

Washington Horse Racing Commission  
Meeting Minutes  
August 12, 2016

Present were: Jeff Colliton, Chairman; Robert Lopez, Commissioner; Representative Joe Schmick, Legislative Ex-officio Member; Isaac Williamson, Assistant Attorney General; Doug Moore, Executive Secretary; Patty Brown, Confidential Secretary.

Everett Macomber, DVM, Commissioner was absent.

The meeting started late due to Chairman Colliton's flight delayed. The meeting began at 10:45 A.M.

Item #1. Approval of the meeting minutes of June 10, 2016 and special meeting of July 11, 2016.

Commissioner Lopez moved to approve the meeting minutes of June 10, 2016. Chairman Colliton seconded the motion. Unanimously approved. Chairman Colliton had one question, about the possibility of moving the Olympia office. Mr. Moore said the building has been sold, the Department of Enterprise Services would be adding an addendum to the lease that if things become an issue we would be able to move. The June 10, 2016 minutes were unanimously approved.

Commissioner Lopez moved to approve the minutes of the special meeting on July 11, 2016. He had one question regarding what became of unused accounts. Mr. Moore said he has asked NewCo Ventures North America LLC to update their plan of operations, to address the procedure for an unused account. Commissioner Lopez moved to approve the advance deposit wagering license for NewCo Ventures North America, LLC, and DBA NBets. Chairman Colliton seconded the motion. Unanimously approved.

Item #2. Commissioners' report.

Commissioner Lopez said he attended the townhall meeting on July 20<sup>th</sup> at Emerald Downs and found it very interesting. He said the Association of Racing Commissioners International (ARCI) will publish results of those when they are all completed. Commissioner Lopez attended the summer ARCI conference in Seattle and also took part in the "New Commissioner" training. Commissioner Lopez also expressed his frustration regarding the Issue of public meetings; that it is impossible to discuss industry issues with his fellow members ability to speak with each other to either voice their concerns or just get feedback from stakeholders, to talk about issues. Commissioner Lopez also attended the draw for the Longacres Mile on August 10<sup>th</sup>, remarked on how good the field is and thought it would be a good race. He also met with staff of the Gambling Commission, along with Mr. Moore and Mr. Williamson, regarding the Muckleshoot Tribes' desire to convert Emerald Downs Race Track into Tribal trust land. It was an opportunity to get to know each other and discuss issues of horse racing were discussed; along with an explanation on the negotiation process. Commissioner Lopez expressed his desire to continue to attend the meetings with the Gambling Commission and in effort to be voice along with Mr. Moore in the process. Chairman Colliton agreed with Commissioner Lopez and said yes, it would be good to have him continue in this role.

Chairman Colliton said based upon the response from the members that attended the ARCI Summer Conference last month, he wanted to thank and congratulate Mr. Ziegler, Mr. Fraser and Mr. Hodge for hosting the members at the race track. The members were very impressed with the facility. Chairman

Colliton said he had received many comments from them how happy they were to see the facility. Although he said the hotel really didn't seem to fit with our group; he said it was a little pricey, with small rooms, he said he didn't know what to expect, but was a little disappointed. He appreciated all Emerald Downs had done in hosting them.

Chairman Colliton said an analysis will be compiled when all the Townhall's are all completed and would be delivered at the meeting in Tucson, AZ in December 2016.

He estimated that the WHRC hosted maybe 55 or 60 folks and were very well received. The new commissioners from Jamaica were very impressed and thoroughly enjoyed themselves.

Chairman Colliton again apologized for being late.

Item #3. ADW License Renewal – WatchandWager.com.

Mr. Moore presented the renewal application for WatchandWager.com with Mr. Ben Kenney from WatchandWager on phone to answer any questions. Mr. Moore reviewed the past year wagering activity and finding nothing detrimental said that staff recommends renewal. Mr. Kenney commented on business in Washington and having negotiated the 8 percent Source Market Fee (SMF) down to 6.5 percent, he is very excited. He said this would open doors for some of the customers in Washington. Mr. Ziegler had no comments. Commissioner Lopez moved to approve the renewal license for WatchandWager.com. Chairman Colliton seconded the motion. Unanimously approved.

Item #4. Industry reports.

a. Emerald Downs.

Mr. Phil Ziegler, President, said he had attended the Horsemen's Benevolent and Protective Association (HBPA) meeting. It was interesting to hear what's on people's minds and answer questions. Mr. Ziegler said most of his attention is on the upcoming Longacres Mile race. He said they would be broadcasting a very good one hour show built around the Mile. He reported business had been steady; with the adjusted race schedule it showed a big increase in out of state handle, it was way up. He attributed the factors to the larger fields and with the average field size up 7.54 this year; and by adjusting the minimum wagers, it increased participation significantly. He said the Saturday night racing went very well.

