

## Colorado Limited Gaming Control Commission

### Minutes of Public Session

April 19, 2018

#### Public Session

##### **I. Call to Order**

The April 19, 2018 meeting of the Colorado Limited Gaming Control Commission was called to order by Chairman Roger Hutson at approximately 9:15 a.m. at the Division of Gaming office, 17301 W. Colfax Ave, Suite 135, Golden, Colorado. Commissioners Mohr, Carlson, Mares, and Shirley were present and a quorum existed.

#### Officials & Administrators in Attendance

Roger Hutson, Chairman

Jannine Mohr, Vice Chairman

Tim Carlson, Commissioner

Cynthia Mares, Commissioner

Ryan Shirley, Commissioner

John Lizza, First Assistant Attorney General

Ceri Williams, Senior Assistant Attorney General

Flavio Quintana, Senior Director, Enforcement

Donia Amick, Director

Kenya Collins, Director of Administration

Kirsten Gregg, Chief of Investigations

Paul Hogan, Chief Auditor

Tseko Ivanov, Reporting Accountant

Phil Spencer, Supervisory Investigator, Cripple Creek

Lad Sullivan, Agent In Charge, Central City

Wendy Spaulding, Assistant to the Director

Terri Feagans, Licensing Specialist

Ryan Reather, Budget Director, Department of Revenue

Ramon Alvarado, Budget Director, Enforcement Business Group

Jenna Culver, Budget Officer

#### 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 12-47.1-527(1) of the Colorado Revised Statutes to review confidential reports from the Division of Gaming.

#### 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. No one came forward.

### **III. Consideration of Licensing Actions**

The Commission voted unanimously to approve the Renewal of the Associated Equipment Supplier license for Table Trac, Inc. The license will expire two years from the date of its current expiration.

### **IV. Consideration of Disciplinary Actions**

Ceri Williams, Senior Assistant Attorney General, presented the Order of Summary Suspension in Case No. DOG18000883, In the Matter of Tafari Lee Ownbey, Support License No. 47132.

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

### **V. Division Financial Statement**

Tseko Ivanov, Reporting Accountant, presented the Statement of Gaming Revenues, Gaming Taxes, and Expenditures (unaudited) for the eight (8) months ending February 28, 2018.

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

### **VI. Fiscal Year 2019 Budget Requests**

- *Presentation by the Colorado Division of Gaming* – Ramon Alvarado, Budget Director, Department of Revenue, presented the FY2019 budget request for the Colorado Division of Gaming in the amount of \$12,064,419. The Commission voted unanimously to approve the request as presented.
- *Presentation by the Colorado Department of Local Affairs* – Crystal Andrews, Gaming Impact Grant Program Manager, DLG, James McCoy, Finance Director, DOLA and Sherry Hubbard, Manger of Budget/Finance, DLG, presented the FY2019 budget request in the amount of \$211,365 for the Local Government Limited Gaming Impact Program, which is within the Colorado Department of Local Affairs. A discussion was had with DOLA representatives regarding questions from the Commission. The Commission voted unanimously to approve the request as presented.

*Presentation by the Colorado Department of Public Safety* – Matthew Packard, Chief, Colorado State Patrol, stated that Executive Director Hilkey was unable to attend the meeting and gave an overview of the budget requests being presented for the three Divisions within CDPS. Terri Anderle, CDPS Budget Director, came forward to answer questions posed by the Commission regarding the following budget requests.

- *Colorado State Patrol* – Deputy Chief Mark Savage presented the FY2019 budget request in the amount of \$3,399,827 and also provided detailed statistics and handouts concerning CSP activities in the gaming areas. The Commission voted unanimously to approve the request as presented.

- *Division of Fire Prevention and Control* – Mike Morgan, Director, presented the FY2019 budget request in the amount of \$199,073. The Commission voted unanimously to approve the request as presented.
- *Colorado Bureau of Investigation* – John Camper, Division Director, presented the FY2018 budget request in the amount of \$1,126,014. The Commission voted unanimously to approve the request as presented.

