

Washington Horse Racing Commission
Meeting Minutes
February 8, 2013

The meeting convened at 9:30 A.M. at the Auburn City Council Chambers, Auburn, Washington. Present were: Jeff Colliton, Chair; Paul George, Commissioner; Sharon Payant, Assistant Attorney General; Robert J. Lopez, Executive Secretary; Patty Sorby, Confidential Secretary.

Item #1. Approval of the meeting minutes January 11, 2013; and January 30, 2013.

Commissioner George moved to approve the January 11, 2013 minutes as submitted. Chairman Colliton seconded the motion. Unanimously approved.

Commissioner George moved to approve the January 30, 2013 minutes as submitted. Chairman Colliton seconded the motion. Unanimously approved.

Item #2. Commissioner's reports.

The Commissioner's had nothing to report.

Item #3. Industry Reports.

a. Emerald Downs Report. Bob Fraser, VP Operations, gave the report. He said the year-to-date wagering is down 4.3 percent, but staying pretty stable. The track opened on February 1 for the trainers and horses to move onto the grounds, and went successfully. He reported the people to be very upbeat, and happy to be back. He said Emerald Downs has been fixing barns and painting and things are in great shape for the live meet. He mentioned that Sophia McKee, Marketing Director has run some new ideas and they are very optimistic for the upcoming season. Mr. Fraser said Emerald Downs is opening a week later this year and will run a week later to September 29 to end the season. There will be no Thursday racing this year. Jack Hodge, VP, reported receiving 422 stall applications vs. 323 this time last year and, 1193 horse applications vs. 1230 last year.

b. WHBPA Report. Ms. MaryAnn O'Connell, Executive Director, reported that things are going well. She has been to Olympia regarding legislation on the new Labor & Industries rules. She reported things are going smoothly and the legislation is unopposed. Ms. O'Connell said a dedicated claims manager had finally been assigned solely to deal with the horse industry account and will be of tremendous assistance when working with claims. Chairman Colliton mentioned reading an article in the Spokane paper regarding L&I and how people are beginning to ask questions regarding the high rates.

Ms. O'Connell said there is a lot of positive excitement about the upcoming meet.

c. WTBOA report. Dana Halvorson, President, mentioned the Awards banquet would be next week. Commissioner George said that he will be in attendance.

Item #4. Legislative Update.

Robert Lopez reported on the legislation that is before the Legislature, he said first is HB 1006, a housekeeping amendment regarding the disposition of the interest on the WHRC operating account. He reported that there is no opposition and is moving along fine. Mr. Lopez reported on HB 1398, and gave a brief background of the legislation. After the special conference call meeting on January 30, where it was mentioned that changes were being made, staff prepared a briefing analysis listing concerns with those changes. These issues have now been addressed and amendatory language has been drafted. Mr. Lopez said Senator Hewitt has dropped a bill, SB 5672 that is a carbon copy of the original bill HB 1398. The only difference is additional language for jockey insurance was added. Staff is recommending support for HB 1398. This will allow staff to proceed and work with legislative staff and stakeholders.

Chairman Colliton moved to support further analysis on HB 1398. Commissioner George seconded the motion. Chairman Colliton asked if there was a downside for the Commission on any of this. Mr. Lopez went over the particulars of the amendments. He said \$2.5 million will be given to the WHRC every year and \$2.5 million will go to the Fair Fund. The amount received will increase by 2% every year until year 2023. In the new amendatory language being proposed the \$2.5 million will go to a "horse industry support fund" within the horse racing commission's operating account. \$150,00 of these funds will go to support the nonprofit race meets. The rest will go to operating expenses of the WHRC, and to Class 1 racing associations for marketing and purses.

Chairman Colliton asked if our staff will we be present at the hearing scheduled for Monday, February 11th to support this legislation. Mr. Lopez said yes, as would Emerald Downs.

Dr. Bud Hallowell asked Mr. Lopez to explain again where the money is going. Mr. Lopez explained that the \$2.5 million would be deposited in the horse racing commission's operating account. The monies would be used for operating expenses of the agency, and other purposes listed in the proposed language. In addition, the 1.3 percent parimutuel tax on the total daily gross receipts from all pari-mutuel machines and the \$500 per day daily fee that Emerald Downs now pays will be eliminated for ten years beginning July 1, 2013 with passage of the legislation.