Chairman Colliton mentioned Boone McCanna's horse recovery ranch for PTSD veterans. He said they were going to bring a group over for the Mile activities.

Mr. Ziegler said they held a fund raiser for injured jockey Diego Sanchez last Saturday and said there would be a dinner/auction for him on September 8<sup>th</sup> as well.

Chairman Colliton asked Mr. Fraser if the new casino approved by the Governor for the Spokane Tribe was going to put in a simulcast facility. Mr. Fraser said he hadn't heard and have had no communication yet, but they are able to do so as stated in their compact. Chairman Colliton said they have broken ground and the facility is going to be called "Steps" and is scheduled to be open in 2018, which is not very far off.

b. HBPA.

MaryAnn O'Connell, Executive Director, said they had their national meeting in Vancouver BC, she said they had lost a member who had been instrumental in negotiating for horsemen's rights who had been battling cancer on and off. She said the Townhall meeting was a great concept; she was disappointed that more horsemen hadn't attended. She felt it was more a regulator meeting and didn't accomplish what she had hoped. She wanted to encourage WHRC staff to work with HBPA to have their own Townhall meeting. Chairman Colliton said if we do hold a meeting, he hoped that it could be done prior to the results meeting in Tucson. Also, he didn't get the feeling of a regulator meeting, but he doesn't have a problem holding a meeting and that maybe it could be done in September. Ms. O'Connell said it would be difficult to do it now, hopefully in February 2017. Mr. Moore said he would be looking for direction on Medication rules in January. Maybe we could take public comments from that meeting and again in February to incorporate them as we move forward with the drafting of the rules. That would be the opportunity to make comments on them. Ms. O'Connell agreed with this. Chairman Colliton said that this issue is not going to go away, whether the industry will be regulated by the state or there will be federal regulation. He said ironically this is coming out of Kentucky at the Federal level.

Mr. Moore asked Ms. O'Connell how the panel was that Dr. Macomber sat on. She said it was very good. She encouraged everyone to go online and watch medication panel. She said she was proud of Washington Commissioners to challenge things. She said most commissions don't and she talked about how things are in Washington.

Mr. Moore asked, in the case that it hadn't been done, for formal approval for Commissioner Macomber to attend the HBPA Vancouver meeting. Chairman Colliton so moved. Commissioner Lopez seconded the motion. Unanimously approved.

c. WTBOA.

Dana Halvorson, President, spoke about the upcoming summer sale, August 23<sup>rd</sup>. He said it's looking very good, with good weather. He said the sale had been moved back due to the Pleasanton sale being held the same weekend they wanted which is right after the Longacres Mile weekend. They talked with a lot of interested buyers. He said it was the best book they've had. Chairman Colliton asked if there were any from Eastern Washington. Mr. Halvorson said yes, Tim Floyd has some horses listed. Mr. Halvorson said he had a horse in last Saturday and went to the Northern Quest to see it race. He said the place was packed and the only downturn was the smoke. Ms. Sweet mentioned that two sale horses are in the Mile.

Item #5. Adoption Hearing: WAC 260-49 Advance Deposit Wagering (ADW).

Mr. Moore presented the amendments to WAC 260-49. Mr. Moore said the amendments addressed the contracts section between the association and the ADW and if the association creates their own ADW firm distribution of the source market fee (SMF). Language was added to clarify the Commission's role in approving contracts requiring that the contract meet state and federal law. There was a question regarding the SMF generated if the racing association was an ADW provider; the Commission retains about .6 percent of wagers after host fees and other expenses and if there was no SMF and the Commission treated the handle as an in-state handle the 1.3 percent would be required almost doubling

what the Commission now receives from an ADW wager. After discussion with the association a figure of .6 percent was added as the Commission's percentage of an association ADW handle.

Mr. Moore said the final amendment was to clean up language on the distribution of the SMF. In 2010, legislation passed to change how the Commission supported the non-profit race meets and the SMF percentage was removed to allow the Commission the ability to grant excess operating account funds in a manner that would allow them to use the money in other areas of need. This change reflects the current RCW requirements.

Commissioner Lopez asked in WAC 260-49, Subsection 6, who would be responsible when subcontracting. Mr. Moore said the Class 1 racing association is responsible. Commissioner Lopez also asked about an association's being its own ADW firm; this would not be a source market fee. Mr. Moore said this would be a provider fee. An ADW it is a percentage of the handle through an ADW firm as opposed to an out of state market fee. This scenario is cleaner than calling it a source market fee. Commissioner Lopez moved to adopt the amendments to WAC 260-49. Chairman Colliton seconded the motion. Unanimously approved.

