

Washington Horse Racing Commission
Meeting Minutes
June 14, 2013

The meeting convened at 9:30 A.M. at the Auburn City Council Chambers, Auburn, Washington. Present were Jeff Colliton, Chairman; Paul George, Commissioner; Rep. Joe Schmick, Ex-officio member; Sharon James, Assistant Attorney General; Douglas Moore, Executive Secretary; Patty Brown, Confidential Secretary.

Chairman Colliton introduced and welcomed newly appointed member to the Commission; Dr. L. Everett Macomber, DVM. Dr. Macomber thanked the Chairman and gave a brief background on himself.

Chairman Colliton also reported that Representative Eileen Cody and Representative Joe Schmick were reappointed to the Commission as ex-officio members and offered his congratulations.

Item #1. Approval of meeting minutes of April 12, 2013.

Commissioner George moved to approve the minutes as submitted. Commissioner Macomber seconded the motion. Unanimously approved.

Item #2. Commissioners' report.

Commissioner George reported that he attended the opening and closing of Sun Downs 2013 Race Meet; he thought the meet went well; great community support. He was greatly relieved they had overcome the differences with the Fair Board; and that they are going to try to negotiate a more harmonious relationship with them and the county Commissioners. He said since the Washington Horse Racing Commission (WHRC) had invested \$425,000 into their racing facility, the WHRC will do everything possible to keep racing there. He said they have held quarter horse racing there since 1961; fifty years; and Sun Downs is the core of quarter horse racing in Eastern Washington. Commissioner George reiterated his support for live pari-mutuel racing in Eastern Washington.

Commissioner Macomber said he had attended Legislators Day at Emerald Downs. He said he is looking forward to working with the board and industry.

Chairman Colliton said he read and brought an article written by Jim Price on April 28th in the sports pages of the Spokesman Review newspaper. Chairman Colliton said it was a great article about Playfair Race Course and also a little about Yakima. He said Portland Meadows had announced some racing to begin on July 21st for a 49 day meet. Sunday only for the first 3 weeks; and then in August and through closing; expanding racing to Sunday and Wednesday. He said the backside will open the 19th or 20th for trainers and horses to move in and close on February 5th.

Chairman Colliton said that he and Doug Moore, Executive Secretary had attended the Racing Commissioners International (RCI) meeting in New Orleans held on April 22, 23 and 24. Commissioner Colliton was elected to the Board of Directors; and Mr. Moore was elected to the Model Rules Committee. He said this provides an opportunity for the WHRC to apprise them of what's happening in here. The RCI Board of Directors is a pretty closed group and it is hard being new, but we will bring Washington ideas to the table. There's been some attention brought of a major problem about laundering money in Colorado, Arkansas and New Mexico through their quarter horse community.

Large sums of money seem to be going through the backside of their race courses in Colorado and Arkansas some illegal licensing had gone on.

Chairman Colliton said the Foal Crop is down tremendously nationwide. A 7.89 percent ratio of horses entered nationwide, affecting greatly the size of fields showing. The trend seems to be declining considerably; for thoroughbreds only. He mentioned the prospect of having vets in stalls on race day; he said there are many opinions on that. All are leaning toward uniformity nationwide; in his opinion that will not happen soon. He also mentioned that the anti-drug association will be visiting all tracks to get an idea of how each jurisdiction controls medication.

Regarding the legislation about the Federal Government taking over horse racing; some thought it wouldn't happen; but, it has come up again by Representative's Udall, Pitts, Whitfield in the form of a house bill detailing dual regulation efforts federally designated agencies; such as the doping agency, they will have powers identical to state regulated commissions. He said this isn't going to go away.

Chairman Colliton voiced his worry that some people just don't understand the industry. They don't understand what the economics are for Washington State and some of the other smaller states.

Another catastrophic breakdown will bring the media back again and they will show what we are doing wrong instead of focusing on what we do right. There are penalties on medication in place and they are working. He discussed an article that was on NPR (radio) on April 23rd discussing the use of Lasix vs. not among horse racing participants; Europe vs. U.S.; opinions are plus and minus regarding the issue.

Mr. Moore expanded on the model rules medication issues. He said there is a wide gap; the mid-Atlantic states have about 24 medications approved, the Horsemen's Benevolent & Protective Association (HBPA) has more than that which duplicates the medications that have the same affect; and RCI wants to cut them out. He said we would be looking hard at that before we do anything, moving pretty slowly. Mr. Moore said he felt there was a push on to force rules through faster than needed. He said the WHRC will be more diligent in its approach.

