

Colorado Limited Gaming Control Commission

Minutes of Public Session
March 15, 2018

Public Session

I. Call to Order

The March 15, 2018 meeting of the Colorado Limited Gaming Control Commission was called to order by Chairman Hutson at approximately 9:15 a.m. at the Division of Gaming office, 17301 W. Colfax Ave, Suite 135, Golden, Colorado. Commissioners Mohr, Carlson and Shirley were present and a quorum existed. Commissioner Mares was excused for good cause.

Officials & Administrators in Attendance

Roger Hutson, Chairman
Jannine Mohr, Vice Chairman
Tim Carlson, Commissioner
Ryan Shirley, Commissioner
John Lizza, First Assistant Attorney General
Ceri Williams, Senior Assistant Attorney General
Donia Amick, Director
Kenya Collins, Director of Administration
Kirsten Gregg, Chief of Investigations
Paul Hogan, Chief Auditor
Stephanie Johnson, Audit Supervisor
Sean Ballain, Table Games Chairman
Vickie Floyd, Controller
Phil Spencer, Acting Agent In Charge, Cripple Creek
Lad Sullivan, Agent In Charge, Central City
John Madruga, Agent In Charge, Background Unit
Terri Feagans, Licensing
Wendy Spaulding, Assistant to the Director

Executive Session

The Commission voted unanimously to go into Executive Session pursuant to sections 24-6-402(3)(a)(III), 12-47.1-522(1)(a) and (b) and 12-47.1-527(1) of the Colorado Revised Statutes to review confidential reports from the Division of Gaming and the Colorado Bureau of Investigation.

Public Session (reconvened)

II. Opportunity for the Public to Address the Commission

The Chairman extended an opportunity for the public in attendance to address the Commission on any topic not on the agenda. Mr. Lawrence Wall, President of the Problem Gambling Coalition, updated the Commission on activities that the Coalition has planned to raise funds. Mr. Wall stated that their budget is approximately \$40,000-\$50,000, with hopes for \$100,000. Mr. Wall apprised the

Commission that their yearly golf tournament is scheduled for August 1, 2018 at the Arrowhead Golf Club and the National Problem Gambling Conference will be held in Denver next year in July 2019.

III. Consideration of Licensing Actions

The Commission voted unanimously to approve the Renewal of the Retail Licenses for CC Gaming, LLC d/b/a Johnny Z's Casino and American Gaming Group LLC d/b/a Wildwood Casino at Cripple Creek, the Renewal of the Operator License for Merit Cripple Creek LLC and the Renewal of the Manufacturer/Distributor Licenses for Merit Cripple Creek LLC and NRT Technologies, Inc.

The license renewals shall expire two years from the date of their current expirations.

IV. Consideration of Disciplinary Actions

Ceri Williams, Senior Assistant Attorney General, presented the Order of Summary Suspension in Case No. DOG18000107, In the Matter of Toure Symone Powell, Support License No. 46394.

The Commission voted unanimously to approve and authorize the Chairman to sign the disciplinary action.

V. Consideration of Amendments to Rule 21 – Rules for Blackjack-Poker Combination Games

The Commission voted unanimously to open the hearing on proposed amendments to Colorado Limited Gaming Regulations, Rule 21. Sean Ballain, Table Games Chairman, Division of Gaming, presented the proposed changes. No one from the public came forward to testify on the amendments.

The Commission voted unanimously to close the rulemaking hearing and to amend Colorado Limited Gaming Regulations, Rule 21, as presented.

VI. Consideration of Division Financial Statement for January 2018

Vickie Floyd, Controller, presented the Statement of Gaming Revenues, Gaming Taxes, and Expenditures (unaudited) for the seventh (7th) month ending January 31, 2018.

The Commission voted unanimously to approve the financial statement and authorize its distribution.

VII. Rulemaking Hearing on Colorado Gaming Rule 14, Gaming Tax

The Commission voted unanimously to open the hearing on Colorado Gaming Rule 14, Gaming Tax.

Kenya Collins, Director of Administration, Division of Gaming

Ms. Collins presented an overview of the gaming tax methodology the Commission will use in the process of setting the tax rates for the upcoming fiscal year. Ms. Collins also summarized the anticipated presentations the Commission would hear during the meeting.

Colorado Gaming Association (CGA)
Mark Grueskin, General Counsel

Mr. Grueskin addressed the Commission on CGA's proposed amendment to Rule 14, regarding Free Play. Mr. Grueskin summarized the procedural background over the last year of the present CGA proposal. Mr. Grueskin addressed the propriety of the proposal being heard during the Commission's annual gaming tax setting hearings because the proposed amendments relate to a tax policy or attribute. Mr. Grueskin addressed a procedural challenge made by opponents to the CGA's proposal and stated his view that the CGA followed the requirements of the Administrative Procedures Act.