Shorty Martin representing the non-profit race meets asked if the 1/10th percent for purse money at the nonprofits was being eliminated as well. Mr. Lopez said no. The tax to fund purses at nonprofit race meets will continue. Mr. Lopez went on to explain that this legislation was intended to help Emerald Downs, and not directly assist the nonprofit race meets. Mr. Lopez did say that the proposed amendatory language to the House bill did have money specifically earmarked to support the nonprofit race meets.

Commissioner George said he believes this will make a major improvement to our industry and a be a great help to the Class C's. He said this Commission is dedicated to keeping horse racing alive in Eastern Washington.

Unanimously approved.

Mr. Lopez said HB 1403 was informational only not specifically related to the WHRC. This bill provides information to the Department of Revenue business licensing information. If passed, this bill will reflect no costs to the Commission.

Mr. Lopez said HB 1442 would approve two satellite locations in counties with a population exceeds one million. The only county that does is King county. This would provide Emerald Downs with approximately \$5.2 million in additional handle. Staff is recommending support of this bill. Commissioner George moved to support HB 1442. Chairman Colliton seconded the motion. Chairman Colliton asked if they had a location in mind and Mr. Fraser said yes in the Bellevue or Kirkland area. Unanimously approved.

Jim Penney asked why the Commission doesn't have control of where satellites as well as race meets are placed. It was his opinion that there should have been five to seven potential satellites in King county alone. Mr. Lopez said that the Commission is limited by the law. We cannot approve more than one satellite location per county at this time.

Mr. Fraser said Emerald Downs is reducing the satellite locations because some are not profitable in some counties.

Mr. Lopez said that HB 1469 and its companion SB 5363 dealing with industrial insurance for the horse racing industry are moving through the process with no opposition.

Mr. Lopez briefed the Commission on SSB 5077, a bill intended to make all gender based terms in statute gender neutral.

Mr. Lopez said Senator Hewitt has dropped SB 5672. Chairman Colliton asked Mr. Lopez if this was the carbon copy to HB 1398, Mr. Lopez said yes, except for the addition to provide jockey insurance at Class C tracks. Chairman Colliton moved to support SB 5672. Commissioner George seconded the motion. Unanimously approved.

Item #5. Emerald Downs' 2013 Application for Race Dates and Officials.

Mr. Lopez overviewed the application stating the request for 75 days beginning April 19 concluding September 29, racing Friday, Saturday and Sunday, no Thursday racing except for some holiday racing that may fall on Thursday. Staff recommended approval of the application.

Mr. Fraser provided additional information, stating that Emerald Downs is giving up Friday July 5th and would be racing on July 3 and 4. Mr. Fraser said they would have a new post time for Fridays at 6:45 P.M. They are hoping for 8 races on Fridays, but that is dependent on horse population. Entry's are held once per day; Sunday for Friday, Wednesday for Saturday and Thursday for Sunday.

Mr. Fraser said they are testing a new wager called 1-2-3 wager. They conducted a demo a few years ago. It is tailored for newcomers. The Head-to-head wager that they tried last year did not work out as well as hoped and are trying this new wager.

Chairman Colliton said the Smartphone application request would not be in consideration today and would be taken out and will not be a part of the approval .

Mr. Lopez provided some information regarding the Smartphone application for wagering. He said this will only be available at the racetrack; and not at the OTBs. Mr. Lopez said this would likely be placed on the next agenda. Mr. Fraser said there would have to be an upgrade for this system to run on the track's internet system and they would not be making any changes until they got the approval to provide this type of wagering application. Mr. Fraser reiterated that a wager cannot be placed at any other location than at Emerald Downs. He said Texas, California, Minnesota and Illinois are currently using this application. Mr. Fraser provided Smartphone application data to the Commissioners.

