



WHRC Commission Meeting

- Location:** Emerald Downs, 2300 Ron Crockett Drive, Auburn WA 98001, 5th Floor Tribal Council Room and Zoom Video Conference
- Date:** July 28, 2023
- Call to Order:** 9:30 am (PT)
- Adjourned:** 12:12 pm (PT)
- Attendees:** Chair Robert Lopez, Commissioner Douglas Moore, Commissioner Dr. Claude Ragle, Ex Officio Representative Joe Schmick (via Zoom), Ex Officio Senator Derek Stanford (via Zoom), Ex Officio Chris Stearns, WHRC Executive Secretary Amanda Benton

Agenda items

1. Appointment of Ex Officio Chris Stearns

Representative Chris Stearns from the 57th Legislative District got appointed as an Ex Officio of the Washington Horse Racing Commission. Representative Stearns is a longtime resident of Auburn, Washington and he served as the first Native American member of the Auburn City Council from 2019 until 2022. Chris Stearns previously served as the Washington State Gambling Commission's Chair and as a member of the City of Seattle Human Rights Commission. The Washington Horse Racing Commission welcomes Representative Chris Stearns and is excited to work with him.

2. Approval of Meeting Minutes of June 9, 2023

Corrections to the Meeting Minutes of June 9, 2023, were made. Commissioner Moore moved to approve the minutes from the June 9, 2023, Commission Meeting. Commissioner Dr. Ragle seconded the motion. It was moved and seconded that the meeting minutes from the June 9, 2023, meeting were approved.

3. Commissioners' Reports

Chair Robert Lopez had nothing to report.

Commissioner Moore reported on the Washington State Legislature Day at Emerald Downs on July 23, 2023. About nine legislatures attended the event. Senator Mullet, who was the vice chair for the Ways and Means Committee, was at Emerald Downs for Legislature Day. Commissioner Moore said it was a well-attended and successful event. Moreover, Commissioner Moore was asked to speak at the WTBOA meeting where he talked about the commission and its duties, as well as the new HISA/HIWU regulations. Furthermore, Commissioner Moore and WHRC Executive Secretary Amanda Benton attended the ARCI Conference in Indianapolis. It was not well attended in person but there were a lot of people that joined the meetings online. HISA was the main topic of discussion.

Commissioner Dr. Ragle had nothing to report.

The travel day to the Legislature Day at Emerald Downs and the travel day to the WTBOA event for Commissioner Moore was moved and approved.

4. ADW License Renewal - Watch and Wager.com

License Renewal application for Watchandwager.com LLC. This license application is for an annual license, governed by WAC 260-49-040, for the period of August 14, 2023, through August 13, 2024. Watchandwager.com's initial license was issued on August 14, 2015. Their renewal process started on June 7, 2023. The renewal application and the \$1,000 license fee were received on July 3, 2023. For the race year 2022, which went from September 1, 2021, to August 31, 2022, there was \$816,763.10 wagered. The source market fee returned to the industry was \$49,005.77. Both the wagering and the Source Market Fee decreased 2.1% from race year 2021 to race year 2022. The five-year wagering history shows an increase in wagers of over 262% since race year 2018. The source market fee also increased over 258% during that time period. The largest increase occurred during the COVID 19 pandemic. The average daily balance of Washington deposits from June 21, 2022, to June 20, 2023, was \$656,69. Watchandwager.com holds a \$25,000 bond with IFIC which is effective until August 7, 2023. A renewal of said bond is in progress. The company's contract with Emerald Downs is valid through December 31, 2024. There are no material changes to the Plan of Operations; no pending investigations by any governmental agencies and no complaints received by the WHRC. Ed Cummings was on the Zoom call to answer any questions. Chair Lopez entertained a motion to approve Watchandwager.com's license renewal. Commissioner Moore made a motion, Commissioner Dr. Ragle seconded the motion. It was moved and seconded that WHRC approved the license renewal for Watchandwager.com.

5. ADW License Renewal – Xpress Bet

This application is for an annual license governed by WAC 260-49-040, for the period from November 18, 2023, through November 17, 2024. Xpress Bet's initial license was issued on November 18, 2004. The renewal process started on April 26, 2023. The renewal application was received on May 16, 2023, and the \$1,000 license fee was received on May 22, 2023. For the race year 2022, which was September 1, 2021, through August 31, 2022, there was \$18,230,591.26 wagered and the source market fee returned to the industry was \$1,044,718.72. Both the wagering and source market fee decreased from race year 2021 to race year 2022. The amount wagered was down \$1,611,274.80, which is a decrease of 8.1%. The source market fee went down \$65,260.04, which is a decrease of over 5.8%. The five-year wagering history shows an increase in

wagers of over 180% since the race year 2018. The source market fee increased almost 70%, with the largest increase occurring during the COVID 19 pandemic. The average daily balance of Washington deposits for the months of February, March and April 2023 was \$166,302.74. The \$50,000 bond with U.S. Specialty Insurance Company has been renewed and is effective through August 10, 2024, with an auto renewal. Xpress Bet's contract with Emerald Downs is valid through 2024, which contains a marketing fund for Xpress Bet at Emerald Downs. There were no changes to the Plan of Operations and no changes to officers. There are no pending investigations by any governmental agency and no complaints received against Xpress Bet.