Mr. Moore spoke about some security issues that would make race tracks more responsible but there is no ability to do that economically. Regarding Lasix administration he noticed more were now pushing for more regulation; pushing hard for secondary violations on trainers, by creating a point system for a more severe penalty later. Mr. Moore felt there were a lot of holes in this thinking, he felt it was punitive, and there was no reason to have a secondary penalty. Mr. Moore said this would create penalty points that never go away and then have to serve a secondary violation because of the amount of penalty points kept on the books. Mr. Moore said he this would be discussed in detail at the Saratoga meeting in July. He personally was not in favor of doing anything until studies are completed.

Chairman Colliton said was present for Legislators' Day on June 9th at Emerald Downs. He said many of the Senators weren't available due to the special session. He said an information was presented about the industry. Ms. Kathy Coffey of Emerald Downs took them on a very good tour and explained a lot to them .

Commissioner Macomber was present too and said the tours were well received. Very good part of the program.

Item #3. Industry reports.

a. Emerald Downs.

Sophia McKee, Director of Marketing, said Mr. Crockett unable to attend and reported on the handle for Emerald Downs to be trending up 5.3 percent, while the satellites are down 10.3 in comparison with last year. The total average for the live meet is down .9 percent.

Ms. McKee reported on the Triple Crown handicapping contest results and said the contest was poorly received with only 51 entries for the amount of effort in time and the costs setting it up. She said they would try something else next year. The result was that two players will go to Las Vegas; the winner only earned \$264. The Prodigious Fund 100-day challenge is going well with horse nominations next week and the challenge starting on June 28. She said voting would be via the social media this year.

Bob Fraser, VP Operations spoke about the "3 on 3" Basketball Tournament that will be held at Emerald Downs. There are forty-one sponsors so far. Team recruiting need to be promoted more. The Tournament is August 10th and 11th.

Representative Schmick thanked Mr. Fraser for hosting the legislators and staff at the race track. Mr. Fraser said it was a great opportunity to talk to people.

Mr. Fraser said entries are going real well, eleven races on Sunday, for Father's Day.

Representative Schmick asked if the L&I change had helped with horses and attendance. Mr. Fraser said yes, and also attributed some of the horse population to the fact that Portland Meadows was not operating. He said Emerald Downs' product is getting better and that the field size is everything.

Mr. Moore also agreed it helped.

Commissioner George asked if any quarter horse races would be run this coming weekend. Mr. Fraser said no, it will be all thoroughbred starting at 2 P.M.

b. WHBPA.

Ron Maus, President, in response to the discussion regarding medication rule changes; urged the WHRC when making changes in medication rules to go slowly; he said Washington is not a troubled state in that area; with Washington having the lowest incidence of abuse of any other jurisdiction. Mr. Maus said that Washington just does not attract problematic people here. He said the Jockey Club is working hard to take over everything.

MaryAnn O'Connell, Executive Director, WHBPA echoed Mr. Fraser's and Mr. Moore's comments about L&I. She said it had been requested to make a change regarding purses and in the condition book to get WA bred another shot at money, but the HBPA board couldn't support that request due to out-of-state clientele. She said they would work in other ways hopefully to help with promoting the WA bred horses.

c. WTBOA.

Dana Halvorson, President, said the annual meeting is July 20th, hopefully they have Ron Crockett as a speaker who is very good. The sale is August 20th, two days after the Longacres Mile. Mr. Halvorson

said in supporting the Prodigious Fund, they would be sponsoring events at the thoroughbred showcase. He said the thoroughbred incentive funded through the Jockey Club was for 2nd careers for retired race horses. They will also be holding a "new" owners information booth with support from Emerald Downs. The first booth experience was good, but it poured rain. There were 75 people signed up for information. He said they will try to do hold these once a month.

Commissioner Macomber asked about education seminars that used to be held, with participation dying off, is it time to reestablish them. Mr. Halvorson said they are trying to do that with the information booths for new owners.

Bud Hallowell said the best short course in used to be in Yakima at one time but said it can be done on the internet now.

Item #5. ADW license renewal - TVG.

Mr. Moore presented the license renewal request reporting the 2012 wagering and source market fees; the license renewal fee had been received; the \$75,000 Bond is in full force and effect. No change to their plan of operation. No pending investigations and no enforcement actions. Staff recommends approval. Ms. Melanie Sims-Frank attended on TVGs' behalf.

Chairman Colliton asked Ms. Sims-Frank to supply the demographics for their operation as was provided last year. Ms. Sims-Frank said she would get the information to him.

Commissioner Macomber asked if there was any decline due to economy. Ms. Sims-Frank said since they began advance deposit wagering, there has never been a year reporting a decline.

