

Washington Horse Racing Commission
Meeting Minutes
April 15, 2011

The meeting convened at 9:30 A.M. at the Auburn City Council chambers, Auburn, Washington. Present were: Paul George, Chairman; Jeff Colliton, Commissioner; Dr. Bud Hallowell, DVM, Commissioner; Hartly Kruger excused. Charles Clark, Assistant Attorney General; Robert J. Lopez, Executive Secretary; Patty Sorby, Confidential Secretary.

Item #1. Approval of the meeting minutes of March 10, 2011.

Commissioner Colliton moved to approve the meeting minutes of March 10, 2011. Commissioner Hallowell seconded the motion. Unanimously approved.

Item #2. Commissioner's report.

Chairman Paul George reminded those in attendance that there would be no meeting in May 2011, the next meeting is June 10, 2011. He said he didn't have much to report, he had talked to Commissioner Kruger before he left for his vacation and said that he had made some efforts with his contacts to assist in raising money for the Class C race meets and he'd been unsuccessful.

Commissioner Jeff Colliton had nothing to report.

Commissioner Bud Hallowell attended the Senate confirmation hearing in Olympia for his reappointment to the Commission. Senator King asked about alternative gambling. Commissioner Hallowell said he was not in favor of it in the long term. Commissioner Hallowell said the Tacoma paper usually has zero reports about racing but generally gives the results of the races. Commissioner Hallowell said there was an article with trainer, Larry Pierce. Mr. Pierce stated that the price of everything is high but he was optimistic on the race season. He also said he thought horse racing would make a comeback.

Chairman George said he agrees with those comments. He said Yakima Valley representatives had introduced a bill allowing for electronic gambling in card rooms.

Chairman George said that the Washington Horse Racing Commission (WHRC) probably wouldn't support that legislation.

Chairman George asked if there had been any change regarding the WHRC ex-officio vacancies. Commissioner Hallowell asked Mr. Crockett about Representative Wilcox; and asked if he was from former Representative Marilyn Rasmussen's district. Mr. Crockett said yes, and that he was affiliated with Wilcox Farms.

Mr. Crockett said the track sponsors a Legislative Day, and usually there's hit and miss with legislative attendance, but Senator Joe Fain is willing to lobby the caucus' to come to the races. Mr. Crockett said Senator Fain is the youngest senator at this time. The WHRC needs a Democratic Senator, a Republican and a Democratic Representative from the House to fill the WHRC vacant ex-officio member positions.

Item #3. Industry Reports:

a. Emerald Downs:

Mr. Crockett provided copies of the full card simulcasting reports through Wednesday, April 13th. Mr. Crockett said the average is \$177,000 per day or down 10%.

Mr. Crockett said the purse structure, generated during simulcast, advance deposit wagering (ADW), during live racing, fees associated with stakes entry fees, the additional Muckleshoot support money and a small reserve from last year, projected \$86,417 per day for purses. He said this was up slightly from last year taking into account the less number of race days for 2011; and HBPA instituting the \$100 payment for those horses finishing out of the money.

Mr. Crockett said for the first weekend last year there were 23 races on Friday, Saturday and Sunday; this year there will be 27. There were 153 entries last year, this year 205. Emerald Downs' handle at the satellites, at the box and selling was \$14,457 for the first weekend last year.

Out of state selling total down 20% on average handle wagered on Santa Anita from this year compared to last year.

Commissioner Hallowell said it doesn't appear to be foal crops (shortage), wondered why there's no interest.

Mr. Crockett said in 1992 when they opened, there was \$50 million lost at tribal casinos. \$4.731 million a day in this state comes out of tribal casinos. That has really grown. The truth appears to be that the younger generation gravitates toward those forms of gambling.

Mr. Crockett said his belief is that it's not because of full cards. Last year Emerald Downs earned \$106 million over the 90 day meet. He said it was down about \$100,000 per day on a daily average.

