

**MINUTES
GAMING ADVISORY COUNCIL**

*May 2, 2014
Helena, Montana*

This is a summary of the Council meeting. The meeting in its entirety is recorded in a digital audio file format and maintained at the Gambling Control Division office at 2550 Prospect Avenue, Helena, Montana. Exhibits (if any) are on file in the office of the Gambling Control Division.

COUNCIL MEMBERS PRESENT

Tim Carson	Kevin Myhre
Jed Fitch	Rep. Casey Schreiner
Mark Kennedy (Chairman)	Mike Kenneally
Steve Morris	

DIVISION STAFF PRESENT

Rick Ask	Ben Kamerzel
Dave Jeseritz	Angela Nunn
Lisa Christiansen	Cregg Coughlin

SUMMARY OF COUNCIL ACTION

- ◆ **The Council voted unanimously to approve the minutes of the January 10, 2014 meeting.**
- ♥ **The Council voted unanimously to elect Tim Carson (Vice-Chairman).**
- ♣ **The Council added Mike Kenneally to the Promotional Games of Chance Subcommittee.**
- ♠ **The Council tentatively set the next meeting for September (date to be determined) 2014 in Missoula.**

CALL TO ORDER AND ROLL CALL

Chairman Kennedy called the meeting to order at 10:00 a.m. All members were present except for Senator Sonju and Bob McAnally who were excused. Mr. Kennedy introduced Mike Kenneally, the newest Council member. The minutes from the January 10, 2014 meeting were approved unanimously. The Council voted unanimously to elect Tim Carson as Vice-Chairman. Mr. Ask explained that Deputy Director Darkenwald was unable to address the Council, but that he and Attorney General Fox appreciate all of the Council's hard work.

GAMBLING CONTROL DIVISION UPDATE

Mr. Ask explained that the Division is very busy preparing for renewals. Mr. Ask explained that after a suggestion from Dave Kraft and Tim Carson at the last GAC meeting, the Division is working on updating the report on VGM average gross daily income values by machine type. Mr. Ask stated that now the Division should soon be able to provide a report on every machine or almost every machine rather than just those that ran at least 89 days.

Ms. Nunn gave a demonstration of the Taxpayer Access Point (TAP), which is the Department of Revenue's portal into the database. Montana Interactive (MI) is currently used for DOJ permitting. The online renewal process will be on TAP.

Ms. Nunn gave a brief overview of statistics for third quarter (FY2014). She explained that video gambling machine tax collections for the third quarter (FY2014) were approximately \$14.3 million, a 2.85% increase from the previous quarter, and 1.6% decrease compared to collections in the third quarter fiscal year of FY2013. The Division received 72 liquor and gambling license applications in the third quarter FY2013, 14 more (a 24% increase) than the number of applications received during third quarter FY 2013, and 25% less than the number of applications received in the last quarter. About 1,600 gambling operator licenses have been issued this fiscal year. Third quarter of FY2014, 809 VGM permits were issued, about a 9% decrease from the third quarter of FY2013. Live keno and bingo permit numbers are comparable to this time last year with 93 issued through third quarter FY2014, 1% more than this time last year. Ms. Nunn explained that 38 casino night permits were issued in fiscal year 2013; to date 29 casino night permits have been issued for fiscal year 2014. In FY2013, 124 Calcutta permits were issued; to-date 123 Calcutta permits have been issued for fiscal year 2014. Ms. Nunn stated that to-date, 14 small-stakes and 142 large-stakes tournament permits have been issued. She said that card dealer licenses (441) have decreased 7.5% and card table permits (259) have decreased 4.8% compared to fiscal year 2013.

OLD BUSINESS

Promotional Games of Chance

Mr. Ask explained that the subcommittee had been unable to meet prior to this meeting. Mr. Carson stated that this is a large task which will be a summer project considering the whole gamut of promotional games. Mr. Ask said that problems with promotional games of chance are not limited to gambling operators, the Division deals with big promotional activities being conducted through television and radio, and frequently the Division has to ask them to discontinue an unauthorized activity. Mr. Ask stated that the Division realizes it can sometimes be difficult for the public to know what promotional activities can be offered. He said "Sweepstakes" need to be defined, so it isn't a gambling activity; gift enterprises, illegal devices, or illegal games will not be permitted. Mr. Ask would like to work with the subcommittee

through the summer on that topic as well and he hopes the subcommittee will have a package to present to the Council dealing with promotional/sweepstakes activities at the next meeting. Mr. Kenneally was appointed to this subcommittee.

Temporary Authority

Mr. Ask stated that the request to add temporary authority to the gambling code has been endorsed by the Council and the Attorney General's office as well. Mr. Ask is proposing a short amendment to the statute giving the Department authority to draft rules to grant temporary authority, then the Division can work with the Liquor Division in coordinating temporary authority and with the Council to figure out how and when temporary authority will be issued.

