

Washington Horse Racing Commission
Meeting Minutes
April 13, 2018

Present were: Everett Macomber, DVM, Chairman; Jeff Colliton, Commissioner; Robert Lopez, Commissioner; Sharon James, Assistant Attorney General; Doug Moore, Executive Secretary; Patty Brown, Confidential Secretary.

Chairman Macomber called the meeting to order at 9:32 A.M.

Item #1. Approval of the meeting minutes of March 9, 2018.

Commissioner Colliton moved to approve the minutes with one change on page 9 item 8. Commissioner Lopez seconded the motion to include the change. Unanimously approved.

Item #2. Commissioners' report.

Commissioner Colliton had attended the ARCI Spring conference in Hot Springs, Arkansas. He said the governor of Arkansas, Asa Hutchison, was a speaker and spoke on jobs, economy and tourism. He also talked at length on national horse shortages across the nation and that no one has a solution for it. Commissioner Colliton said sports betting was talked about at length; not if but when it's going to occur, who will regulate it; that's the big question. There is a concern that tribes will fight sports betting legalization but it will happen sooner than later. Commissioner Colliton said the turnover of the chair happened at the meeting and Mike Hopkins from Maryland is now the Chairman. He said we were able to keep Commissioner Lopez on the board as a director and there is a very strong possibility that Doug Moore will become the chair of the model rules committee.

Commissioner Lopez spoke on his attendance at the convention for equine welfare and integrity. He said it was the best attended he'd seen. He took away a couple of things; Scott Palmer talked about risk factors in training. He said an educational seminar with our trainers would be beneficial. There was discussion on Biphosphonates in horses; the forum discussed retired race horses and how to fund that. Commissioner Lopez said some tracks use the charitable wagering events to fund these programs; using social media when a horse is getting close to retirement notify the public of this and give them the opportunity to purchase these horses. This might be an option.

Chairman Macomber said he had participated in the meetings and also in some of the discussions and one of critical interest was the quarter horse medication rules; in particular as they apply to the use of Clenbuterol; in Washington State is zero. Biphosphonates in his opinion should not be used on horses younger than 3 years old. He said there is some indication these are being used heavily on young horses. Chairman Macomber said if Biphosphonates are used you should not use Phenylbutazone at the same time as this would contribute to renal failure or complete kidney shutdown.

Item #3. Industry reports.

a. Emerald Downs.

Phil Ziegler, President, reported the weather looks good for next week's opening. He said they are getting ready for opening day. There will be a media blitz on advertising and promotions for the season, beginning on the week before opening day, Sunday, April 22nd. He reported it should be easier to fill races by opening just the Sunday; they should have ten races; the draw is on Wednesday, beginning at 11:30 am. He reported that Emerald Racing Group acquired their third horse yesterday. A new wager this year is the Pick 7 with a minimum wager of 20 cents. The takeout is based on Washington Administrative Code (WAC) rules and is similar at other tracks. The jackpot will go once a month with only one payout. Mr. Moore said he had received a formal letter yesterday; he had spoken with Tony Lovell, Autotote, who said there were a couple of issues, but they are working those out.

Commissioner Lopez moved to approve the request for the takeout percentages on the new Pick 7 wager. Commissioner Colliton seconded the motion. Unanimously approved.

Keith Swaggerty asked if this new wager changes current Pick 7. Mr. Moore explained the new wager to him.

Commissioner Colliton asked Mr. Ziegler about the Emerald Racing Club count and he said the count was about 170 with 200 maximum members. Chairman Macomber asked if the horses that were purchased were currently racing. Mr. Ziegler said yes, two at Golden Gate, one out of Oaklawn. The trainers are with two of the horses with the Ross' and one with Mike Puhich.

b. HBPA.