Mr. Crockett talked about the ADW negotiations he said they ended with not a perfect agreement.

Mr. Crockett handed out a handle accounting on internet wagering. Because bettors are staying home to wager, he guessed that about a million dollars plus was lost in purse money.

Mr. Crockett said there is a 2.5% charge associated with broadcasting the Emerald Downs signal by TVG. TwinSpires also charges a fee. To have Emerald Downs signal on provider networks,

Emerald Downs ended up back with “exclusive” to TVG. Mr. Crockett said they are stuck for now, that theoretically, 60% of live Emerald Downs races will be shown on TVG.

Commissioner Hallowell asked why we have to pay these fees, was there a possibility that the industry could take over the ADWs. Mr. Crockett said no it was quite expensive to set up the operations.

Mr. Crockett said his calculations for purses were on track with projections.

Mr. Crockett believes that in 2011 Emerald Downs will generate approximately \$1.394 million that will go to the Commission. Not including licensing. Emerald Downs will generate for the Class C purse money approximately \$89,000.

Mr. Crockett said he is feeling pretty positive for the race meet. Mr. Crockett said the horsemen were really the hero’s this week. He said he is a little worried for next week’s entries. There are forty-three Quarter Horse races projected for the 2011 meet at Emerald Downs. It seems that Saturdays work better for horsemen, with an average purse of \$3200.

b. WHBPA report:

Mr. Ron Maus, President, reported for the WHBPA. He said he is very hopeful for the beginning of this racing season. He acknowledged and appreciated the efforts of WHRC staff to consider the L&I change to hopefully generate more interest in racing at Emerald Downs by out of state trainers. He said there is a general meeting scheduled with trainer’s at twelve-thirty and a Board meeting scheduled this very afternoon. He urged the Commissioners to adopt the changes.

Mr. Maus provided a copy of a letter by the National HBPA for the Commissioners information regarding an ARCI press release to phase out all medication on race day within five years, zero tolerance. Mr. Maus said there is science connected with Salix use in race horses and that it is a therapeutic use and enables a horse to race longer. The WHBPA opposes the ARCI (Association of Racing Commissioners International) ban on race day medication for scientifically proven therapeutic drugs.

Mr. Crockett and Mr. Maus both agreed that this is a PR move on ARCI’s part and not in interest of trainer or owner or industry.

Mr. Maus commented on the TwinSpires renewal last month. He feels TwinSpires was not truthful to the Commission. They don’t care about us or racing, they are there to rake off whatever fees they can get. He wished he could find an alternative to give the horsemen a better break. He said he had heard that the Virginia Racing Commission told the ADWs if didn’t come to an agreement, on signal fees, they wouldn’t be allowed to broadcast the signal.

Mr. Maus said the WHBPA will host the National Convention here in Seattle in July 2011, it’s three days, and asked the Commissioners to attend if possible.

Commissioner Colliton asked if Mr. Maus thought it was possible to go as a single entity to negotiate ADWs to possibly enhance the return to the horsemen.

Mr. Lopez asked if any states required a certain percentage from the ADWs, be returned to horsemen. Mr. Maus said yes, they must negotiate with horsemen and come to an agreement before renewal is allowed by a commission.

Chairman George asked if a number of states come together regionally and support raising percentages, legislatively.

MaryAnn O'Connell, said they were reluctant to go legislatively, because it could backfire and there is the anti-trust implication.

Ms. O'Connell said when she received the ARCI press release she was so enraged, she called Mr. Lopez and asked him to withdraw the Commission from the ARCI. The implication that ninety percent of thoroughbreds are "stuck" with a needle before each race by the ARCI news release was unbelievable. She felt that Washington needed to reconsider our association with the ARCI.

Commissioner Hallowell asked if it would be appropriate to put ARCI on notice, their press release was completely inappropriate and offensive and that the WHRC does not agree. Mr. Maus said he couldn't be more proud of the Commission if they did write a letter.