Mr. Gene Chabrier attended the commission meeting representing Xpress Bet and to answer questions.

Commissioner Moore made a motion to approve the license renewal for Xpress Bet; Commissioner Dr. Ragle seconded the motion. It was moved and seconded that the WHRC approved the license renewal for Xpress Bet.

6. ADW License Application – Fanatics

Fanatics applied for a license to conduct advance deposit wagering. FBG Enterprises Opco, LLC "Fanatics" is in the process of acquiring 100% ownership of PointsBet's US sports-betting, i-gaming and ADW businesses, including Premier Turf Club LLC d/b/a PointsBet Racing. The license application process started on May 14, 2023, with an official acquisition notification received from Premier Turf Club LLC d/b/a PointsBet Racing. The \$5000 application fee was received on July 7, 2023. The \$1000 annual license fee will be paid upon approval on this license application. The target date for ownership completion to Fanatics is August 31, 2023. The annual license term would start August 31, 2023, and would go through August 30, 2024, or earlier upon completion of the ownership transfer and would last for 365 days. The background check on the officers and directors came back clean. Additionally, the Oregon Racing Commission performed an in-depth company review, which included financial review and background checks on key senior managers. The acquisition was approved, and the Oregon Racing Commission issued licenses. Fanatics will continue to operate under the name Premier Turf Club LLC. Premier Turf Club LLC currently has a \$25,000 irrevocable letter of credit held by Wells Fargo. Fanatics will continue to hold this bond. Fanatics will continue to utilize the contract between Emerald Downs and Premier Turf Club LLC. Said contract was signed on October 27, 2022, and will expire on December 31, 2024. There are no pending investigations by any governmental agencies.

Michael Levine and Adam Berger were on the Zoom call to answer questions. Adam Berger was speaking on behalf of Fanatics.

Commissioner Moore moved to approve the license application for Fanatics; Commissioner Dr. Ragle seconded the motion. It was moved and seconded that the WHRC approves the license application for Fanatics to take effect when they acquire Premier Turf Club LLC.

7. Industry Reports

a) Emerald Downs

Emerald Downs' President Phil Ziegler reported on the current status at Emerald Downs. The Horsemen's Benevolent and Protective Association (HBPA) requested a change of entry days at Emerald Downs. The entry days are now as follows: Saturdays for Fridays, Sundays for Saturdays and Wednesdays for Sundays. A new house rule that was implemented is if a horse

runs two consecutive weekends it cannot run on the third consecutive weekend. It must get at least one week off.

Moreover, Phil Ziegler reported on Emerald Downs' special events, for example the "Grandparents race", which was broadcasted on national television, as well as the Legislature Days and the Corgi and Wiener Dog races.

b) WHBPA

The HBPA is trying to assist the horsemen with the changing rules of HISA/HIWU. HBPA President Pat LePley also voiced concerns regarding the end of the live race meet at Emerald Downs. There are approximately 700-750 horses currently at Emerald Downs. There are currently no reasonable assurances that the Arizona track – Turf Paradise – will reopen for their live race meet. A lot of the horse population that came to Emerald Downs were at Turf Paradise over the fall and winter. A fairly large number also came from Golden Gate racetrack in California. Golden Gate is closed. The horses that are going to the east coast during the winter will most likely not come back to Emerald Downs in spring of 2024.

Another development is that the National HBPA is filing papers this week to put together a National Political Action Committee.

c) WTBOA

WTBOA President Dana Halvorson was reporting on the WTBOA annual meeting last Saturday. Commissioner Moore attended the meeting and spoke about HISA and HIWU. The WTBOA sales catalogs are being distributed for the WTBOA sale on August 22, 2023. New this year is QR Code in the catalog, that takes people directly to the bidding platform.

8. Hearing before the Commission:

a) Jesus Zuniga Lemus – WHRC 2023-010

The hearing was in the matter of the Board of Stewards' ruling EMD2473023007 in which Jesus Zuniga Lemus was assessed a 365-day suspension for a positive urine sample amphetamine and methamphetamine in violation of WAC 260-34-020. The parties in this matter were the petitioner Jesus Zuniga Lemus and the witnesses Ken Doll and Darrell Farwell. WHRC staff was represented by WHRC Executive Secretary Amanda Benton. After presenting the exhibits and the parties stating their cases the Chair and Commissioners went into an executive session.

