

Washington Horse Racing Commission
Meeting Minutes
July 26, 2019
9:30 A.M.

Present were: Dr. Everett Macomber, DVM, Chairman; Robert Lopez, Commissioner; Dr. Claude Ragle, DVM, Commissioner; Representative Joe Schmick, Legislative Ex-Officio Member; Suzanne Becker, Assistant Attorney General; Doug Moore, Executive Secretary; Patty Brown, Confidential Secretary.

Item #1. Approval of the meeting minutes of June 14, 2019.

Commissioner Lopez moved to approve the minutes of June 14, 2019 as submitted. Commissioner Ragle seconded the motion. Unanimously approved.

Item #2. Commissioner's Reports.

Commissioner Lopez reported he had attended an Association of Racing Commissioners International (ARCI) board meeting via conference call on June 24th and gave an overview of some of the discussion items; one was regarding anti-doping video being produced to showcase efforts in horse racing that would be broadcast on public television at a cost of about \$27,000 to ARCI. It is a five to eight minute piece, between two different programs as a commercial where people can request more information and have it sent out to them. Another item was a discussion on the Federal legislation and there is now a Senate version that has a potential for passage due to the Santa Anita deaths. Commissioner Lopez said that there is a bill that takes USADA out of picture and replaces them with the ARCI, but he had not seen this version yet. He said there was growing support for Jockey Club bill because there's nothing else out there. Commissioner Lopez also said that California has left the ARCI membership.

Commissioner Ragle had nothing new to report.

Chairman Macomber had nothing new to report.

Item #3. ADW license renewal – Watch and Wager.com.

Mr. Moore presented the WatchandWager.com renewal application and reported that Mr. Ed Comins of Watch and Wager was appearing by phone to answer any questions regarding the renewal application.

Staff recommended approval.

Chairman Macomber asked Mr. Comins to explain the impact of their cancellation policy. Mr. Comins said this policy gives them tighter controls on wagering relating to mostly the smaller track, to alleviate pools costing WatchandWager money. Mr. Comins said this does not relate to Washington tracks.

Commissioner Lopez asked why there seems to be a fifty percent decline in wagering from last year. Mr. Comins said they had analyzed that and it seems that customers are moving to other sites, the market is unusual and is a very competitive market. WatchandWager is a relatively small site and people are moving to more competitive sites with larger budgets.

Commissioner Ragle had no questions.

Commissioner Lopez moved to approve the renewal application for WatchandWager.Com to conduct advance deposit wagering August 14, 2019 through August 13, 2020. Commissioner Ragle seconded the motion. Unanimously approved.

Item #4. ADW license renewal XpressBet.

Mr. Moore presented the renewal application for XpressBet.com and said Mr. Gene Chabrier of XpressBet was present and available for questions. Mr. Moore said staff recommended approval. Chairman Macomber asked Mr. Chabrier to comment on changes. Mr. Chabrier said XpressBet had created an ADW lounge at Santa Anita and one at Portland Meadows. He said a patron could open an account with a tablet, phone or laptop. Mr. Chabrier said this was an additional place to gather and wager; all wagering comes through XpressBet and not through the racetrack. He said their site at Yreka, California is doing especially well. He said the new handicapping tools available on the Bet Mix application is amazing, not for the average bettor; there's a lot of information and options available. He said they are doing testing on the 1st Bet site and it is very successful with the millennials, working out bugs, good feedback, made some changes. Chairman Macomber asked if they'd experienced any problems. Mr. Chabrier said more with the esthetics of it, it won't be marketed for a few more months. Commissioner Lopez asked if Mr. Chabrier knew how many Washington accounts XpressBet had. Mr. Chabrier didn't know but said they had been increasing over time. Representative Schmick asked how much gaming is in Portland, Oregon. Mr. Moore said there's a new casino called the Alanai at Battleground, and next closest is 20 miles west of Salem, nothing in metropolitan Portland.

Commissioner Lopez moved to approve the renewal application for XpressBet.com to conduct advance deposit wagering November 18, 2019 through November 17, 2020. Commissioner Ragle seconded the motion. Unanimously approved.

Item #5. Industry Reports:

- a. Emerald Downs, Phil Ziegler, President, remarked on handle wagering and horse population down about eighty horses from this time last year. Live handle up 5 percent overall. Increased wagering but margins are thin due to not betting at the track possibly online. Down about eight percent from last year on live racing handle. North American wagering in June was down seven percent, overall down three percent, down five to eight percent across the country. Plus the weather hasn't been bad, but hope to see upturn, biggest days are coming up, Corgie Day, the weather is supposed to be good, expecting 12,000 to show for this event. We've renamed Mile Weekend to Championship Sunday. Hope to have a full gate for the Mile. Mr. Ziegler was also keeping a close eye on horse population, may take a look at the last three Fridays after Labor Day to see if we can still run those days, but we may want to save those horses for Saturdays and Sundays races to the end of the meet. He said Fridays in September are not the highest days and that he would let Commission know and Emerald may come with a request to cancel

the last three Fridays. He said Legislators Day turned out nice and was well attended. Chairman Macomber asked about the Emerald Downs Hoop Shoot. Mr. Ziegler said it was moved to the Mall last year and will be there again he thought it was coming up soon.