## VII. Continuation of Hearing on Colorado Gaming Rule 14, Gaming Tax

The Commission voted unanimously to open the continued hearing on proposed amendments to Colorado Gaming Rule 14, Gaming Tax. Representatives of the cities and counties impacted by gaming provided the following information which was admitted into the rulemaking record:

*Division of Gaming* - Kenya Collins, Director of Administration, presented an overview of the tax setting methodology and explained that testimony will also be heard on the Colorado Gaming Association's (CGA) proposal regarding tax rate adjustments for electronic promotional credits provided to patron by casinos.

Ms. Collins reviewed the Statements of Gaming Impacts/Annual Reports and entered the following reports into record as the representatives from the entities were not present:

- Colorado Judicial Branch
- Report from the City of Black Hawk
- Report from Colorado Office of Film, Television and Media
- Report from the Colorado Advanced Industries Accelerator Program

*History Colorado* – Steve Turner, Executive Director and Tim Stroh, Director of the State Historical Fund, requested to keep the tax structure at their current levels. Mr. Turner gave a brief overview of where the funds from limited gaming tax revenue has been spent by History Colorado in the past year and extended an invitation to the Commission to take a tour of the museum.

*Community College System* - Mark Superka, Vice President, Finance and Administration, presented the annual report and stated that the State Board supports maintaining the current tax structure to keep stability within the industry. He then gave a brief overview of the positive gaming tax revenue impacts on the community colleges in Colorado.

*Colorado Gaming Association (CGA)* – David Farahi, President and Mark Grueskin, General Counsel addressed the Commission. Mr. Grueskin stated that the CGA is not requesting a change in the current tax rate structure and asked that the Commission continue the existing structure. Regarding the CGA's proposed change to Rule 14 relating to Free Play, Mr. Grueskin provided the Commission a series of technical amendments after having conversations with the Division's Audit staff on verbiage that may be misconstrued by future Commissioners. He stated the purpose behind the amendments from the Division was to ensure there was no double counting or double deductions, which was never the CGA's intent. The most substantial change presented was a formalization of the process used so that the Commission can provide notice to beneficiaries and casinos of how the rates will be adjusted before the close of the budget year.

Mr. Farahi thanked the Commission for their time in reviewing all the information that has been provided and stated that the goal of the CGA is to stimulate growth in the gaming industry in

Colorado and increase the tax revenue for beneficiaries. He presented a chart showing survey data of gaming guests from all three gaming towns and explained that 69% of people visit 3 or more casinos per visit. He then explained that the proposal is broadly supported by the majority of the industry, and asked for support from the Commission on this pilot program to stimulate growth in the industry.

City of Cripple Creek – Paul Harris, Finance Director, stated the Cripple Creek City Council approved the Full House Resorts/Bronco Billy's expansion project which will add 250 rooms, spa and additional gaming devices. He also stated that Cripple Creek recommends keeping the current tax rate structure.

City of Central City – Daniel Miera, City Manager, provided a PowerPoint presentation presenting new information that and an analysis of the CGA's Free Play proposal. Mr. Miera provided statistics that shows positive growth in the industry in Colorado. He testified that need for Promotional Coupons to stimulate gaming revenue and keep gambling in the state of Colorado has not been substantiated. He respectfully requested that the Commission reject the proposed amendment and stated that the City supports keeping the current tax rate structure.

Gilpin County – Ron Engles, County Commissioner stated that the County is in support of keeping the current tax rate structure and explained that due to the lack of consensus amongst the casinos, Gilpin County is taking a neutral stance on the CGA's Free Play proposal.

Division of Gaming – Kenya Collins, Director of Administration, Division of Gaming, presented an analysis conducted by the Division of the CGA's Free Play proposal. Ms. Collins also entered a letter from the Famous Bonanza into the record stating the casino's opposition to the proposal.

Department of Revenue – Ramon Alvarado, Budget Manager, Enforcement Business Group, Department of Revenue, presented the Division of Gaming's projected AGP tax, AGP proceeds as well as the tax projections. Fiscal Year 2018 includes a projected AGP of \$835,600,000 and a projected tax of approximately \$124,700,000. The projected Fiscal Year 2019 AGP is \$864,400,000 resulting in a projected tax of \$129,400,000.

Anton Collins Mitchell LLP – Stacey Hekkert, Managing Partner and Kristin Holthus, Audit Manager, presented the materials that were provided to the Commission in their packets.