David Farahi, President of the CGA

Mr. Farahi entered into the record the CGA's presentation regarding its free play proposal and a February 19, 2018 letter from Mr. Anthony F. Lucas, Ph.D. supplementing an article titled "The Free-Play Tax Deduction Debate: How Academic Research Can Help." Mr. Farahi testified that the CGA's goal is to stimulate and maximize the growth of gaming in Colorado to the benefit of all funding beneficiaries. Mr. Farahi stated it has taken 10 years to reach the same level of gaming revenue for the state as was generated back in 2007. He stated that this is despite the tremendous growth in GDP and population. Mr. Farahi testified that the growth the industry has experienced over the last 10 years came from growth in table games and is directly related to the increase in bet limits from \$5 to \$100. Regarding slot machines, the table games growth is proportionately a larger percentage of gaming revenue. Slot revenue is still lower than in 2007. Mr. Farahi stated that the CGA's proposal will encourage the use of promotional coupons sent to patrons inviting them to play basically for free on a slot machine. He stated that different states have different taxing schemes on these promotional coupons and Colorado is one of only 7 states that fully taxes these coupons which puts Colorado at a distinct disadvantage when competing against other states. Nevada is one of the largest beneficiaries of Colorado tourists, and the goal of the CGA's proposal is to encourage them to stay and play in Colorado to benefit Colorado. Mr. Farahi emphasized a slide that showed the tax effect of promotional coupons in Colorado versus other states that do not tax coupons. He also noted that these other states are limited license jurisdictions that limit the number of casinos, not like Colorado where anybody can come and apply and build a casino. It shows Colorado is under-using promotional coupons because of the taxation. In response to a previous question by the Commission, Mr. Farahi reported that the state of New York and Indiana put a specific amount of promotional credits that would be tax free, and it worked so well they increased the amount to further drive growth.

Kenya Collins, Director of Administration, Division of Gaming

Ms. Collins presented the Division's proposed amendment to the CGA's proposal and entered into the rulemaking record documents from the following entities:

- The City of Cripple Creek's Resolution in support of the CGA's proposal.
- The City of Black Hawk's letter in support of the CGA's proposal.
- The City of Central's submission in opposition to the CGA's proposal.
- History Colorado's letter in support of the CGA's proposal.
- Teller County Board of County Commissioners' letter in support of the CGA's proposal.

The following presentations were then made:

Colorado Community College System

Dr. Nancy McCallin, President

Dr. McCallin testified in support of the CGA's Proposal in its current form stating that it struck a reasonable balance between encouraging additional investment in limited gaming facilities and the industry as well as protecting the recipients' limited gaming tax revenues which are critical as revenue streams to the Community College System. Dr. McCallin presented a letter and stated that two primary features were critical to the CCCS's support: 1) Pilot Evaluation System - the 3 year pilot period that allows all parties to gauge success of the proposal and the specific targets net of any tax rate changes, are set out during the pilot period for overall tax revenue growth; if these targets are not met during the pilot period, the program would end; and 2) Minimum tax rate growth rate target - if the pilot is deemed successful and the program continues, the minimum annual tax revenue growth rate net of the tax rate reduction of 3.5% would continue into perpetuity. This minimum annual growth rate would grow from the FY17 -18 base revenues regardless of economic circumstances and would be compounded into the future. Dr. McCallin stated this protects the limited gaming tax revenue recipients long term and has the potential to reduce the volatility as well as to encourage gaming investment throughout the state.

Mark Superka, VP Finance and Administration

Mr. Superka submitted and explained a document containing 5 different scenarios illustrating the main features and impact of the CGA's proposal:

Scenario 1 – Pilot Criteria Not Met - tax revenues do not meet growth, so the program would end.

Scenario 2 – Pilot Criteria Met and Steady Post-Pilot – growth revenues meet pilot, all growth throughout the various years, additional tax revenue, tax rate adjustments by casinos.

Scenarios 3 – 5 - Different Rates of Growth.

City of Central

Mr. Daniel Miera, City Manager

Mr. Miera presented a written presentation and testified that Central City is opposed to the CGA's proposal. He stated for the record that Gilpin County previously was in support, but has scaled back that support to a neutral position. Mr. Miera stated the City is opposed to the proposal because compliance issues aside, even if the proposal is ready to go and is legal, the public policy behind the proposal is not necessary; it is not fair to provide a tax break to casinos at this time; it is unwarranted and there are other public interests at stake such as gambling addictions and social economic interests. Mr. Miera disagrees with the CGA's position regarding the health of the industry stating that the industry is up as far as numbers - 2017, 2018, first 1/2 of 2018, revenue was up nearly 8%. He stated there is no data that proves an increase in the use of promotional credits has been the cause of the increases seen. Regarding extended gaming for community colleges and other recipients, Mr. Miera stated since 2010, the average change from year to year was over 8.3% so there has been continued growth and why cap that growth at 3.5% when the beneficiaries continue to struggle. Central City struggles to provide services the gaming community needs. Mr. Miera noted that 3.5% does not reach recent inflation rates. Mr. Miera stated it is not a question if the proposal can be done, but should it be done and he is struggling to understand why it is necessary and why tailored to one particular type - electronic vs. non electronic credits. The proposal will

result in fundamental unfairness in the market capture between 2 local governments, and Central City will not benefit. Mr. Miera stated he would not rehash numbers provided last year, but many are still valid.

