

Washington Horse Racing Commission
Meeting Minutes
February 14, 2020

Present were: Robert Lopez, Chairman; Dr. Everett Macomber, DVM, Commissioner; Dr. Claude Ragle, DVM, Commissioner; Doug Moore, Executive Secretary; Patty Brown, Confidential Secretary.

Item #1. Approval of the meeting minutes of January 10, 2020.

Commissioner Macomber moved to approve the minutes of January 10, 2020 as submitted. Commissioner Ragle seconded the motion. Unanimously approved.

Item #2. Commissioners' report.

Chairman Lopez and Commissioner Ragle had nothing to report.

Commissioner Macomber said he had followed up on a phone call to Dr. Mary Scollay the Executive Director and Chief Operating Officer of the Racing Medication and Testing Consortium (RMTC) who has sent out a Request for Proposal (RFP) regarding testing for Bisphosphonates. Commissioner Macomber said only one horse which had a necropsy performed from Santa Anita had bisphosphonates in its system. The other question that is showing up is how long the withdrawal should be from racing for a horse showing bisphosphonates; the recommendation is for 6 months. In the United Kingdom is it for life; France, six weeks. They are all over the board on this. Commissioner Macomber said until there is more research data it is hard to make any conclusions. He said if you're testing horses beyond 30 days, the test does not work and he said using a two week wash out period for a crossover evaluation; two weeks doesn't make sense with bisphosphonates. He said we need to look closely at what's being reported.

Item #3. Legislative Updates.

Mr. Moore said regarding legislation, the Tribal Only sports wagering bill has passed out of the house and was moved to the senate. He reported the WHRC bill HR 2231 that would allow the Commission to accept and utilize general fund monies moved easily out of the House Commerce and Gaming committee unanimously and had a very short hearing in the Appropriations committee; where it died. Mr. Moore talked to Rep. MacEwan's aide and he said it had nothing to do with being a valid request. It was the recommendation that it be reintroduced next session in 2021. Rep. Peterson is looking into helping not only with our budget but with other items. He said there is a possibility that the WHRC could get monies earmarked for grants. This money would assist with funding for grants such as the morning vet program, help Kennewick more and possibly revive Dayton and Waitsburg.

Item #4. Industry reports.

- a. Emerald Downs. Phil Ziegler, President, Emerald Downs Racing, introduced Bret Anderson, Racing Secretary who updated the Commissioners on the number of stalls and estimated 345 horses on the grounds which he said is right on par with last year along with the number of trainers and stall applications that had been received at this time last year. He said some of the trainers would be waiting for Turf Paradise in Arizona to close, and then those trainers usually come here. Mr. Ziegler said training was going well, simulcasting as has been noted continues to be down. He said there is less product from California but recently the weather has helped the handle and that it is simulcasting is expected to show an increase soon from last year due to the 2019 closure of Santa Anita for several weeks. He said the meetings with the Equine Health and Safety committee will be continuing soon; Incompass software hosted by Sportech has a program to help with at-risk horses and this will also help the state vet with morning pre-race inspections. Stridemaster is a company that has technology to GPS a horse's performance by placing a device in the saddle cloth that will monitor and reports a myriad of performance statistics and they would be meeting with them next week to see the product.

Chairman Lopez asked Mr. Ziegler if there were any press inquiries regarding horse breakdowns. Mr. Ziegler said no. Chairman Lopez asked about the track surface. Mr. Ziegler said they've spent \$100,000 on dirt fibers and put the track to "bed" after the meet last year; they will add on to the surface to bring it back to its optimum performance. Commissioner Macomber asked about the number local or WA bred horses that have applied; Mr. Anderson said they are about the same as last year, pretty close.

- b. WAHBPA. Pat LePley, President, reported on legislative matters; the Tribal only sports wagering bill passed last night 88-14 in the House; he said there is an emergency clause on that bill that could result in some litigation. He said with the Governor's ability to line item veto; hard to say what will happen. He said an appropriation being proposed by Rep. Strom Peterson would provide \$500,000 to horse racing to help the Class C race meets and provide money to pay for the morning vet program at Emerald Downs. He said this was not subject to cutoff dates as it is a budget item; it is still alive at this time, and we will see what happens. Mr. LePley said he had testified against the "Maverick Sports Wagering Bill"; his opposition was based on the wide open online gaming allowance and that's not beneficial to horse racing. He said the vote was down the middle on the tribal only bill, given the choices it appears to be the most supported legislation. The misgiving is that no one has done anything for horse racing. He said bringing up that breeding and agriculture are also hurt in the state with increased competition; he said this opened a lot of eyes in the House about our situation. Historical racing was discussed; grant money; sales tax deferrals; it was also promised that something would be done by the Chair of the House Commerce & Gaming committee for an exclusive work-session which lasting up to an possibly an hour giving us a chance to make a pitch and educate the committee on what we do. He said a question is to do with the current legality of historical racing devices and if they meet the pari-mutuel wagering statute.
- c. WTOBA. Dana Halvorson, President, reminded everyone the Breeders Banquet is February 22nd, starting at 5:30 P.M. with the dinner to begin at 6:45 P.M. Ms. Sweet, Editor, Washington

Thoroughbred said she had sent invitations to the local and governmental political members but had no response as yet.