Commissioner George moved to approve the TVG license renewal request. Commissioner Macomber seconded the motion. Unanimously approved.

BREAK 9:50 A.M. – Reconvened 11 A.M.

Item #6. Approval of new satellite locations and ownership change:

- a. Caribbean Casino - Kirkland
- b. Caribbean casino - Yakima
- c. Drift on Inn - Shoreline

Mr. Moore presented the information regarding Emerald Downs request in conjunction with the passage of the legislation allowing a second site in counties with a million or more population. The first location would be in King County. The Caribbean Casino in Kirkland has been selected and it will open sometime after July 28th. Mr. Moore had visited the site and said it would work nicely as a satellite location.

The current owners operate the Drift on Inn in Shoreline. They were previously approved to operate the site in January 2012.

Susie's Bistro in Yakima has closed; but Mr. Fraser said they are simulcasting there even though the restaurant operation has ceased. Mr. Fraser said a new site has been visited to move to in Yakima, the

Caribbean Casino; the same ownership as the Caribbean Casino in Kirkland. Commissioner George visited the site last Monday and met with the CFO for the organization. He said it was a good place, clean, great food and nice location for new simulcast site. Mr. Fraser said the appealing factor is that the owners are solvent and they have been very stable, it's important to find a nice location.

Representative Schmick asked with both sites having the same ownership is there any downside? Mr. Fraser said we do an agreement on a year to year basis. He acknowledged that there could be a problem, but said that Kirkland is the best fit. Kirkland has room to grow. Starting out at around a 50 person capacity.

Chairman Colliton asked if there was an expense to the Caribbean Casino to set up. Mr. Fraser said none, Emerald Downs takes on the expense of setting up the site. Mr. Fraser explained that the employees at the satellite sites are Emerald Downs employees, noting the exception to that is the employees at the Indian casinos are employees of the Tribe; Emerald Downs pays them from a billing monthly, from the various Tribes.

Commissioner Macomber asked if the market is there. Mr. Fraser said interestingly enough they are up substantially; Spokane is up dramatically. It's a big part of Emerald Downs business. Commissioner Macomber asked about marketing of the site. Mr. Fraser said they advertise in the local newspaper, radio and some TV; they send email blasts too, that go to a statewide listing.

Commissioner George asked about Tri Cities Sports Page tavern. Mr. Fraser said that is a good site also.

Mr. Moore closed by adding that WHRC Investigator Dick Smith researched the applications through the Gambling Commission and there were no problems reported with any of the sites.

Commissioner Macomber moved to approve the satellite location change to the Caribbean in Kirkland and the Caribbean in Yakima. Commissioner George seconded the motion. Unanimously approved.

Mr. Moore said there may be an ownership management change at the end of July at the Drift on Inn in Shoreline. The previous owners will be taking the site back over. They were previously investigated as operators and will be taking over again. WATCH backgrounds checks were conducted and no problems have been found.

Commissioner Macomber moved to approve the ownership revision of the Drift on Inn satellite location to the previous owners. Commissioner George seconded the motion. Unanimously approved.

Before the next item, Ms. O'Connell wished to announce a fund raiser that was being held for jockey, Gallyn Mitchell on Saturday night to assist with medical bills and encouraged everyone to attend.

Item #7. Hearing before the Commission.

- a. Juan Manuel Hernandez-Flores.

Chairman Colliton opened the hearing at 11:35 A.M. Present were: Chairman Jeff Colliton; Commissioner Paul George; Commissioner Everett Macomber; Sharon James, Assistant Attorney General representing the commission; Doug Moore, Executive Secretary representing staff. Mr. Hernandez-Flores, who was not represented by an attorney. Mr. Moore admitted eleven exhibits. Mr.

Hernandez-Flores had no objection to the exhibits being admitted. Testimony was taken. The decision made was to uphold the decision of the Board of Stewards. Mr. Hernandez-Flores license request was denied. Hearing closed.

Mr. Fraser said Emerald Downs wanted to send their appreciation to the WHRC by inviting Commissioners and staff to a day at the racetrack with an appreciation race and purse, to show how much everyone appreciates how the staff makes everything run smoothly. The date of August 10th was selected and Mr. Fraser said he would get mailing addresses together and send out individual invitations.

Chairman Colliton requested Mr. Fraser to send the WHRC the proposal that was requested regarding Smartphone wagering application. He would like to go over it again. Mr. Fraser said that would be something for 2014 meet because WiFi would have to be throughout the Emerald Downs' building and it would take three weeks to a month to get it done.

Lunch break 12:15 P.M. Reconvened at 1:15 P.M.