Mr. Penney also said the satellite locations are good for business because owners can see their horses race when they cannot physically attend the races. Mr. Fraser also said that more self serve kiosks are being developed to help with getting the signal out and also streaming videos. He's been pursuing this technology to help address this situation and this does not cost much for the racing association to do that.

Chairman Colliton moved to approve Emerald Downs 2013 application for race days and officials with the exception of the Smartphone mobile wagering application. Commissioner George seconded the motion. Unanimously approved.

Commissioner George asked Mr. Fraser if it was possible there may be a request for more racing dates. Mr. Fraser said anything is possible, but not at this time. Mr. Jack Hodge said there were 6.24 horses per race last year. Commissioner George said hopefully with the change in L&I, there may be more participants. Mr. Hodge said he hopes to have more quarter horse races this year.

Chairman Colliton asked about Portland Meadows race dates. Mr. Hodge said Portland Meadows is going to their legislators as well to ask for financial assistance. He said they are looking at instant racing, but said their Governor may not approve that. He said their horsemen would like to get their horses on the grounds earlier but the horseman's group could not afford to do it. Emerald Downs will meet with Portland Meadows General Manager to discuss what their plans are. Mr. Hodge said their handle was terrible compared to past years.

Item #6. Class C Race Meet Application.

Mr. Lopez said that only Sun Downs had applied for dates by the February 1st deadline. Sun Downs Race as requested six days of live racing on April 20, 21, 27, 28, and May 4, and 5. Mr. Lopez said staff recommended approval. Chairman George moved to approve the 2013 Sun Downs racing application. Chairman Colliton seconded the motion.

Chairman Colliton asked Mr. Martin if he understands the costs involved with the regulation that is required to be provided.

Mr. Martin said they're working on getting the meet together, he said the jockey insurance is quoted at \$8100 per day.

Unanimously approved.

Chairman Colliton also moved to approve one of the commission members attend the opening of Emerald Downs and one attend the opening of Sun Downs and that was to include expenses. Commissioner George seconded the motion. Unanimously approved.

Break 11:45 AM. Reconvened 11:55 AM

Item #7. Hearing before the Commission.

a. LaVanway WHRC 2012-003.

Present were: Dayson LaVanway, respondent; his attorney Gavin Simkins; representing the WHRC staff Assistant Attorney General Chad Standifer.

Mr. Simkins requested to continue the hearing at a later date to give him time to prepare as he had just been retained and requested March 15, 2013 which is the next meeting of the Commission.

Assistant Attorney Standifer had no problem with setting over the hearing but requested that Mr. Simkins file witness and exhibit list no later than two weeks from today on February 22, 2013. Mr. Simkins agreed to do so. Mr. Standifer did not oppose the continuance. Chairman Colliton approved Mr. Simkins' request.

Item #8. Approval of Split Sample Labs.

Mr. Doug Moore presented the listing of the Split Sample Labs and said this was the same as last year.

Chairman Colliton moved to approve the split sample labs for 2013. Commissioner George seconded the motion. Commissioner George asked Mr. Moore if the trainer was responsible for costs. Mr. Moore responded yes.

Unanimously approved.

Item #9. Rules of Racing.

a. WAC 260-14-050 Ownership interest in race horses - Discussion.

It has been difficult finding a candidate to fill the vacant commissioner position on the WHRC. This candidate must be a breeder, and may not also be an owner of a race horse running in a race under the jurisdiction of the Commission. Staff is offering the proposed amendment to WAC 260-14-050 to allow the 'breeder' on the Commission to also own race horses. Staff has sent the proposed language to the Executive Ethics Board for an opinion. It is anticipated that the Executive Ethics Board will place this on their March agenda. This item is on the agenda for discussion only. Staff may have more direction by the March meeting. Dr. Hallowell said that a breeder had been defined but must have been a breeder in the current or past year. Assistant Attorney General Payant explained that there was no definite interpretation, but ultimately up to the Governor's office to make the decision.

b. WAC 260-34-010&020 Drug and alcohol violations - Emergency Rule.