MaryAnn O'Connell, Executive Director said they were getting ready for the upcoming meet. She said there are some changes with the bonus structure; she said she had attended National HBPA conference which she said mirrored ARCI Spring conference with discussions on medication. She attended the Kent Stirling memorial in New Orleans, LA. She spoke on the shifting of states as more adopt the lower thresholds. Mr. Moore said regarding the absolute insurer rule, that Kentucky is amending their rule to give steward more latitude in determining who may be at fault for a violation; he said after he sees the changes he will bring this to the HBPA to discuss a possible change to the WHRC rule. Ms. O'Connell said she's still unsure that mitigating circumstances were being considered when dealing with our stewards. Mr. Moore disagreed a bit with this. Ms. O'Connell said our language already does a good job. She wants to make sure the reasons the stewards enforce some type of penalty is through our language and not because it's their decision when dealing with low insignificant levels.

Chairman Macomber addressed the communication breakdown with members of the Commission and industry and hopes this can be resolved and kept open. He said a lack of communication is going on with the harness group and the USDA and also within the industry.

c. WTBOA.

Dana Halvorson, President, said the sale is on August 21st and 90 people have entered. He said the entries are due the 27th of April. He said the WTBOA is currently working on a farm directory. He said

the industry is down quite a bit of farms unfortunately. He hopes to get trainers to sign up to get their names in it also. The cost is \$30 to be included in the directory. Mr. Halvorson said he attended the memorial for Dr. John Traber which was held at the Breeders Pavilion, he said there was a good turnout and it was nicely done. He said another memorial will be held for Dr. Bud Hallowell on May 10th at Emerald Downs, 4th floor, at 2:00 p.m.

d. Sun Downs report.

Mr. Moore spoke with Shorty Martin who said they are in the process of getting ready for their meet. He said there was an issue with the County Commissioners on who should have the Donohue money, Sun Downs wanted to put a new roof on the jockey's room and the County wanted Sun Downs to give them the Donauhe Funds so they could bid out the job. Sun Downs didn't want to give the money to the county, so they decided to do some work on the paddock. Commissioner Colliton asked about the Sports Page satellite for Kentucky Derby day. Mr. Moore said they had called and wanted to open after live races were over at Sun Downs, but the definition of race day is the day so they will not be open and will remain closed for the 6 days of the live meet.

Item #4 ADW license hearing – 123 Gaming, Inc.

Mr. Moore set up Skype through his laptop to be able to have Mr. Rob Earle, CEO, 123 Gaming d/b/a 123Bet.com. Chairman Macomber opened the hearing at 9:57 a.m. Mr. Moore presented the renewal submitted by 123 Gaming. Mr. Moore said staff recommended approval. Commissioner Lopez asked Mr. Earle to explain the handle drop last year. Mr. Earle said they had spent a significant amount in promotions the previous year. He said they had managed to stabilize this by utilizing player rewards and then were able to save and still be able to do promotions this season. Chairman Macomber asked if they were planning their marketing the full season or just certain time periods. Mr. Earle said they have customized VIP rebates with players across the board not just in Washington State and are continuing this; also they are providing free play handicapping contests with Emerald Downs, subject to track approval.

Mr. Earle thanked for WHRC their time and the support from Washington residents. He said they are the smallest in the state, but are making good inroads in the last few years and appreciate that.

Commissioner Lopez moved to approve the renewal of 123 Gaming d/b/a 123bet.com. Commissioner Colliton seconded the motion. Unanimously approved.

Mr. Moore presented the Commissioners with an Order for signature and said he would email Mr. Earle a copy and would also send a hardcopy. Hearing closed 10:15 a.m.

Item #5. Adoption hearings:

a. WAC 260-84 - Penalties.

Mr. Moore said the amendments to this section reflect the adopted threshold levels for Phenylbutazone; adding a penalty for the possibility of a cobalt overage. The penalty is consistent with ARCI recommendations. Early in the drafting of this rule the WHBPA had some concerns with possible outliers; after conducting limited cobalt testing, the reported levels were below detection with the

highest reading of 14.3. Public comment was received and noted in the brief, staff recommends adoption.

