

Washington Horse Racing Commission
Meeting Minutes
Zoom Meeting
September 11, 2020

Attending for the Washington Horse Racing Commission (WHRC) were: Robert Lopez, Chairman; L Everett Macomber, DVM, Commissioner; Claude Ragle, DVM, Commissioner; Senator Phil Fortunado, Ex-Officio Member, Suzanne Becker, Assistant Attorney General; Doug Moore, Executive Secretary; Amanda Benton, Deputy Secretary; Melanie Bowdish, Confidential Secretary

Other participants: On behalf of Emerald Downs: Phil Ziegler, Jack Hodge; On behalf of WAHBPA: MaryAnn O'Connell; On behalf of WTBOA: Dana Halvorson, Anne Sweet, Debbie Pabst; On behalf of WHRC: Ken Doll, Ron Friedman, DVM; On behalf of ARCI: Ed Martin

Members of the Public attending were: Mike Wilson, Garret Cocchiarella, and Roddina Barrett,

Item #1. Approval of the meeting minutes of July 24, 2020.

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

Item #2. Commissioner's reports.

Chairman Lopez - Had nothing to report at this time.

Commissioner Macomber- Stated he was thankful the WTBOA sale went well.

Commissioner Ragle- Had nothing to report at this time.

Item #3. Federal Legislation regarding Equine Testing update – Mr. Ed Martin, Association of Racing Commissioners International (ARCI).

Mr. Martin spoke briefly about the previously proposed ARCI recommendation for an interstate compact that would have negated the need for the currently proposed federal legislation. It never was formed as there were not enough States that joined to create the compact. He said the House has approved legislation similar to the Senator O'Connell's bill which creates a new national organization that has the ability to charge the states for regulating the equine medication and testing programs. An NGO will be overseen by a 9 member board. Industry stakeholders, and current regulatory officials and commissioners would not be eligible to be on the board.

Mr. Martin is strongly encouraging states to take the legislation to their respective AG's for review.

He is concerned that this bill will pass and be attached to a must pass piece of legislation under emergency funding for the government. There have been no hearings on this bill, the racing industry is vulnerable to possible new fees, and it gives NGO a taxing authority to impose those fees. There will be increased costs associated with this. Also, there would be regulation of the breeders, and regulation of the horse would be after first time work out. The NGO would have authority over everything that happens to the horse after its first official workout, but it will play out differently in every state.

Chairman Lopez asked if an option would be to opt out of the program as a state. Are there other options? If the state wanted to turn the sample collection, testing laboratory's, and penalties for violations over, is it all or nothing? Mr. Martin said no, it would be a matter of negotiation with the state and the NGO. It's possible the state could still adjudicate cases, but it would be for the NGO under their guidelines. They would have to ensure any reimbursements would go in to a dedicated account rather than the state's general fund.

Chairman Lopez- Is there a lag time for implementation of the bill? Mr. Martin said about 18 months. There may be state statutes which each state would need change, and that would be up to the legislature. If you don't have the resources to deal with the costs, that would make the decision for you.

Commissioner Macomber- To amend the regulations, is the process through the NGO? Mr. Martin said the NGO would file a regulation that they wanted to adopt and it would go through Federal Trade Commission and after that there would be a 30 or 60 day comment period followed by normal lawmaking procedures.

Commissioner Ragle- Do you have any idea what sort of time frame you anticipate? Mr. Martin- Given it is an election year, he anticipates it will pass the House of Representatives, and may pass the Senate. This could be passed and signed into law before the end of the year.

Commissioner Macomber- Dollar cost on it? Mr. Martin- the NGO would have the ability to tax horse racing and the costs cannot be determined.

Commissioner Ragle- Is there anything else you can suggest? Mr. Martin- Explain the impact to your representatives in the House and your Senators and ask them to insist that there are hearings to push this to the next session, the humane society has powerful lobbyist that will work for passage of this the bill. Only thing you could do is to slow it down so in hearings so the concerns of stakeholders are talked about.

Dana Halvorson asked how will having authority over the horseman and breeders work with the NGO? Mr. Martin- Your horses will be regulated by the NGO and they will implement fees to cover the costs paid by the stakeholders.

