

Washington Horse Racing Commission
Meeting Minutes
August 12, 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; Charles Clark, Assistant Attorney General; Robert J. Lopez, Executive Secretary; Patty Sorby, Confidential Secretary.

Chairman George introduced two new ex-officio members: Senator Joe Fain and Representative Eileen Cody.

Senator Fain said it was a pleasure to be a part of the Commission. Representative Cody said she served previously on the Commission and enjoyed the experience and was glad to be back.

Representative Joe Schmick was also able to be in attendance.

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

Commissioner Colliton moved to approve the minutes as submitted. Commissioner Hallowell and seconded by Bud. Unanimously approved.

Item #2. Commissioners' report.

Chairman George read an article on Emerald Downs that was very favorable. He mentioned Dana Halvorson's comments on the breeding industry. Chairman George said he had attended the National Horsemen's Benevolent & Protective Association winter conference representing the Commission. He said there were some very good sessions; a big issue was zero tolerance for drugs and the Furosemide issue. He said this was well explained by the attending vets and experts in the field. Mr. George said the HBPA opposes zero tolerance. Remarks made by the HBPA nationally, their belief is that the RCI stance on zero tolerance is unrealistic.

The future visions for racing session was good as was the shape of racing, technology and ADW sessions. Chairman George said that in Virginia, host fees are limited to four percent that a host track can charge a guest track. He feels that racing must reposition itself to attract new fans and increase handle. Magna is dominating the industry, a national vision is needed. Mr. Crockett also spoke about the racing industry; Emerald Downs has been able to maintain its attendance and is also up a point or two in handle.

Commissioner Colliton spoke to the ex-officios and said that he represents the eastern part of the state, Spokane. Because of the close of Playfair and Yakima, Portland Meadows' plans to run a summer meet in 2012 may be a problem.

Commissioner Hallowell by introduction, considers himself the senior member of the industry, with forty some years experience said he began as a hot walker at Longacres, he is the breeder on the Commission. He said he crosses back and forth between Commissioner and breeder. He

spoke about the issue of what to do with horses when they are finished racing. There is a need to support this kind of effort to give retired horses a second chance. He mentioned Ron Maus, President, WHBPA's article in Thoroughbred Times regarding the need to know what the truth is regarding the zero tolerance issue and said it must be resolved.

Item #3. Industry reports:

a. Emerald Downs:

Mr. Ron Crockett reported for Emerald Downs. He presented the Commissioners with a breakdown on the financials through June 2011. The financial position Emerald Downs is in today were because the costs skyrocketed during building of Emerald Downs between 1992 and 1996 due to industry bickering. He presented a summary showing the worth (value) of horse racing to Washington State. For the benefit of the new ex-officio members Mr. Crockett explained ADW and how it works. ADW amounts to \$47 million dollars a year with the three licensed providers. Mr. Crockett had projected a negative 7.5 % in handle for 2011, but to date his expectations have been exceeded. Emerald Downs is up slightly for 2011. Selling of the signal has been better received, although facing a shortage of field sizes as time goes on. Mr. Crockett expects the breeder award to be at about 22.4% for a WA bred horse. He said attendance is up 11.7 percent and that nowhere else in the nation is attendance up. Emerald Downs creates a lot of jobs, efficient pricing, a good bargain, a fun place to be and fun to watch. The newcomer's area is popular. He said that Del Mar in California is fourteen percent down each day. Hollywood Park is down sixteen percent. Horse population is down but attendance is up.

Mr. Crockett spoke about Portland Meadows. He said Portland Meadows historically ran after Emerald Downs closed. However in 2012, Magna their parent corporation, wants to try a summer meet. Normally they run October to March, but next year they all will try a summer meet during July when Emerald Downs is running. He does not believe it has much of a chance of working.

Mr. Crockett said the purse account is in very good shape. There will not be an overdraft. That's positive. Projections are exceeding for the year. There are approximately 940 horses on the grounds at this time.