Commissioner Colliton moved to adopt the amendments to WAC 260-84 Penalties. Commissioner Lopez seconded the motion. Unanimously approved.

Item #6. Adoption of policy statement 2018-01 Threshold level penalties.

Mr. Moore said there are two policy statements in your packet to consider and after having discussions with colleagues, it was decided to separate out Phenylbutazone from the other NSAID levels and a second policy was drafted. Mr. Moore said only reports of overages from the new thresholds will be reported but they must still be under the old threshold. The second policy separates Phenylbutazone out due to the fact that some trainers may have 30 horses. In the second policy the trainer is notified of an overage and if a second report comes back, the trainer would be referred to the stewards. In no instance in the policy does it state that a penalty or ruling will be issued. Dr. Friedman will help identify "at risk" horses; and he has, in conjunction with Truesdail Lab, implemented a testing program that is provided to trainers to screen, free of charge, for any of the substances with newly lowered thresholds when a trainer wants to submit a sample. This will assist the trainers to determine where that horse needs to be on their treatment program. Mr. Moore said this will be interpreted very broadly and at this time, one trainer has scheduled to take advantage of the new testing. Mr. Moore said he has supplied to every trainer a copy of new thresholds, administration withdrawal recommendation and a copy of a spreadsheet that tracks the overages. These have all been sent to all the trainers.

Commissioner Colliton said he knows that Mr. Moore has worked hard on this and appreciates the second policy. Mr. Moore said he didn't feel any rulings would be written when they didn't need to be. Ms. O'Connell said she appreciated sending the reports along to the trainers. It was her feeling that Dr. Friedman should talk to the lab regarding the testing. Mr. Moore said the level of uncertainty had been discussed and it would not be possible to have every situation placed into the policy. Mr. Moore said the stewards will look at every circumstance and are committed to making this work. Ms. O'Connell said that Dr. Friedman should meet with trainers and vets to discuss this. Mr. Moore said he would ask him to do that to get the word out. Staff recommended adoption of the proposed amended policy. Commissioner Lopez moved to adopt WHRC Policy Statement 2018-01 (Proposed/Amended). Commissioner Colliton seconded the motion. Commissioner Lopez requested Mr. Moore in order to make sure this works smoothly, that everyone understands, Mr. Moore meet with discuss this with the stewards. Mr. Moore said he would. Unanimously approved.

Item #7. Executive Secretary's Report.

Mr. Moore said before he reports on the wagering recap and financial statement he wanted to discuss some items from the ARCI Hot Springs Rules meeting; there was a discussion on Jockey Baseline Concussion, this may be a requirement as part of the physical for a jockey before licensing each year. He discussed the adoption of a lightning protocol; which mirrors the NCAA standards; if a lightning strike is within 8 miles, racing must cease for thirty minutes or until after the last strike. There was a discussion on environmental contaminates. The practicing vets proposed for the model rules; screening limits on meth, cocaine and morphine. He said he would see where it goes, but the WHRC already has rules in place for those. He said they were also looking at penalty structures; a three tier penalty. A very low penalty for overages on thresholds; second, a stiffer penalty for substances discovered in post race

samples that don't have a threshold for therapeutic medications; and a third tier for drugs that should not ever be found in the horse would remain the same.

Mr. Moore said he's having a hard time filling back up vet positions. If a case should arise where we aren't able to fill a vacant position, there's nothing in rule that states we have to have two vets. We are also having a problem finding vet assistants and may have to take a look at how other jurisdictions are handling this. This is informational for the Commissioner to be aware.

Mr. Moore asked to consider approval for travel for the Commissioners to attend the opening day and media day at Emerald Downs; to approve travel to attend Dr. Hallowell's memorial service in May; and to attend the ARCI meetings in Omaha, Nebraska in July. The HBPA has also requested one or more commissioners attend the June 23 HBPA annual meeting, Chairman Macomber said it is on his calendar and will attend. Ms. O'Connell said it was important that all commissioners attend and hoped they could do so.