Chairman George said he would authorize Mr. Lopez to write a letter to be signed by all the Commissioners. He also felt himself and Mr. Lopez needed to be in attendance on the telephone conference call.

Ms. O'Connell said the auction/casino night held by the WHBPA grossed over \$33,000 for the backstretch day care center. She said it was very successful. Commissioner Hallowell's contribution of drawings went for \$300.

Mr. Maus wanted to say how proud he was that representative of the WHBPA board and staff and thanked them.

c. WTBOA.

Mr. Dana Halvorson, President WTBOA gave the sale update, it was a major fund raiser for the WTBOA. The sale was a mixed and a yearling sale. He said there are plans to conduct a new owner seminar soon. He said the cost of ownership is the major factor why people are not owning horses in this down economy.

BREAK. 11:05 A.M. RECONVENED. 11:11A.M.

Item #4. HBPA's Request – Shorter Term Industrial Insurance Coverage/Premiums.

Robert Lopez, Executive Secretary, said this is a request by WHBPA to explore ways to entice out-of-state trainers to compete in Washington racing by giving short term coverage to trainers. The WHBPA is requesting a twenty percent premium by trainer's to participate in racing here by expanding the current 7 day short duration license to 30 day short duration license. L&I would support this but requested 33.3 percent premium be charged not 20% premium.

Mr. Lopez said that the options before the Commission are that Option 1 includes exercise rider premium and Option 2 does not.

Mr. Maus said a twenty percent fee was fair; thirty day deal is also fair; He doesn't care what the percent, but does want to be able to offer this.

Ms. O'Connell said she is not an expert on how Labor & Industries (L&I) comes up with percentages for the Risk pool with no risk rating. They hadn't gotten word back to her that they required a 33.3 percent premium or even how they came up with this percentage.

Mr. Lopez said staff recommends Option 1 which includes the exercise rider be passed today, and leave percentage out. He is not convinced the WHRC has to follow the recommended percentage by L&I.

Mr. Maus would like to have this approval today.

Mr. Lopez said it does qualify for emergency adoption. As soon as it's dropped it's effective.

Chairman George asked if they could split the difference and require 25%. Charles Clark, Assistant Attorney General reminded the Commission that L&I sets the premiums, and unless they agree to a lower premium, the premium should be set at 33.3%, or one third.

Commissioner Colliton said Assistant Attorney General Clark's analysis of 33 percent vs. 20 percent, negotiated to 25 percent, we probably can't do that. Ultimately the Commission must live with L&I decision.

Commissioner Hallowell said we must do a better job of explaining to the licensees about the fees and why and what they are.

Commissioner Colliton moved to adopt Option 1 as recommended by staff on an emergency basis with premiums not to exceed one-third percent of the total premium. Commissioner Hallowell seconded the motion. Unanimously approved.

Item #5. Walla Walla Spring Meet – Approval of Application/Racing Officials.

Mr. Lopez explained he had spoken with Cory Hewitt and that Walla Walla Fair & Frontier Days was unable to gain financing and asked to have their Spring race dates rescinded.

Commissioner Colliton moved to rescind the approved dates for Walla Walla Fair & Frontier Days, Spring race dates. Commissioner Hallowell seconded the motion. Unanimously approved.

Item #6. Rules of Racing – Adoption Hearing.

a. WAC 260-44-150 Horseshoes; and

Doug Moore, Deputy Secretary, said a request had been made by WHBPA to allow horses to race without shoes. Language was drafted to amend WAC 260-44 to allow a trainer the ability. Staff inquired to both the ARCI and the AAEP (American Association of Equine Practitioners) for their opinion on this and they indicated no opinion either way. After consulting with the WHRC Official veterinarian, who does not oppose this, the Official veterinarian would then make the determination on whether the horse runs partially or completely unshod or is scratched.