Commissioner Hallowell asked Mr. Crockett if anybody in the industry might take on the management at other tracks that charge so much for their signal which hurts the other jurisdictions. He said no.

b. WHBPA:

MaryAnn O'Connell, Executive Director, presented the WHBPA report. She said the medication discussion at the National meeting was an effective panel, the jockey club call for no drugs on race day issue is being pushed by them with backing from RCI is very strongly urging that it be abolished. She said that science has proved Lasix (Furosemide) is beneficial and that

some states may go to a regulatory vet to give the Lasix shot. Lasix lowers blood pressure to limit bleeding in the lungs during exertion. It is considered to be a performance enhancing drug, but it does let the horse run to its full ability. She said she feels this is good for racing not a detriment.

c. WTBOA:

Dana Halvorson, President, WTBOA said the annual sale will be September 6th. There are 140 horses in sales catalog, he feels it's the best selection they've ever had. The sale starts at 2 P.M., there's no admission charge, come by and see some of these wonderful horses; it's professionally run and there will be people coming from all over the country to attend. We breed and sell good horses here, we've got to have horses to fill these barns and make the races go. It's not an easy situation right now, with the costs of production gone up dramatically for grain and hay.

Commissioner Hallowell spoke about the foal crop, how it's gone down, it's about 730 and it used to be 800, and this really has a lot to do with the costs involved.

BREAK 5 MINUTES. 11:15 A.M. RECONVENED AT 11:20 A.M.

Item #4. Handicapping contest – Last Chance Tournament – September 2011.

Mr. Lopez said this is a request from Emerald Downs and introduced Adrian Buchin, Vice President, Marketing. Mr. Buchin briefly explained the rules of the tournament and the winner earns a seat in the September 24th finale in Las Vegas.

Commissioner Colliton moved to approve the request for the Last Chance Tournament. Commissioner Hallowell seconded the motion. Unanimously approved.

Mr. Buchin also requested a change of the post time on September 16th to 5pm to accommodate the fireworks show on that day and explained that starting at 5 p.m. gives enough time to finish races.

Commissioner Hallowell moved to change the post time to 5 p.m. on September 16, 2011. Commissioner Colliton seconded the motion. Unanimously approved.

Mr. Lopez requested an approval for the change of the post time from 6 p.m. to 5 p.m. last week due to an electrical problem. Commissioner Colliton moved to retroactively approve the post time change. Chairman George seconded the motion. Unanimously approved.

LUNCH BREAK, 12:30 P.M. RECONVENED 1:30 P.M.

Item #5. 2011 review of license fees (WAC 260-36-095).

Mr. Lopez presented this item to the Commission. He said to meet the obligation of the rule, the Commission must annually review licensing fees. Mr. Lopez said he expects to recover about 99.3 percent of the cost of licensing and so the staff recommends no increase to license fees until 2014. If the WHRC needs to raise license fees for 2014 the agency will need to submit agency-request legislation to the Governor for the 2013 legislative session.

Item #6. Annual review of the distribution of source market fees (WAC 260-49-070(3)).

Mr. Lopez said according to rule, the Commission must review source market fees annually. Mr. Lopez said staff recommends no change to the distribution, but with the passage of ESSB 5747 the Commission is no longer required to contribute fines, interest and source market fees to the class c race meets and it is recommend to amend rules that will place the additional percentage into the commission operating account.

Doug Moore explained the amendment the Commission. He said there was no opposition to removing one-half of one percent (.5 percent) for the class c purse fund and those funds be placed into the commission operating account.

Commissioner Colliton moved to amend WAC 260-49-070 source market fees. Commissioner Hallowell seconded the motion. Unanimously approved

Item #7. Appointment of Washington's Representative to the Live Horse Racing Compact.

Mr. Lopez said during the last legislative session the Governor amended RCW 67.17.050 (2) to change the appointing authority for representation on the Live Racing Compact from the Governor to the WHRC and they must appoint one member to participate.

Commissioner Hallowell moved to appoint Commissioner Colliton to represent Washington. Chairman George seconded the motion. Unanimously approved. Commissioner Colliton was appointed as the state's representative to the Live Racing Compact for four years. His term will expire on June 30, 2015.

Item#8. Rules of Racing – Rule Development.

- a. Thoroughbred Owners and Breeders Association (TOBA) standard – new phenylbutazone threshold by 1/1/2012.

Mr. Moore presented this to the Commission. TOBA eligibility requirements for grading that requires the provision of the model rule states must not have more than 2 mgs per ml of blood for Phenylbutazone for graded stakes. The WHRC rule must be changed to accommodate for the Longacres Mile on August 21 to remain a graded stake race.