MaryAnn O'Connell stated her opinion that this is a way to get rid of the smaller tracks, many tracks that won't survive.

Phil Ziegler asked Mr. Martin, what this do to the racing associations? Mr. Martin- Answer is I don't know, this would be similar to what they have in Canadian horse racing, one body overseeing medication in the country. Racing commissions will still continue to operate so long as there is pari-mutuel racing in the U.S. Medication testing and subsequent violations are only a portion of what we do. Commission structures will change, and this only effects thoroughbred racing, but the commissions

could incorporate other breeds into the program. There have been warnings for several years that this has been on the table for a long time.

Commissioner Ragle- Informed everyone of the bill numbers: Senate bill 1820, House bill 1720

Chairman Lopez- Asked to make sure a copy of the bill will be made available to the public for comment and review and that we should give to the AG. Mr. Moore informed the commission that the AAG has already been provided a copy.

Item #4. Industry Reports.

- a. Emerald Downs report- Phil Zeigler, Longacres Mile night was 9/10/20, Blaine Wright won his first Mile.
- b. WHBPA Report- MaryAnn O'Connell- Congratulated Roddina Barrett for her victory in the Emerald Distaff. The WAHBPA is spending most of their time doing registration for owners coming to Emerald Downs on race days and sorting through legislative items.
- c. WTBOA Report- Dana Halvorson- Was thankful that they were able to host their annual sale, COVID-19 precautionary costs were more than anticipated, and the sale was down about 25%, but was expected as this is the national trend. Overall, everyone did a good job putting the sale on and he wanted to thank Mr. Moore for working with the Governor's office and helping get the sale approved. Mr. Halvorson also offered congratulations to Phil Ziegler and Jack Hodge for running a great operation at EMD, he is grateful the track is able to operate.
- d. Sundowns Report- Hoping to apply for dates next year. Purse money is still there.

Item #5. Emerald Racing LLC – Amended dates and request to waive RCW 67.16.200 (8) in respect to Satellite Wagering.

Phil Ziegler- Looking at 38 race days, purse account has enough money to add 4 more days to extend the meet to Oct. 29th as the end date. Requirement in the law is 40, but had to cancel due to circumstances beyond our control.

Suzanne Becker- Recommended that the motion include circumstances are beyond control of EMD

Mr. Moore- Asked if starting 10/1, will revenue created from handle start going to next year's purse money? Phil Ziegler- That is what is expected, but he is also concerned about going in to a purse and revenue earning period where there are a lot of unknowns.

Motion to approve- Commissioner Macomber moved to approve, Chairman Lopez seconded the motion, Commissioner Ragle voted yes, and the motion passed unanimously.

Item #6. Adoption Hearing WAC 260-49-070 Distribution of Source Market Fees.

Mr. Moore- Amendment would increase the ADW source market fee retained by the WHRC from 7.5% to 10% because of a need to increase additional revenue, however the WHRC will restore the percentages back to previous level when racing gets back to "normal" and the fund balance is stabilized.

Phil Ziegler- Stated that Emerald Downs is reluctantly going along because of the circumstances. This is about \$150k out of the tracks revenue so they will be taking the hit, although under the circumstances

they are supportive. He also stated that changing the percentage of source market fees does not affect the purses.

MaryAnn O'Connell- This is also a hit to the horseman. Effects purses, and effects more than just the bottom line at EMD; effects the whole industry.

Commissioner Macomber- Said that his understanding is this will go back hopefully next year if everything is back to normal. Chairman Lopez- Responded that yes it would move back when possible.

Phil Ziegler- Emerald Downs was able to accommodate the recently changed COVID-19 requirements for card rooms and OTB's. The limit is currently 200 people, and it is not as comfortable as environment on the second floor as it was on the fifth floor. Hopefully there is an effort to bring card rooms back inside before the weather gets bad, otherwise it will negatively impact simulcasting. Washington lost most OTB locations because they couldn't accommodate outside betting. The only OTB locations currently operating are three Tribal casinos.

Senator Fortunato- Having same issues with wineries and is willing to go to bat for horse racing. He will meet with Phil Ziegler regarding getting a summary of the issues and getting feedback.