Item #6. Annual license fee review.

Ken Mitchell, WHRC Financial Manager, presented the 2016 study on license fees. He explained the methodology behind the study and recommended no change in the licensing fees as currently charged by the WHRC. Mr. Moore was in agreement with Mr. Mitchell's projections.

Item #7. Final review of 2016 Budget submission.

Mr. Mitchell presented the 2017-2019 Biennial Budget request to the Commissioners. Mr. Mitchell said this biennial budget submission is consistent with prior biennial budget submission. Mr. Mitchell suggested an additional narrative this year to describe the Commission employees' regulatory duties. He felt this might give a reader of the budget some insight into the makeup of the Commission and its employees. Chairman Colliton agreed and said to include one.

Mr. Fraser mentioned that the Emerald Racing Club had contributed significantly to the number of owners.

Mr. Fraser questioned Commissioner Lopez, who had earlier mentioned something about having the ADW's increase their license fees, if there were any more thoughts on the idea. Commissioner Lopez said that he had spoken with Mr. Ziegler about this and it was believed that if this were to happen, the fee would be passed along to the association, which wouldn't have the outcome desired, so this notion was a no go. Mr. Moore said he'd done a survey on this and would send the responses along to Mr. Fraser.

Commissioner Lopez moved to adopt the proposed budget for 2017-2019 Budget pending approval of the narrative. Chairman Colliton seconded the motion. Unanimously approved.

Item #8. Executive Secretary report.

- a. Wagering Recap (June/July 2016).

Mr. Moore recapped the wagering for June/July 2016, he explained the huge increase in July up 15% in handle. He said the Saturday night racing worked out really well; and for the race year up 2.09 percent. Due to seven more live race days this year. Fiscal year reports up 1.39 percent.

Chairman Colliton asked about Mr. Moore receiving calls from Dayton and Waitsburg hoping for funding to race again. Mr. Moore said he has received several calls, but he would hate to fund them for one year and never be able to do so again.

Commissioner Lopez asked if it was possible to cost out how much it costs to conduct a race meet. Mr. Moore said yes, we had done that and would find that information and update it and bring it to the next meeting.

b. Monthly Financial report. (May/June 2016)

Mr. Moore recapped the WHRC monthly financial statement and explained the revenues and expenditures.

Commissioner Lopez asked Mr. Moore if a cost estimate that would show how much it would cost WHRC to run a live race day could be done. Mr. Moore said yes, he had done that and would take a look at it and update it and report back for the September meeting. Commissioner Lopez said this might be helpful to project out and invest in industry. Doug said the fund balance at the end of June is \$932,033.

Mr. Moore said he is intending to fill the Deputy Secretary position as soon as the race meet is over; and he is not going to fill the IT position when Mr. Dewey retires.

Mr. Moore said the narrative provided by Paul Bitar, DES Financial Analyst, states the salaries are overstated at this time, but this is due to the early start of the race meet this year, and the early close of the meet will even out the salaries by the end of September.

Mr. Moore said he had been notified that the HR services for small agencies had been funded at the Tier Two level of \$20,000, per quarter. The WHRC will not have to set aside funds to pay for Human Resource services. Commissioner Lopez said he felt we should go with this amount, and then shift some of the duties to the Deputy Secretary.

Mr. Moore asked for approval for Commissioner Lopez's participation in compact negotiations and reimburse for travel and expenses to these meetings. Chairman Colliton moved to approve Commissioner Lopez's participation and reimbursement of expenses associated with attendance. Commissioner Lopez seconded the motion. Unanimously approved.

Mr. Moore requested approval for attendance at the Symposium and winter ARCI meetings in December in Tucson Arizona for himself and Chairman Colliton. Commissioner Lopez moved to approve Chairman Colliton's attendance and reimbursement for expenses associated with attending the ARCI meetings and Mr. Moore's attendance at the Symposium and ARCI meetings in December. Chairman Colliton seconded the motion. Unanimously approved.

Chairman Colliton reminded everyone the September meeting will be at Emerald Downs, due to the Council Chambers being remodeled and unavailable and won't be ready for the October meeting so we

will be at Emerald Downs in October too. He reminded everyone the October meeting is scheduled earlier than usual; it is on October 7, 2016 at 9:30 A.M.

Item #9. Any other business that may be properly brought before the Commission.

Hearing none. Meeting adjourned.

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Doug Moore, Executive Secretary

12:16 P.M.