### Executive Session

The Commission voted unanimously to go into Executive Session pursuant to sections 24-6-402(3)(a)(II) and (III), 12-47.1-527(1)(a) of the Colorado Revised Statutes to review confidential tax information of individual casinos and to receive legal advice if necessary.

### Public Session (reconvened)

The Chairman called for a motion to certify that the continuation budget requests for Fiscal Year 2019 for the Department of Local Affairs, Colorado State Patrol, Division of Fire Prevention and Control, the Colorado Bureau of Investigation and the Colorado Division of Gaming, are being considered by the Commission in setting the gaming tax rate beginning July 1, 2018. The Commission voted unanimously to certify the FY19 budget requests.

The Chairman extended an opportunity for anyone from the public to address the Commission on Colorado Gaming Rule 14, Gaming Tax.

Roger Brown, Famous Bonanza and Easy Street Casino, asked the Commission to refer to the State of the State document, pages 9 and 10, which illustrate the fact that although the CGA's stated purpose for the Free Play proposal is to stimulate growth in Colorado, the information provided on these pages show a healthy growth in Colorado already. Mr. Brown testified that the Colorado limited gaming industry is already competitive and there is no need for a change.

Ann Dodson, President, Famous Bonanza and Easy Street Casino, expressed concern about the Free Play proposal and stated that they feel the tax setting policy should be based on empirical evidence and the needs of all stakeholders, including the entire industry, and the beneficiaries of the tax revenue received by the state from limited gaming. Ms. Dodson testified that the current tax rate structure has been in place for many years and the stability of this structure has been a positive attribute for investment in Colorado. Everybody knew what the structure was and still invested and came into Colorado and it has allowed all businesses large and small to thrive. Ms. Dodson stated that casinos are not all the same, that the Free Play proposal will not work, and will generally be a detriment to the entire industry. Ms. Dodson asked that the Commission consider the casinos that have been paying taxes for 25 years and who enjoy the stability of the current tax structure without special privilege.

Brian Watts, Isle and Lady Luck Casino, El Dorado Corporation, addressed a few points that were brought up earlier, including the suggestion that the rule change would somehow attract criminal activity or organized crime. Mr. Watts stated that having worked and being licensed in three states, he had full confidence that the Commission staff would never allow that to happen. Mr. Watts stated that Central City raised the AGP slot machine statistic as a growth measure, but he thinks that statistic is not correct. Mr. Watts emphasized that if the proposal does not show growth, it is only a pilot program. He stated that the proposal is a great opportunity and free play is a great tool and believes this proposal will be positive for the State of Colorado.

Mickey Rosenbaum, General Manager, Century Casino, stated he wanted to bring two points to the Commission's attention. First, he testified that the proposal is a pilot program, and may not work, but is just a test. The other important item to note was that it is an opt-in type program where a casino does not need to participate to get the advantage and does not need to purchase the system or become involved if a casino does not choose to. Mr. Rosenbaum feels it is a benefit for growth for those who wish to participate.

Edward Dodson, Famous Bonanza and Easy Street Casino, testified that this pilot program effects the entire state of Colorado and he would therefore not call that a pilot program. Mr. Dodson stated that adopting the proposal would create an intra-jurisdictional problem and bring the danger for creating Free Play wars. Mr. Dodson emphasized his opposition to the proposal.

The Chairman extended a last opportunity for anyone from the public to address the Commission on Colorado Gaming Rule 14, Gaming Tax. No one came forward.

The Commission voted unanimously to close the hearings on Colorado Gaming Rule 14, Gaming Tax.

The Commission then publicly deliberated on the proposed amendments to Rule 14.

Commissioner Shirley stated that he is in favor of keeping the current tax rate structure in place because he heard no disagreements and no reason to change the current rate structure. He then expressed his thoughts regarding the CGA's proposed Free Play amendment and stated that he has appreciated hearing the positions of both sides. Commissioner Shirley stated that he will vote in favor of the amendment because it will be rolled out as a pilot program. Commissioner Shirley explained that he is interested to see after the first three years how things fall out and hopefully it is positive for all jurisdictions.