Commissioner Hallowell said his recommendation would be to make certain the commission veterinarian observes the horse; because it has been his experience that when a horse loses a shoe or shoes are removed, the horse's feet are really sore. He also recommended that it is made sure at the time the entry is made; the horse has been looked at unshod. Mr. Moore said he would make sure Dr. Calkins is instructed to observe the horse before making the approval.

Mr. Moore said this is a stakeholder recommended change, not a staff recommendation.

Ms. O'Connell said this request was made because some trainers have difficult horses and cannot get shoes on them.

Commissioner Hallowell also asked that in the policy statement or instructions must be given to trainers that there cannot be an on and off situation which would result in taking advantage of the opportunity to do this. It changes the form of the horse.

Commissioner Hallowell moved to accept the rule amendment to WAC 260-44 as submitted. Commissioner Colliton seconded the motion. Unanimously approved.

b. Interpretive/Policy Statement – WAC 260-44-150 Horseshoes.

Mr. Moore said this statement also addresses if a horse loses a shoe in the paddock and making the determination to go ahead and let it run or not and what to do if the horse can't get shod, whether the horse should be scratched. If a trainer wants to run, the state veterinarian must observe the horse and make the decision to approve or not (scratch).

Commissioner Colliton moved to approve interpretive/policy statement 2011-01. Chairman George seconded the approval. Chairman George and Commissioner Colliton voted to approve. Commissioner Hallowell voted no. Motion carried two to one.

Item #7. Merwick vs. Hy Grass – Commission Review of Joint Stipulation to Dismiss.

Mr. Lopez explained this debt was not horse racing related and Gordon Karg, AAG drafted an Order for the Commissioners to sign dismissing this matter. Both parties involved have agreed to resolve the matter and support the order of dismissal. Mr. Lopez said upon signing of the Order, this matter is concluded. The Commissioners signed the order.

Item #8. Executive Secretary's report:

a. Results of the Spring Stakes Handicapping Contest.

Mr. Lopez said as required Emerald Downs provided the information on the results of the contest.

b. Sun Downs April 23 through May 8, 2011 – Commissioner Travel Approval:

Mr. Lopez said he will travel to Kennewick to attend the news media event for Sun Downs race meet. Mr. Lopez said the Commissioners must be pre-approved to attend.

Chairman George said he would attend opening day. Commissioner Hallowell seconded. Unanimously approved.

c. Fingerprint Interval for the 2011 Race Year:

Mr. Lopez said the interval was set at four years. The decision last year changed the collection interval. He said the WHRC is recommending fingerprints be collected in 2012.

Commissioner Colliton moved to approve the fingerprint interval from four to five collection begins in 2012. Commissioner Hallowell seconded the motion. Unanimously approved.

d. Legislative update:

Mr. Lopez said the WHRC budget in the house version was what was requested. An extra \$51,000 for administrative cuts and a 3% reduction in salary for all employees making over \$2500 per month.

Mr. Lopez said HB 1371 that reduces the number of commissioners from five to three, the racing compact authority to represent from moving from governmental appointment to the commission appointment; and to reduce travel by holding meetings in another format. Mr. Lopez said HB 2028 which eliminates the Executive Ethics Board and transfers those duties to the new Public Disclosure and Ethics Commission, is still alive.

e. XpressBet – Current and Proposed Organizational Structure:

Mr. Lopez said he'd received notification of a change in the organizational structure for XpressBet and provided copies of the change.

f. Wagering Recap:

Mr. Lopez provided copies of the wagering by month, year to date and wagering period.

g. Monthly Financial Statement:

Mr. Lopez gave the fund balance as of March 31 to be \$528,451.

Item #8. Any other business that may be properly brought before the Commission.

Mr. Lopez said he would be heading for Kennewick Thursday afternoon and return Friday morning.

Meeting adjourned. 12:05P.M.

Robert J. Lopez, Executive Secretary