The commission stated the 365-day suspension was subject to him obtaining a DSHS evaluation, within 30 days of the order and provide proof of the evaluation and continued compliance with any DSHS recommendations and no more substance violations. Jesus Zuniga Lemus will hold a conditional license and is subject to drug testing, whenever required by the Stewards.

b) Kevin Radke – WHRC 2023-011

The hearing was in the matter of the Board of Stewards' ruling EMD1495923052 in which Kevin Radke was assessed a two-day riding suspension for failing to maintain a straight course in violation of WAC 260-52-040. The parties in this matter were the petitioner Kevin Radke and the witness Ken Doll. WHRC staff was represented by WHRC Executive Secretary Amanda Benton.

After presenting the exhibits and the parties stating their cases the Chair and Commissioners went into an executive session.

The commission found no violation of WAC 260-52-040. Kevin Radke does not have to serve the two-day suspension issued by the Stewards.

9. Executive Secretary's Report

a. Wagering Recap (June 2023) and

b. Monthly Financial Statement (May 2023)

The instate handle for the fiscal year 2023 was down \$453,488.90, a decrease of .9%, which combined with the decrease in the parimutuel tax to 1.3% impacted the fiscal year revenue by \$129,415.41, a 15.5% decrease. The instate handle for June was down \$33,732.20 a slight decrease of .7% from the previous year, with one day of live racing less offered in 2023 vs 2022. The revenue from instate handle for June was down \$24,634.59, a decrease of 33.1%, largely due to the decrease in the parimutuel tax from the prior year. Advanced deposit wagering handle from May was down \$518,786.43, a decrease of 4.1%. However, the increase of the source market fee to 10% from the prior year meant that the revenue increased \$36,872.76, a 63.8% increase. The overall impact of the revenue from both sources was an increase of just over \$12,000. The financial summary report for the 2021 to 2023 biennium. Revenues from May came in \$14,613.00 more than expected, while expenses were \$3,147 over the budgeted amount, which includes the \$29,440 grant paid to Emerald Downs for the morning vet program. Overall, the commission recorded an operating loss of \$25,386 for May. The fund balance at the end of May was \$847,770. The projections for the fund balance through the biennium ending June 2023 now sit at \$813,915. While the fund balance remains healthy, the WHRC continues to experience increased costs. Salaries were increased 7% over the next biennium, with a 4% increase that occurred on July 1, 2023, and a 3% increase will occur on July 1, 2024. There were also employer retention bonuses and a COVID booster vaccine bonus. Additionally, several employees have increased workload, due to HISA regulations. Other increased costs include service costs.

When the legislature passed the 2023/2025 budget, they approved \$1.150.000 to the Washington Horse Racing Commission's operating account, as part of the federal corona virus fiscal recovery funds. There might be restrictions on its use and additional reporting requirements. Executive Secretary Amanda Benton tried to get clarification on the restrictions and what reporting requirements must be in place for its use.

10. Emerald Downs Grants Requests

a) Operation of Test Barn

Grant application for the cost of operating the test barn from Emerald Downs. On May 22, 2023, Emerald Downs took over the operation of the test barn from the WHRC. It is estimated that payroll and supplies through the end of the season will be \$140,000. The tests are processed and paid for from the annual HISA fees. A full statement of expenses will be provided to the WHRC at the conclusion of the 2023 live race meet. Commissioner Moore made a motion to

approve the test barn grant for Emerald Downs. Commissioner Dr. Ragle seconded the motion. It was moved and seconded that the commission approves the grant request from Emerald Downs to cover costs for test barn operations.

b) HISA/HIWU Safety and Medication Program

Grant application from Emerald Downs for the HISA Safety program and the HIWU medication program. The cost of HISA/HIWU is a federal required fee for health, safety and medication testing. The industry suffered a steep decline of handle, revenue and purses in 2020 and 2021 due to state government imposed COVID restrictions. The cost of HISA/HIWU would further damage the industry's ability to recover from COVID and force more participants out of business. The amount requested from the WHRC is \$130,000 to reduce the costs of HIWU and HISA to the horsemen. Commissioner Dr. Ragle made a motion to approve the grant request from Emerald Downs; Commissioner Moore seconded. The grant request from Emerald Downs for \$130,000 was moved and approved.

11. Discussion Items – Commissioners

Travel days to the Longacres Mile draw, the Longacres Mile, and the WTBOA sale were moved and approved.

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

Nothing to report.

The next meeting of the Washington Horse Racing Commission will be held on September 8, 2023, at 9:30 am at Emerald Downs and via Zoom.



Amanda Benton, Executive Secretary