Commissioner Mares first noted for the record that although she was not present at the last Commission meeting, she had reviewed all the documentation related to the CGA proposal and had listened to the audio files of that meeting. Commissioner Mares stated she spent a lot of time thinking about the proposal and the effect on Central City in particular and said she found it a very difficult decision based on the documentation and presentations from both sides. She stated she was leaning in favor of the amendment because it is a pilot program and is able to be changed at any time if the Commission sees some things happening which are against what people think the proposal will do. Commissioner Mares also stated that she is in favor of keeping the current tax rate structure in place.

Vice-Chairman Mohr thanked everybody from both sides who gave the Commission the information last month and this month and agreed with fellow commissioners that the Commission had received compelling information from both sides. Vice-Chairman Mohr stated that last year when a proposal came to the Commission from the CGA, she spoke at length about how she liked the idea but did not think the Commission had the authority to do what the CGA was asking. She then stated that to the CGA's credit, the CGA came back after working with the stakeholders with a proposal that contained features that she liked, primarily the pilot program. Vice-Chairman Mohr explained that without the pilot program she would be more conflicted. She stated that she would vote in favor of the amendment and agreed that after hearing a lot of testimony about facts and figures, the good news was that this was a rule change and that the Commission will have the ability to revisit the matter and will be able to look at actual data generated in the next couple of years. Vice-Chairman Mohr also stated that she is in favor of keeping the current tax rate structure.

Commissioner Carlson stated that he will vote in favor of keeping the tax rate structure the same. He then stated that as far as the CGA's proposed change, as the new guy, he thanked everybody for the education on the issue, from the small owners to the large casino operators, and to the counties and cities. Commissioner Carlson said he appreciated the passion on both sides and understood the business opportunity, but that his struggle was with the original intent of the amendment allowing gaming in the state and keeping the historical perspective. He also agreed with the other Commissioners that all the data can be confusing, but feels he understands the issue enough to make a decision. Commissioner Carlson also agreed that because this was a rule change, the rule can be changed back at any time if needed. He understood the struggle of the potential impact on the casinos, especially in the Central City, and stated he hopes they can grow business like anybody else. Commissioner Carlson stated that he would vote in support of the amendment to the rule at least initially and stated that it is something that needs to be watched closely over the next couple years to see the impact on recipients.

Commissioner Hutson said he echoed what his fellow Commissioners had stated regarding the CGA's Free Play proposal and that he is also in favor of leaving the current tax rate structure unchanged.

The Chairman called for a motion to amend Colorado Limited Gaming Rule 14 as follows: approve the CGA's proposed amendment (Regulation 47.1-1403) presented last month with the subsequent amendments presented today.

The Commission voted unanimously to amend Colorado Limited Gaming Rule 14 as stated in the motion.

The Commission made no changes to the current tax rate structure.

### **VIII. Consideration of Petition for Declaratory Order**

John Lizza, First Assistant Attorney General, Counsel to the Commission, addressed the Commission regarding the Petition for Declaratory Order filed by William J. Stecker, CPA and the Marble Group, Ltd. The Commission voted unanimously to deny the Petition and directed Mr. Lizza to prepare a written order to that effect.

### **IX. Consideration of Organizational Matters**

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

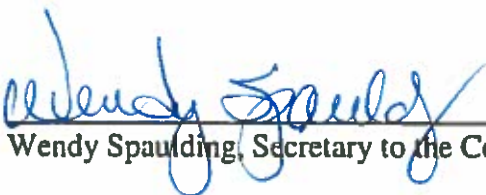
#### Directors' Update:

Flavio Quintana – Senior Director, Enforcement Business Group, thanked Director Amick and the Division staff for all their hard work in preparation for the annual tax setting hearings.

Donia Amick – Director, Division of Gaming, explained that the Division recently lost a team member, Andrew Jenicek, an auditor with the Division, and expressed her gratitude for the outpouring of support from the Department, Commission and the Industry and provided the venue and address where the services would be held.

Chairman Hutson extended an opportunity for the public to address the Commission before it adjourned. No one came forward.

Adjournment – The meeting was adjourned at approximately 11:55 a.m.



Wendy Spaulding, Secretary to the Colorado Limited Gaming Control Commission