Commissioner Macomber- Asked if there had been any positives for the virus on location? Phil Ziegler- No positive reports for customers. Stable area, no reports of sickness, employees, two employees, (landscaping crew), tested positive, they have recovered and are back at work.

Moved to approve - All commissioners vote yes.

Item #7. Executive Secretary's Report

- a. Wagering Recap (July/August 2020)
- b. Monthly Financial Statement (July 2020)

Item #8. Update of agency request legislation and decision packet.

Staff is currently trying to resolve what the issues may have been last year that stalled the request legislation regarding the agency's ability to submit a request for funding assistance and will try to keep it moving this session, pending approval from the Governor's office. It was suggested by Senator Conway last session that legislators may be more open to a decision packet that would benefit state employees instead of the equine decision packet. Staff is planning to submit two decision packets this year. Legislator's from SE Washington are looking at drafting a bill that would return some sales tax from all equine related sales to the industry. Representative Jenkins, who had originally agreed to sponsor this legislation, was not reelected so the stakeholders from SE Washington will have to look to other legislators for their support.

Macomber- Asked if there will be changes in chairmanship for the House Commerce and Gaming Committee? It was stated that Representative Peterson will still be chair of the committee as far as we know and was asked to sponsor the WHRC's agency request legislation.

Senator Fortunado- Asked if there will be a companion bill in the Senate? Mr. Moore said that there was a companion bill drafted last year and he will get him the information.

Item #9 -2020/2021 Update on proposed rule making.

Mr. Moore- Will draft and get stakeholder response on the following rules:

260-24-550 Requirement for regulatory vet to obtain a State license exemption.

260-28-020-Multiple unique ownerships using same stable name.

260-36-120 Clarify the commissions ability to address request for reinstatement from those revoked

260-40-090- Allowing horses to race if registration papers are on file with another jurisdiction

260-40-130 Timing for horses to be on the grounds on race day

260-70-570- Prohibiting icing horses legs prior to pre-race inspections

260-70-640- ARIC model rules regarding NSAID's and intra-articular joint injections

Commissioner Macomber- Would like Dr. Friedman to include in his report any medication violations that could be tied the timing of intra-articular joint injections.

Commissioner Ragle- As long as we have the wording that clarifies the icing restriction would begin, (the day of the exam)

Commissioner Macomber- What is the process if they are late for being on the grounds now? Mr.

Moore- as long as they are here to get their lasix shot in time we haven't done anything. Mr. Moore-

Could leave in 5 hours before the race or 10 a.m., whichever is latest.

Item #10 –Annual License Fee Review.

Mr. Moore presented a memo to the commissioners regarding the requirement for an annual license fee study and said that due to the unforeseen circumstances with COVID-19 this year and after raising license fees 15% last year the WHRC is not planning to raise license fees for 2021 so a license fee study had not been done.

Motion to approve accepting the memo in lieu of license fee study passed unanimously

Item #11 –Approval of travel–December ARCI model rules and Board of Directors Meeting.

Meeting will still take place, whether via Zoom or in person. Decision will need to be made on travel, it is preferred that at least one commissioner or Doug Moore attend, the 2nd person would be at the commissions discretion and decided at a later time.

Commissioner Macomber- Said that WHRC should send one person and re-evaluate finances at the November WHRC meeting. Chairman Lopez agreed.

Commissioner Ragle- Said the there will probably be a Zoom option if someone else wants to participate.

Motion: Approved to send one person if it is held in-person in December- motion passed unanimously

Item #12 –Discussion items – Commissioners.

Commissioner Macomber- Historical racing machines- Said that it is looking like it is becoming more important that we address this issue. The Texas equine sales tax model is also an option to be looked into and discussed.

Chairman Lopez- Plans to draft a letter to Washington State U.S. Congressmen and women regarding the federal legislation to have hearings to slow down the process to allow stakeholder input. MaryAnn O'Connell- Applauded the idea of drafting a letter to the senators, she said that they have no idea there is opposition to the bill.

Commissioner Macomber- Said he would like to inform the candidate replacing and Representative Bill Jenkins so he/she is informed of the issues.

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

Hearing none, Chairman Lopez adjourned the Zoom meeting. (10:45 A.M.)

Douglas Moore, Executive Secretary

Due to technical issues this meeting was not recorded.