Unclaimed Pots

Mr. Ask explained that unclaimed pots (sports pools and sports tabs) are not addressed in statute or rule. Jim McKeon, Department of Revenue, explained that after five years unclaimed pots have to be turned over to the state as unclaimed property. Mr. Morris asked if someone did not claim a \$50 sports board pot, if it would have to be held, with the board for five years and then the board and pot would have to be turned over to the state. Mr. McKeon stated that that was correct.

NEW BUSINESS

Charitable Gaming

Mr. Ask explained that charities that use raffles to raise money occasionally use the internet and credit cards, both of which are prohibited in Montana law. The Division contacts the organization involved, which is usually very cooperative; these organizations have been invited to speak to the Council if they want to make a suggestion for change. Mr. Ask introduced Ms. Tanya Holmes, corporate attorney for a fundraising organization for St. Jude's Children Hospital. Ms. Holmes said her goal is to work with states to ensure that their fundraising efforts are promoted and in compliance with each jurisdictions' statutes and rules. Ms. Holmes introduced Anisha Looney and Kelly Hutsell who are Dream Home fundraiser specialists. Ms. Holmes described the Montana "Dream Home 2013" raffle, which sold approximately 6,500 tickets, and one of the ways the tickets were sold was by credit card. Ms. Holmes explained how the organization has worked with Colorado regulators to propose changes to their rules which would allow 501(c)(3) charitable organizations to collect the consideration for a raffle ticket in advance and in full, by cash, check, debit or credit card.

Mr. Ask stated that charities need to be distinguished from other gambling operators or licensees or sponsors of activities. Mr. Kennedy asked about the organization's internet ticket sales in other states. Ms. Holmes explained that New Mexico distinguishes charitable organizations from "for-profit" organizations and allows these sales. She stated that California and Virginia do not allow internet sales of raffle tickets, but that she will be meeting with Virginia next Tuesday. She explained that her organization is working more with the credit card issue than the internet

issue, because with a call center they can take credit cards. She said that 50% of the sales in Montana were paid with credit cards whereas 75% of the sales were by credit card nationally and that convenience/credit card fees are absorbed by the fundraising organization. Their goal is to submit legislation to the legislature this year to allow credit card payments for their raffles, not necessarily credit card payments on the internet.

Mr. Myhre wanted to know the difference between using debit and credit cards. Ms. Holmes stated that debit cards can only be used for an in-person purchase only since a PIN number needs to be used.

Mr. Morris asked if this would be included in the subcommittee's summer tasks. Mr. Kennedy stated that this topic will be assigned to the subcommittee if Attorney General Fox agrees to allow this.

Social Card Games

Mr. Ask explained that the Division tried to distance itself from social card games played for minimal amounts of money and cited the Indian Gaming Regulatory Act definitions in statute. He stated the Division needs to define "minimum value" and social card games. The Division will develop a proposal to add to the legislative package to present to the Council at the fall meeting.

Draft Administrative Rules

Mr. Ask reviewed the draft administrative rules. Mr. Ask stated that placement of machines has become an issue and the Division needs to better define where a VGM may be placed. Mr. Carson suggested that amendments to these rules should be postponed pending the Supreme Court decision on this issue.

Mr. Carson asked if a template was available for management agreements (23.16.508) and Mr. Ask responded that the Liquor Division has one available on their website. Mr. Morris and Mr. Kenneally asked if the statute was clear as to who is considered a management employee. Mr. Coughlin stated that the agreement is needed for someone supervising gambling and/or liquor staff and functions within the location. Some concerns were noted regarding the current definition being too broad. Mr. Kennedy recommended that the division review the definition of manager and be more specific – such as how far down the ladder it goes. Mr. Ask stated that the Division is open to written suggestions if there are proposals concerning the definition of who is considered a manager.

Mr. Morris commented on the amendments to 23.16.1705 stating that the \$25 wager limit causes problems with progressive pools. He also wanted to know what to do if the point is not hit exactly, i.e. if the point is 29 is the next closest score 30 or 28. Mr. Ask stated this could be addressed in the operator's sports pool rules.

PUBLIC COMMENT

Ronda Wiggers, MCMOA, requested that the amendments to 23.16.201 and 23.16.1926 be removed from the rule-making process at this time until after the Supreme Court Decision. Mr. Peterson, GIA, also requested that the Division postpone amendments to 23.16.201 and 23.16.1926. Greg Smith, Attorney, also requested that the Division postpone amendments to 23.16.201 and 23.16.1926. Dennis Palagi, Great Falls, addressed the Council with his concerns regarding these rule proposals and requested postponement of these amendments.

The Council voted (5 in favor, 2 opposed) to postpone the proposed rule amendments on 23.16.201 and 23.16.1926.

Mr. Peterson asked if removal of the \$25 wager limit on sports pools could be part of the DOJ/GAC legislative bill, keeping the \$2,500 pot limit. Mr. Ask stated that he would need to discuss this with Attorney General Fox since historically there has always been limited wagers regarding gambling.

FINAL BUSINESS

The Council tentatively scheduled their next meeting for September in Missoula. The meeting adjourned at 12:30 p.m.