The Famous Bonanza Casino/Easy Street Casino

Mr. Roger Brown, General Manager

Mr. Brown presented two documents for the record in opposition to the CGA's proposal. Mr. Brown testified that his casinos fully support the City of Central's position that questions the necessity of the proposal. He testified that the Commission asked the CGA to work with the industry as a whole, but there has not been communication from CGA regarding a proposal that could work for all casinos. He stated that a tax rate change could benefit all casinos, while the CGA's proposal would only benefit some casinos but not others. He stated that it had come to his attention that some of the casinos who were in support last year are no longer in support of the proposal. Mr. Brown stated that they are siding with the City of Central stating that there are too many questions to make a fair judgment on the proposal.

The Chairman extended an opportunity for the public to testify on Rule 14, Gaming Tax and the CGA Proposal, and the following came forward:

Wildwood Casino

Mike Chaput, Director of Operations

Mr. Chaput testified in support of CGA's proposal. He stated that the current system taxes the dollars that customers leave in slot machine and also taxes dollars casinos give customers as incentive to walk through their doors. Mr. Chaput stated that the customer who is offered free play to play the slot machine has nothing to lose by coming to his casino and that the competition in the industry is fierce. He stated that they develop and retain customers by providing them with incentives such as free play and that the taxation of these promotions make it less viable to offer them to a wider audience. Mr. Chaput stated he knows based on 27 years of working in Cripple Creek that the customers they draw to Cripple Creek with free play will not necessarily spend all their visit at his casino. Customers who use the free play that his casino has given them will add to the revenue picture of the neighboring casinos. That is the nature of condensed geographic casinos. Mr. Chaput stated that those at the Wildwood Casino are in favor of the CGA's proposal and believe it will have a positive effect for all operators in the industry. Any stimulant that can drive increases to the gaming towns will benefit all operators with long term benefit.

Jeff Aiken, Citizen of City of Central

Mr. Aiken testified that living in Central City prior to gaming gives him insight into the present debate. He testified that free play only benefits casinos that can afford it and that tax breaks to one group and not to another is not fair and is against the original purpose behind limited gaming in Colorado regarding saving the historical cities.

Jane Tomlinson, Century Casino, Compliance Manager

Ms. Tomlinson testified that Michael Rosenbaum, General Manager, was not able to be at the meeting so she was testifying on his behalf in support of the CGA's proposal. Ms. Tomlinson stated that as long time operators, they know that customers visit multiple casinos each time they visit a gaming town. They see the CGA proposal as a clear way to increase visitation to Central City which

will have a positive impact on all casinos. She stated that they operate in both the smaller communities in Colorado, and think the long term benefit will be significant and positive for all casinos.

Ray DuBois, City of Cripple Creek

Mr. DuBois testified that as has already been stated by the City of Cripple Creek, they are in favor of the CGA's proposal.

Joe Behm, Johnny Z's

Mr. Behm testified to a letter the casino had previously sent in opposition to the CGA's proposed amendment. He testified that the two main reasons for the casino's opposition are the competitive issues as well as the potential for the City of Central to see lower gaming revenues. He testified that those lower revenues to Central City would be passed along to the casinos in the form of high device fees and other burdens that would be detrimental to their business.

David Farahi, CEO, Monarch Gaming

Mr. Farahi testified that the CGA did try to communicate with Easy Street. Mr. Farahi stated that the Monarch Casino endorses the CGA's proposed amendment.

The Commission voted unanimously to close the hearings on Colorado Gaming Rule 14, Gaming Tax, and continue the hearings at 9:30 a.m. on Thursday, April 19, 2018 at 17301 W. Colfax Ave, Suite 135, Golden, Colorado.

VIII. Consideration of Organizational Matters

Approval of Minutes – Minutes of the February 15, 2018 Public Session of the Colorado Limited Gaming Control Commission were approved as presented.

Approval of Property Ownership - The Commission voted unanimously to approve the Division of Gaming employees' ownership of private property in Gilpin or Teller counties for residential purposes pursuant to §12-47.1-401(1)(b), C.R.S.

The Chairman extended an opportunity for the public in attendance to address the Commission on any topic not on the agenda, no one came forward.

Directors' Update:

Donia Amick – Director, stated that the Division will be commencing review of the background investigation rate. If there is a change from the current amount, the Division will bring the matter to the Commission at its April or May meeting. Director Amick then reminded all meeting attendees that the meeting next month will most likely be longer and to plan accordingly. Lastly, Director Amick updated the Commission on legislation that the Division is monitoring including, bills introduced on Simulated Gambling Activity and the Local Government Limited Gaming Impact Fund. She also stated that the Confirmation of Commissioner Carlson has been moved to the Senate floor.

Adjournment – The meeting was adjourned at approximately 11:17 a.m.


Wendy Spaulding, Secretary to the Colorado Limited Gaming Control Commission