Ms. O'Connell said the National HBPA was not in favor but it was okay to go ahead with filing of the change, but will be watching the national scene and does not want the WHRC to move too quickly onboard for a change that may not come to pass.

Item #9. Rules of Racing – Adoption Hearing:

- a. WAC 260-36-220 and WAC 260-36-230.

Mr. Moore explained the amendments to allow 30 day short duration coverage rather than the currently allowed 7 day short duration coverage of L&I also adding exercise rider premiums to the coverage to entice trainers to race at Emerald Downs. Mr. Moore said this amendment was supported by and at the request of the stakeholders.

Commissioner Colliton moved to adopt amendments to WAC 260-36-220 and WAC 260-36-230. Commissioner Hallowell seconded the motion. Unanimously approved.

- b. WAC 260-36-220 & WAC 260-36-230 Short Duration coverage (Emergency Rule).

Mr. Moore stated this amendment was being considered on an emergency basis to be able to enact the 30 day short duration license immediately to cover the 25 day gap between when the original emergency rule expires and the permanent rule takes effect. Language is identical.

Commissioner Hallowell moved to adopt the emergency rules WAC 260-36-220 & WAC 260-36-230. Commissioner Colliton seconded the motion. Unanimously approved.

- d. Policy Statement 2007-02 Phenylbutazone Penalties (Repeal).

Mr. Moore said this policy was enacted in March 2007 and has been subsequently been enacted by rule. Staff is recommending the Commission repeal Policy Statement 2007-02.

Commissioner Colliton moved to repeal WHRC Policy Statement 2007-02. Commissioner Hallowell seconded the motion. Unanimously approved.

Item #10. Proposed Settlement Agreement:

- a. Daniel W. Brock WHRC 2011-002.

Mr. Lopez said that a settlement agreement had been signed by Mr. Brock agreeing to the conditions set forth to allow Mr. Brock to be eligible to be licensed subject to approval of the Commission. Staff is recommending granting Mr. Brock a license, waiving further administrative review in all matters and withdrawing his request for hearing. Mr. Brock will pay a fine of \$250. If the Commission approved this settlement and Mr. Brock is given a license if Mr. Brock violates any conditions of the agreement he will be referred to the board of stewards and the license will be revoked and he will be made ineligible to possess a WHRC license.

Chairman George moved to agree to the conditions of the settlement agreement between the WHRC and Daniel W. Brock. Commissioner Colliton seconded the motion. Unanimously approved. A final order was signed by the Commissioners.

Item #11. Hearing before the Commission:

a. Jye LeVanway WHRC 2011-005.

A hearing was convened at 11:22 a.m. Gordon Karg, AAG, represented the board of stewards, Chairman George presided over the hearing, Charlie Clark, AAG, represented the Commission. Exhibits were admitted. Richard Smith, WHRC Investigator gave testimony. Mr. LeVanway appeared and was not represented by an attorney, gave testimony. Doug Moore, WHRC Deputy Secretary gave testimony.

The Commissioners considered evidence and testimony and it was decided on a vote of 2-1 to grant an owner's license with conditions. Hearing adjourned. 12:26 p.m.

Item #12. Executive Secretary's report:

a. WA Bred Owner bonus and Breeder awards:

Mr. Lopez explained the how the distribution of the owners and breeders awards will be made due to the ending of the 15 year period of sharing with Emerald Downs for capital construction.

b. Wagering recaps:

Mr. Lopez explained the wagering for months ending June and July 2011.

c. Monthly financial report.

Mr. Lopez explained the revenues and expenditures and fund balance.

13. Any other business that may be properly brought before the Commission.

Commissioner Colliton asked about the class c meets if Mr. Lopez had any conversations with any of them. Mr. Lopez said yes and no. Mr. Bill Hof has checked in with him. Mr. Lopez feels that February will be interesting and gets the feeling that Walla Walla, Waitsburg and Dayton expect to get the six days of racing, but also expects Sun Downs to ask for those days.

Chairman George said the next meeting of the Commission in on September 9th.

Meeting adjourned. 2:05 p.m.

Robert J. Lopez, Executive Secretary