- b. WAHBPA. MaryAnn O'Connell, Executive Director, reported she and Pat LePley attended via telephone the National meeting in Indiana. Reporting from lobbyists concerning the Federal Legislation on house side; eighty percent of the members didn't know there was any opposition for the bill and only two senators had signed on. The HBPA had prepared a position statement on how to address the Santa Anita incident. They had their general meeting and was attended well. She thanked Dr. Ragle who had attended. Mr. Ziegler talked about the meeting of the safety committee. He said they discussed staying up with all initiatives with safety protocols in place had made a difference. They meet again in four weeks; he said it was great to have those stakeholders in the room all together. Ms. O'Connell mentioned that she noticed that Washington is ahead of the curve in most instances; with regard to Management and the Commission, always being open to what is best for the horse. Mr. Ziegler said Washington is working on promo video on the lifetime of a horse; big correlation on the regional differences on care and population. Washington has great aftercare programs and this is not the case in other areas. Commissioner Lopez asked how many breakdowns had occurred. Mr. Moore said he thought there were three during racing; about same amount during morning training. He said it's been a good year so far. He said there were none until mid-April. Mr. Moore said during the meeting yesterday it appears that there may be some correlation with injuries and breakdowns by how many high speed furlongs either in a race or work out over sixty days. Ms. O'Connell said there was a Dr. Sue Stover study regarding high speed workouts over a condensed period of time.
- c. WTBOA. Anne Sweet, Editor, said they were gearing up for the sale on August 20th. She mentioned that Iowa breeders had put out a video in their state and WTBOA will do some voice over video on racing and breeding for Washington State. She said their general membership meeting was in July and Commissioner Ragle had spoken on veterinary topics and was well received. He had fielded a few Commission questions too. She said the Equine Art Show was a pretty good success this year, dollar-wise up about thirty percent over last year.

Item #6. Continuation of request to modify order 94-007, Scott Bergsrud.

Chairman Macomber opened the hearing at 10:15 A.M. and said this was a continuation from the hearing held on June 14, 2019. Mr. Bergsrud appeared by phone. Mr. Moore brought the Commissioners up to date. Mr. Moore presented items requested by the Commission. Letter of support and an updated FBI criminal history report. Mr. Bergsrud was present to answer any questions.

Hearing no questions for Mr. Bergsrud, Chairman Macomber moved to recess the hearing to consider the new materials at 10:17 A.M.; Hearing reconvened at 10:34 A.M.

Chairman Macomber stated that it was the decision of the Commission to amend Order WHRC No. 94-007 for Scott Bergsrud and allow Mr. Bergsrud the ability to apply for a racing license in different jurisdictions.

Mr. Moore said Iowa did conditionally licensed Mr. Bergsrud in anticipation of the Washington Commission lifting the permanent revocation order.

Mr. Moore said he would send Mr. Bergsrud a copy of the order when drafted and signed.

Item #7 Approval of new jockey fee scale.

Mr. Moore said at the February 2019 meeting Emerald Downs had presented a Jockey Fee scale with their initial race year application and the Commission had approved the scale at that time. Mr. Moore said since that approval, a request has been made by the Emerald Downs' jockeys to raise that scale and a petition had been presented to the Washington HBPA to have that become effective on July 26, 2019 without an interruption to racing. Mr. Ziegler said in order to address the increase; the participation fee will be increased so the owners will not have to bear the full increase. He said he also felt the timing of this was inappropriate and should have been dealt with during the off-season; with the season budget already in place it was a scramble to cover this request. He felt there should have been more communication between the riders and management. Jockey Kevin Orozco appeared on behalf of the riders at Emerald Downs and thanked everyone for their approval and support.

Commissioner Ragle moved to approve the new jockey fee scale. Commissioner Lopez seconded the motion. Unanimously approved.

Item #8. Annual license fee review.

Mr. Moore presented the annual license fee review prepared by WHRC Financial Manager, Ken Mitchell, who was unable to attend today. Mr. Mitchell's findings, utilizing a cost methodology, as in previous years, noting there had not been an increase since 2011 and due to increasing salaries, indirect costs and decreasing revenues resulting in a declining fund balance, it was determined that an increase was necessary.

Mr. Mitchell noted that the impact of these costs would total about \$86,000 in deficits over the next three years. It appears that license revenues will not be sufficient to cover these costs and consecutive increases in license fees at fifteen percent would nearly cover costs in 2020 and 2021. The Commission is considering a decision package to allow the Commission to accept revenues from the state General Fund to cover costs for the equine Health and Safety program releasing revenues spent to go back to the WHRC operating account and a second increase in license fees in 2021 may not be necessary. Chairman Macomber asked if one increase may be needed this year and one next year. Mr. Moore said possibly, if the decision package is approved, we may not have to increase fees in 2021, but if the decision package is not approved it would be about fifteen percent each year. Mr. Moore requested approval to proceed forward to pursue this.