- d. Sun Downs. Shorty Martin, Racing Secretary, reported the race track in Kennewick will be open for training, this weekend. He said everything was status quo at this time.

Item #5. Emerald Downs race meet packet. (Action Item).

Mr. Moore presented the Emerald Downs' race meet packet. Chairman Lopez asked if this year submission was different from last year. Mr. Ziegler said nothing much had changed the same format with wagering pools as previously offered. Mr. Moore said he had heard that there may be a change; moving the Pick N to a single winning jackpot wager. Mr. Ziegler said he had been looking at six to seven races, but did not go forward with that. He said the wagering format is the same as last year, no changes.

Commissioner Macomber moved to approve the Emerald Downs 2020 live race meet request. Commissioner Ragle seconded the motion. Unanimously approved.

Item #6. WHRC Officials, Emerald Downs. (Action Item)

Mr. Moore reviewed the WHRC Officials for the 2020 Emerald Downs race meet. He said the stewards remain the same; Dr. Ron Friedman, Equine Medical Director, and Dr. Colette Bergam, DVM, has committed to work the 2020 Sun Downs race meet. Dr. Taryn Hudgens has committed to work the Emerald Downs meet when she can if Dr. Bergam isn't available. Josh Williams WHRC Investigator 2 has not yet committed to return; and Ms. Kim Wales, Receiving Barn Clerk has taken a year-round job in Walla Walla. Mr. Moore said job announcements will be out soon for one or both of these positions. Ms. Debbie Hopkins announced her retirement, this will occur in Mid-May and we will need somebody to replace her. Also, Ms. Patty Brown has announced her retirement at the end of July. He said he will be reaching out to find someone with same skills which will certainly prove difficult.

Chairman Lopez asked about the presiding steward at the Sun Downs meet. Mr. Moore said he's still working on that; he said he would reach out to the Federation again to split this duty between himself and Amanda Benton, Deputy Secretary if needed. He said that with hiring of Donny Smith, he may be able to work into this position soon, hopefully in 2021. He said the need is to get by one more year.

Commissioner Macomber moved to approve the WHRC Officials as submitted. Commissioner Ragle seconded the motion. Unanimously approved.

Item #7. WAC 260-28-295 Trainer Responsibility.

Mr. Moore reviewed the amendments before the Commission for approval.

- a. WAC 20-28-295. Trainer responsibility.

Mr. Moore said the amendments to this rule would align our rule with the recommended model rules. The Washington Horsemen's Benevolent & Protective Association (WHBPA) has expressed concerns on these amendments. Mr. Moore said he has reached out to the Association of Racing Commissioners International (ARCI) with a survey of other jurisdictions, but did not get much response. Staff remains neutral regarding adoption or not. Mr. LePley said this would be hard to enforce; no other states have any experience at this point; he urged to table this amendment, at least for this year. After some discussion, Commissioner Macomber moved to table this amendment. Mr. Moore said another way to go may be to establish this in policy.

Chairman Lopez said it is the prerogative of the Chair to table the amendment to WAC 260-28-295 and did so. Mr. Moore was asked to work on a policy for 2020 to see if a rule may work in the future.

b. WAC 260-70-545 Prohibited practices.

Mr. Moore reviewed the amendments to WAC 260-70-545 Prohibited practices. Commissioner Ragle asked what the age requirement when using bisphosphonates was. Mr. Moore said horses under the age of four years old is prohibited; for horses four and older only with certain conditions, currently only navicular disease. Commissioner Macomber asked about the use on farms of CBD for horses. Mr. Moore said CBD is listed under the guidelines; it is a Class 3, B Penalty; with no threshold. Mr. Moore said the problem is there is no research on CBD use. Mr. Moore said the WHBPA is in support of the amendments. Staff recommended approval.

Commissioner Macomber moved to approve the amendments to WAC 260-70-545. Commissioner Ragle seconded the motion. Unanimously approved.

c. WAC 260-70-685 Alphabetical listing of all drugs, medications, and foreign substances.

Mr. Moore said the amendments to this section include the most current ARCI list of medications. This list has not been updated for three years. Staff recommended approval.

Commissioner Macomber moved to approve the amendments to WAC 260-70-685. Commissioner Ragle seconded the motion. Unanimously approved.

d. WAC 260-84 Penalties.

Mr. Moore said amendments to WAC 260-84 represent updates to current WAC's and changes to some penalties. The WHBPA responded with some requests to change several to lower levels and those changes were made. Staff recommended approval.

Commissioner Macomber moved to approve the amendments to WAC 260-84 Penalties. Commissioner Ragle seconded the motion. Unanimously approved.

Item #8. Sun Downs dates request and officials (Action Item).