Commissioner Lopez moved to approve all commissioners attendance for Emerald Downs draw day on Wednesday April 18; requested approval for Commissioner Colliton and himself to attend the meeting in Omaha; and any commissioner that wishes to attend the memorial for Dr Hallowell; any Commissioner that attends the June 23 HBPA meeting. Commissioner Colliton seconded the motion. Unanimously approved.

- a. Wagering Recap (March 2018). Mr. Moore reviewed the wagering handle by month down 4.42 percent, by race year down 7.23 percent and by race year down .48 percent. Mr. Moore noted the ADW handle was up 9.65 percent.
- b. Monthly financial report (February 2018). Mr. Moore reviewed the revenues and expenditures. The fund balance at the end of February was \$792,477 down \$63,000 at this time last year. Kai Matthews, the WHRC budget analyst, reported the cash outs and salaries and benefits from cash outs for leave and retirements. Mr. Moore said the number of owners has decreased and this has had an effect on the fund balance for license fees at the same time from last year. In a report beginning in January 2017 to April 2017 the WHRC collected \$118,000; and this year only \$87,000 has been collected license fees. Mr. Moore said the hope is to make that up as we get closer to racing. Commissioner Colliton asked about the horse population. Mr. Ziegler said 738 on the grounds now, down from last year but relegates this to the opening day from this time last year. Mr. Moore said he hasn't gotten a solid number regarding the FTE changes. Commissioner Lopez asked about the change to cash out leave. Mr. Moore said this does not affect year round employees; seasonal employees will be cashed out at end of their seasonal employment.

Chairman Macomber asked Mr. Ziegler regarding the horse population, would they be expecting trainers from Turf Paradise. Mr. Ziegler said he believes they are all coming back plus he knows of one additional trainer. Mr. Ziegler said Golden Gate Fields had worked out a deal to stay open during their fair meets and didn't expect any California trainers to come up to Emerald Downs. He did say there should be a good jockey colony this year. Mr. Kenny Doll, Presiding Steward, said Gary Wales has come up from Florida. Mr. Halvorson asked about Hastings, and Mr. Ziegler said they are having the same struggle. Mr. Ziegler said he heard that Yavapai Downs is going to reopen and that won't help with Emerald Downs horse population.

Commissioner Colliton said regarding the rules on lightning and concussion, ironically that same morning there was a lightning strike at Oaklawn Park; and that same Saturday a jockey was thrown and there was a concussion involved. Mr. Ziegler said discussing lightning; they have apps that can pinpoint exactly how far away it is to determine the need to delay.

Ms. Anne Sweet, Editor, WTBOA said she had see a lightning strike a pole right across from their building; that was the closest she'd seen. Ms. O'Connell said she plays soccer and has seen this, automatically cancelling play, lightning and thunder; she said having the apps is a good way to go.

Item #8. Discussion Items – Commissioners.

Commissioner Lopez mentioned that he would like to discuss the Medication Compact at the June meeting. He would like to see the commission join. Mr. Moore said he's already started working on the language for this.

Chairman Macomber said an issue he concerned is about is the use of Biphosphonates, how to handle these. Mr. Moore did receive some direction from the RMTC; it is such a mystery right now. Mr. Moore said young horses are a particular problem as it affects the horse's skeleton.

Chairman Macomber asked Mr. Moore about financials from other tracks, regarding economic conditions in other jurisdictions. Mr. Moore said he knows Michigan has shut down and said that Portland Meadows struggles in year to year operation. He said he's heard that in Idaho there are three gubernatorial candidates who've discussed openly supporting racing by at least by two of the candidates. It is possible they may get a track back. He said very few jurisdictions are in solid financial shape.

Item #9. Any other business that may be properly brought before the commission.

Chairman Macomber said the next meeting is June 8th; there will be no meeting in May or July.

Meeting adjourned. 10:55 A.M.

Doug Moore, Executive Secretary