Commissioner Lopez moved to approve Mr. Moore to go forward with rule making. Commissioner Ragle was in agreement with Commissioner Lopez as was Chairman Macomber.

Commissioner Lopez moved to proceed with rule making to increase license fees in 2020 consistent with the WHRC annual license fee study. Commissioner Ragle seconded the motion. Unanimously approved.

Mr. Moore said this is time sensitive as the hope is to adopt the new fees at the November meeting at the latest, licensing starts in mid-December 2020.

Item #9. Review of 2019 Supplemental Budget Submission.

Mr. Moore introduced Ms. Jaimie Langford, deputy CFO, Department of Enterprise Services (DES) and Seth Flory Financial Consultant, DES, to present the supplemental budget WHRC Decision Package.

Mr. Moore reviewed the background on the reasoning for the decision package submission. Mr. Flory and Ms. Langford reviewed the WHRC's budget over the last 10-12 years. Discussing Mr. Moore's prompt responsiveness to the drop in WHRC revenues was the deciding factor to pursue the decision package, shifting costs to General Fund budget, relieving the WHRC operating fund. Representative Schmick said he reviews supplemental budgets. He said the primary need for supplemental budgets are to fix things; this being a short session, you want to temper expectations with this. Ms. Langford said since this is tied to a statute change that will allow the Commission to accept and utilize funds from the General Fund to avoid an agency shutdown, that might be more important at this stage. Chairman Macomber said it is most important to maintain the trust in our medication program. Commissioner Lopez said it is important to stress how strongly this program is needed; the value of it to the state of Washington. Mr. Moore said the original description was Equine health and safety program, instead of funding the test barn. Mr. Moore said with the suggested changes from Representative Schmick to be incorporated, a final package will be prepared and brought back for approval at the September 13 meeting. The decision package must be submitted in September for Office of Financial Management review.

Item #10. Agency request legislation – National Medication Compact.

Mr. Moore reviewed the compact and said at this time we do not have support from stakeholders. Mr. Moore read the comments submitted by stakeholders. Mr. Moore asked the Commission for direction on whether to pursue this or not and stated that the financial survival of the commission was his main focus at this time and did not want to waste resources on this any longer.

Commissioner Lopez moved to table this item for future session. Commissioner Ragle seconded the motion.

Commissioner Lopez said without stakeholder support this would be dead on arrival and he didn't want to waste resources on this any longer either. Commissioner Ragle said this is a dynamic situation and his thought was that timing is most important and agrees that this should be tabled for awhile; let it mature and see which direction it's moving would not be a bad idea. Mr. Moore also agreed. Representative Schmick said if not all stakeholders were in agreement, this will not move.

Ms. O'Connell said she thought this was a mid-Atlantic movement and they had little or no involvement with National HBPA and no interest in groups, no interest in protecting tracks like Washington and that she had more confidence in the WHRC decisions as a whole rather than siding with mid-Atlantic states.

Ms. Sweet said last year, the board met and decided to move forward, they at that time didn't know the WAHBPA opposed this. They are between board meetings at this time, but she could put the question out there and get responses for support or opposition. She said she is conflicted also with so much information coming from both sides and respecting each view, she agreed it would be good to table this at this time. Mr. Ziegler had no comment.

Unanimously approved.

Item #11. Executive Secretary report.

a. Wagering Recap (June 2019).

Mr. Moore reviewed the wagering for June 2019 date range showing down 4.53 overall; race year down .73 overall; wagering for Emerald Downs and satellite sites down 2.88 and ADW wagering up 58 percent due to a quarterly adjustment by TVG, this has skewed the percentage for this table.

b. Monthly Financial Report as of July 19, 2019.

Mr. Moore reviewed the WHRC revenues and expenditures. The ending fund balance on June 30, 2019 is \$658,000.

Mr. Moore said the fund balance was better than projected, but the agency was still facing a financial crisis in two years without some assistance. Chairman Macomber asked if month of August usually pretty good for the WHRC. Mr. Moore said yes.

Commissioner Lopez asked if all the suggested cuts had been implemented. Mr. Moore said other than employee cuts. Commissioner Lopez asked about dates for the Class C. Mr. Moore said he thought they might try to make it work and apply next year.

Item #12. Any other business that may be properly brought before the commission.

Mr. Moore requested approval to attend and reimburse expenses for the Longacres Mile on Sunday August 11th for one or more Commissioners. Commissioner Lopez moved to approve attendance and reimburse travel to the Longacres Mile on Sunday August 11th. Commissioner Ragle seconded the motion. Unanimously approved.

Meeting adjourned 11:31 A.M.

Doug Moore, Executive Secretary