Item #8. Consideration of stipulated agreement – Kevin Willis WHRC 2013-003.

Mr. Moore presented to the Commission a stipulated order which would allow Mr. Kevin Willis a previously denied applicant the ability to obtain a groom's license. Staff recommend approval with conditions. Testimony was taken from Mr. Willis.

Commissioner George moved to revoke the WHRC Order that took away Mr. Willis' ability to obtain a WHRC license. Commissioner Macomber seconded the motion. Unanimously approved.

Commissioner Macomber moved to accept the stipulated agreement allowing Mr. Willis to obtain a WHRC groom license with conditions. Commissioner George seconded the motion. Unanimously approved.

Item #9. Adoption Hearings.

a. WAC 260-08-005. Horse Racing Commission - Composition - Duties.

Mr. Moore said this amendment is needed to update the WAC to match RCW 67.16.012 at which time the number of commissioners was reduced from five to three.

Commissioner Macomber moved to adopt the amendment to WAC 260-08-005. Commissioner George seconded the motion. Unanimously approved.

b. WAC 260-12-180 Safety equipment required.

Mr. Moore said the entities that rate safety equipment and added new standards were originally ASTM the only recognized group to set standards for the industry. Other international standards are now approved and the amendment to this rule would reflect those entities.

Commissioner George moved to adopt the amendment to WAC 260-12-180. Commissioner Macomber seconded the motion. Unanimously approved.

c. WAC 260-28-095. Retirement of horse & WAC 260-40-145 Prohibited entry of certain horses.

Mr. Moore said that in August 2012, the WHRC adopted a section relating to horses being sold or gifted with the understanding that for certain reasons they would not race again. It became a problem with these horses resurfacing in other jurisdictions attempting to race. The Jockey Club amended their rules to now allow horses under these circumstances to be reissued papers with the express restriction of their inability to race again. The rules enacted by the Jockey Club make the WHRC rules redundant and WAC 260-28-095 should be repealed.

Ms. O'Connell spoke in support of the repeal and thanked the WHRC for passing the original rule making way for the Jockey Club to amend their rules.

Commissioner Macomber moved to repeal WAC 260-28-095 and amend the corresponding rule WAC 260-40-145. Commissioner George seconded the motion. Unanimously approved.

Item #10. Legislative update.

Mr. Moore updated the Commission on current legislation.

Mr. Moore said a disconnect was found regarding depositing of fines collected. In 2012 Engrossed Substitute Senate Bill 5747 placed fines collected into the Commission's operating account. RCW 67.16.270 was overlooked and states that fines collected must be deposited into the Class C purse account. The Commission will have to file legislation for the 2014 legislative session to amend RCW 67.16.270 to deposit fines collected into the Commission operating account.

Chairman Colliton moved to authorize staff to draft language that will amend RCW 67.16.270 to reflect ESSB 5747 language placing fines in the commission operating account. Commissioner George seconded the motion. Unanimously approved.

Item #11. National Racing Compact representation.

The RCI notified the WHRC that Mr. Moore would need to be appointed as an alternate in order to participate in RCI business. Chairman Colliton did so by emailing the RCI. Chairman Colliton also moved to designate Mr. Moore to be an alternate to the National Racing Compact on behalf of Washington State. Commissioner George seconded the motion. Unanimously approved.

Item #12. Executive Secretary report.

a. Wagering Recap (April/May 2013).

Mr. Moore said wagering for April was down 14.2 percent, for the calendar year down 7.7 percent and for the race year 5.8 percent; and for May, wagering was down 5.9 percent, 7.2 percent for the calendar year and 5.8 percent for the race year.

Mr. Moore said for Sun Downs April/May 2013 meet overall, revenues were down 6.5 percent.

b. Monthly Financial Report.

Mr. Moore explained the revenues and expenditures, estimated and actuals. The WHRC fund balance is \$688,626.

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

Chairman Colliton said that during the Saratoga Springs Conference a new Commissioner orientation program will be conducted. Chairman Colliton said Commissioner Macomber would be attending.

Chairman Colliton moved to have Commissioner Macomber attend the new Commissioner orientation and be reimbursed for any expenses incurred. Commissioner George seconded the motion. Unanimously approved.

Commissioner George moved to approve travel and per diem for Chairman Colliton to attend Legislator's Day at Emerald Downs. Commissioner Macomber seconded the motion. Unanimously approved.

Chairman Colliton said the next meeting of the WHRC will be on August 9th. Hearing nothing further, the meeting adjourned at 1:51 P.M.

Douglas L. Moore, Executive Secretary