Mr. Moore reviewed the date request of April 18, 19, 25 and 25; May 2 and 3, 2020 and said there is no change from previous year's requests. Mr. Moore said Sun Downs was not expected to be able to conduct a meet this year, but due to someone stepping up with a donation, they were able to go

forward. Staff recommended approval. Commissioner Macomber asked if it was cash or in kind. Mr. Martin said it was a cash donation.

Chairman Lopez asked if it were possible to know where the donation was from to determine if it was legitimate. Mr. Moore said it was a long time horseman Baxter Andruss and it was legitimate, he was glad he didn't mind it being known he deserves the recognition. Chairman Lopez said he just wanted it to be a legitimate donation.

Commissioner Macomber moved to approve the 2020 Officials for the Sun Downs meet. Commissioner Ragle seconded the motion. Unanimously approved.

Item #9. Distribution of Donohue Fund.

Mr. Moore reviewed the calculation for the annual distribution of the Donohue Fund to the non-profit race meets. He reported this year total to be \$4,529.64 and the only non-profit meet is Sun Downs this money will be entirely distributed to them to be used to for the sole purpose of maintaining and upgrading the race course equine quartering areas.

Item #10 Approval of the Annual Report. (Action Item)

Mr. Moore reviewed the draft WHRC annual report to the Governor for approval. Staff recommended approval.

Commissioner Macomber moved to approve the WHRC annual report to the Governor. Commissioner Ragle seconded the motion. Unanimously approved.

Item #11. Executive Secretary's Report.

a. Wagering Recap (January 2020).

Mr. Moore reviewed the wagering for the Advance Deposit wagering firms to be down 13.57%; for Emerald Downs and satellites down by date range down 2.05%; July 2019 to January 2020 wagering down 6.03%; and for the race year comparison down overall 7.30%.

b. Monthly Financial Statement (December 2019).

Mr. Moore reviewed the revenues and expenditures for December 2019. He reported the fund balance at the end of December 2019 at \$552,709 gaining a little. Mr. Moore discussed the threshold on the fund balance of \$400,000 remaining in the operating account and had discussed with our budget analyst, Seth Flory, if this was a hard number. Mr. Flory said normally this number is what the agency estimates is two months operating expenses and what it would take to shut down operations and cash all employees out if necessary, in his estimation, the WHRC spends closer to \$300,000. Mr. Moore said he had worried that as the WHRC moves closer to the \$400,000 mark, that the Office of Financial Management (OFM) would shut down the agency. He said that is not the case, Mr. Flory said that OFM would not stop agency operations; Mr. Moore said his thought was to adjust this figure to more current

expenditures nearing \$300,000. Chairman Lopez said he did not have a problem with adjusting this amount.

At the request of Chairman Lopez, Mr. Moore presented an analysis of Sun Downs costs and effect on Fund 169 (WHRC Operating Account). The comparison graphs the actual costs and the change in Fund Balance by biennium with and without Sun Downs Costs. Mr. Moore said the numbers indicate that the cost of regulation is insignificant to our overall budget. Chairman Lopez said he'd asked about savings if Sun Downs didn't conduct a meet. Chairman Lopez asked Mr. Moore to look at costs should Dayton and Waitsburg be able to return to conduct a race meet.

Item #12. Sun Downs Request for Grant. (Action Item)

Mr. Moore said Sun Downs has submitted a grant request for up to \$10,000 to assist with purses, but with what we know now, with the possibility of the Legislature assisting monetarily, asked that this be tabled and revisit this request for the March meeting. Chairman Lopez agreed and tabled this item for March 13, 2020 meeting.

Item #13. Discussion items – Commissioners.

Commissioner Ragle and Macomber stated they had nothing further for discussion.

Chairman Lopez said he had viewed a video that Commissioner Ragle sent; he said he was taken by comments when placing a horse on a 14 day vet list with no diagnostics as to why the horse was placed on the list to begin with if nothing is wrong with the horse. He said some don't come back and some suffer catastrophic injuries. Commissioner Macomber said the horse generally requires a work to get off the vet list and if they are still lame, they won't get off. Chairman Lopez found it interesting that with no particular diagnosis, they are placed on the list. He thought that it might be beneficial to know what caused the horse to be placed on the list. Maybe this is something to take a look at in the off season.

Item #14. Other business that may be properly brought before the Commission.

Mr. Moore said there will be a conflict with the date of the April meeting due to Chairman Lopez and he will be attending the ARCI Spring Conference in New Orleans at that time. Mr. Moore said he had looked at April 3rd, but there is a conflict with that date also, there will be a training session on the use of the microchip system and he felt that both he and Ms. Benton should attend. He suggested April 17 and Emerald Downs has offered to host the meeting, it might be more convenient with Emerald Downs opening the next day April 18th. Mr. Moore said he will be at Sun Downs but, Ms. Benton will be available to conduct the meeting and he will be available by Skype to attend if necessary.

Commissioner Macomber moved to change the April meeting to the 17th and the meeting location to Emerald Downs. Commissioner Ragle seconded the motion. Unanimously approved.

Chairman Lopez noted the next meeting of the Commission will be on Friday, March 13th. Hearing nothing further, adjourned the meeting. 11:30 A.M.

Doug Moore, Executive Secretary