Mr. Moore said this is an emergency rule that was put in place just before Emerald Downs opened the track for training and the stewards had regulatory control on the grounds. This amendment was necessary due to the recent voter approval of I-502, which made it legal for persons over the age of 21 to use marijuana. The emergency rule will continue to prohibit marijuana on the grounds. Mr. Moore said language had been sent out to stakeholder but no comments had been received yet. Chairman Colliton asked Ms. O'Connell if her Board was aware of this and she responded that her board responded 100 percent to prohibit marijuana on the backside of the racetrack. The chance of cross contamination was a evident risk and problematic regarding safety and industrial insurance while working impaired. Mr. Hodge said Emerald Downs will continue their same program of testing and they support the Commission's prohibition of marijuana.

Item #10. Request from XpressBet to Amend their Plan of Operation.

Mr. Lopez received a letter from XpressBet requesting a change to their Plan of Operation, this request has already been approved by the Oregon Racing Commission. XpressBet would like to add "GiddyApps" conducting business as DerbyJackpot to offer another wagering portal through which customers can wager. Mr. Lopez said TwinSpires made a similar request in 2012, which the Commission approved. Staff is recommending approval. Commissioner George moved to approve the request from XpressBet to allow "GiddyApps" portal for customer wagering. Chairman Colliton seconded the motion. Unanimously approved.

Item #11. Executive Secretary Report.

a. Approval of the 2012 Annual Report.

Mr. Lopez offered the 2012 Annual Report for the Commission's consideration. Chairman Colliton moved to approve the 2012 annual report. Commissioner George seconded the motion. Unanimously approved.

b. Wagering Recap.

Mr. Lopez recapped the wagering for the month of January and by race year showing total live wagering to be down 4.3 percent. Mr. Lopez went over a comparative spreadsheet for advance deposit wagering and source market fees for 2012 vs. 2011.

c. Monthly Financial Statement.

Mr. Lopez explained the revenue and expenditures and reported the fund balance at \$647,815.

Item #12. Appointment of New Executive Secretary – Effective March 1, 2013.

Chairman Colliton said that Robert Lopez the Executive Secretary for the past eight years and a total service of 37 years with state of Washington is planning to retire beginning March 1st. Mr. Lopez spent twenty-seven years with the Washington State Patrol and retired as the Assistant Chief. He then came to work for the Horse Racing Commission and spent another ten with us. During Mr. Lopez's tenure the morale of employees due to his professionalism increased considerably. He is professional, personable, we will certainly miss him. Mr. Lopez went through some pretty serious health problems and overcame those. It has been a privilege having Mr. Lopez work with us.

Commissioner George said what a pleasure it had been to work with Mr. Lopez, his professionalism and ability brought us all together. I will miss him but after 37 years he's entitled to leave. I am hoping the new legislation will rejuvenate our industry that we all can be proud of. I wish him great happiness in his retirement years.

Chairman Colliton mentioned that he'll be able to bet and said thank you for your dedicated service.

Bob Fraser thanked Mr. Lopez personally and professionally, recognized him as a great communicator and that he's leaving big shoes to fill. He said he's sorry to see him go and hopes he will have a lot of fun. Couldn't believe it had been ten years.

Ms. O'Connell said she hated your decision to leave and Lanna echoes that. She said she's proud of the Commission because of Mr. Lopez's leadership. Mr. Lopez had been great to work with, he is unbiased and fair, she considers him a good friend as well as a help to the industry.

Shorty Martin echoed everything that had been said and recognized Mr. Lopez's hands on approach. Mr. Martin said he couldn't remember the Commission's presence at the Class C race meets until Mr. Leichner and Mr. Lopez came. He thanked Mr. Lopez for helping to keep them alive.

Mr. Lopez said he's enjoyed all relationships and friends he's made and hopes he's left it a bit better than he found it.

Chairman Colliton then formally moved to appointed Douglas L. Moore to be position of Executive Secretary, effective March 1st and that Mr. Moore be compensated at same level as Mr. Lopez. Commissioner George seconded the motion. Unanimously approved.

Item #13. Any other business.

Chairman Colliton reminded the audience of the change to the third Friday for the March meeting. March 15th not March 8th for the next meeting of the Commission. Hearing nothing further adjourned. 11:24 A.M.

Douglas L. Moore, Executive Secretary