presented a formatting error regarding the Debit Card AToM Machine. **AAG Suzanne Becker** clarified the formatting error.

Commissioner Bud Sizemore withdraw amended language and recommend the draft language proposed by staff also to including signage and/or printed message on the debit receipt.

Vice Chair Patterson seconded the motion.

The motion passed unanimously. 4:0

Tab 10

Presentation – Problem Gambling Awareness Month

Roxane Waldron, MPA Problem Gambling Program Manager and **Maureen Greeley**, Executive Director, Evergreen Council on Problem Gambling presented the materials for this tab. March is national Problem Gambling Awareness month. Both Ms. Waldron and Ms. Greeley presented a PowerPoint presentation.

Vice Chair Patterson commented on the television commercials airing and that they were well done.

Tab 11

Petition to Initiate Rule Making

Lisa McLean, Legislative and Policy Manager presented the materials for this tab. Yuri Seyranovic Saaryan of Auburn, WA submitted a petition to amend WAC 230-23-015 and WAC 230-23-020 on January 13, 2023. Muhammad Aljadallah of Yakima, WA submitted a similar petition on January 24, 2023. In both cases, the individuals requested a change to the self-exclusion rules. Both individuals claim that they did not understand the full implications of putting themselves on the self-exclusion list and that the process was not completely explained to them. Both petitions request a change to the rules to allow removal from the self-exclusion list.

Vice Chair Patterson asked in other states who makes the determination of who can be excluded from the self-exclusion list. **LLM McLean** answered that in New Mexico there is a form that is submitted to their Board. **Chair Levy** stated her concerns with the distribution of the self-exclusion forms to self-exclude. **Maureen Greeley** announced that she had recently returned from a conference where self-exclusion was a topic of conversation. Washington's best practices might be changes. This is a tool for the individual to help themselves. Including the establishments that are helping to enroll the public to understand what they are signing. **Roxane Waldron**, stated that the problem with going back to the person the next day to ask if they were indeed serious about self-excluding themselves from gambling could be diluting the program's effectiveness. She also indicated that having two people out of 230 people complain about wanting to get off the list is pretty good.

Commissioner Sizemore recalls the effort of time staff did to work on this topic. He stated that we were very mindful of the policy before we went live with this program. He doesn't feel that we need to make big changes to this topic. **Dave Malone**, Evergreen Council stated that the cards are translated in several languages listed on the Gambling Commission website. **Director Griffin** reiterated that the cardrooms are giving out the cards in the

proper languages. **Commissioner Lawson** feels like this problem of not having the proper materials in the proper language falls to the operators, not necessarily to the Gambling Commission to make rule change. **Chair Levy** doesn't feel that we need to change the rule currently.

Vice Chair Patterson moved to deny the petition for the reasons of the rule in place now is working and a very small percentage of people are asking to be removed from the self-exclusion list.

Commissioner Sizemore seconded the motion.

The motion passed unanimously. 4:0

Chair Levy asked staff to keep an eye on this topic. **Commissioner Sizemore** also suggested attending conferences to help educate staff.

Tab 12

2023 Legislative Update

Tommy Oakes, Interim Legislative Liaison (ILL) presented the materials for this tab. ILL Oakes gave an update on the our agency request legislation SHB 1132 Relating to the oversight and training requirements for limited authority peace officers. He also updated the Commissioners on bills with direct gambling industry impacts.

- HB 1824, Authorizing bona fide charitable or nonprofit organizations.
- 2SHB 1681/2SSB5634 Relating to Problem Gambling.
- HB 1707 Relating to bingo conducted by bona fide charitable or nonprofit organizations.

He congratulated Commissioner Lawson, who was confirmed by the Senate unanimously this month.

Commissioner Sizemore asked if both the Problem Gambling bills were identical. **ILL Oakes** confirmed that was true. **Maureen Greeley**, mentioned in the chat that the two Problem Gambling bills were not the same.

Chair Levy adjourned the meeting at 11:00AM so that Commissioners could go into Executive Session to discuss current and potential litigation with legal counsel, including tribal negotiations.

Chair Levy adjourned the meeting at 1:15 PM.