

Washington Horse Racing Commission
Meeting Minutes
January 10, 2020

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

Commissioner Ragle attended via Skype.

Item #1. Election of a new chairman.

Chairman Macomber nominated Robert Lopez. Commissioner Ragle seconded the motion. Unanimously approved.

Chairman Lopez presided over the meeting.

Item #2 Minutes. Approval of the meeting minutes of November 8, 2019. (Action Item).

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

Item #3. Commissioners' report.

Chairman Lopez said he was unable to attend the Tucson meetings due to emergency surgery. He said he had received an email indicating that a hearing federally in the House regarding the horse integrity act had been scheduled. Ed Martin, President, Association of Racing Commissioners International (ARCI), expects that lopsided support may move the legislation out of the House; but doesn't think it will get through the Senate. Chairman Lopez said this is scheduled for January 28th.

Commissioner Macomber said his time has been taken up with issues that will be discussed and decided on today. He said he would hold his comments until the appropriate time.

Commissioner Ragle said he'd sent an email link to video from the American College of Veterinary Surgeons, discussing the Santa Anita issues, may find interesting to watch. Mr. Moore said he would forward this link to anyone that may be interested.

Item #4. Industry reports:

- a. Emerald Downs, Phil Ziegler, President, said it was only 100 days until Emerald Downs opens. They've got several special events on the schedule. Bret Anderson, Racing Secretary reported that stall applications was on par with applications received last year. Mr. Ziegler said they've

been reaching out to few trainers that haven't been here Mr. Ziegler said the wagering recap shows a diminished handle in simulcast which affects purse funds and operation funds. He said that is a bit distressing; with tracks running less days, it impacts simulcasting. He said there's not been much to wager on; it's been a struggle. He said live handle is up over the season nationally, but this is a result from the elite players; over the internet. On track handle is down double digits. He said they've spent \$100,000 placing dirt on the track; GPS grading, which they've been doing this for some time.

- b. WAHBPA. Pat LePley, President, said they've been working with management; two long sessions trying to work out an agreement on stakes schedule and have not come to an agreement yet; they did agree with management on a new distribution percentage developed on how money is distributed to winners. He said they are utilizing the New York method. Discussed a couple of internal issues regarding trainers with requests for more than 37 stalls; management will waive the maximum to accommodate more. He said they've been working on a purse increase about 5-9 percent that will boost the bottom purse to \$6500 to accommodate horses racing at the bottom to help attract horses to Emerald Downs. Also they were going to write the non-winner of 2 and 3 lifetime condition races at claiming prices more in line with the maiden claiming prices. Mr. LePley said he's spent a lot of time going over these issues with management; a lot of time on waiver claiming and layoff rules. Chairman Lopez asked Mr. LePley about negotiations with jockeys and fees; are we all ready to go. Mr. LePley said yes, there won't be any situation as happened last year. MaryAnn O'Connell, Executive Director, said she is working on the National committee to get their lobbyist to speak on the Federal legislation at the hearing; she said they are not sure if he'll be allowed to speak; she agrees that with this legislation, they should be working on the Senate side at this time. She has been working on letters to write Senators and has forms if anyone needs them.

Regarding the discussion on joining the safety alliance, the HBPA supports Emerald Downs joining.

Chairman Lopez said it was his thought to reach out again to the Washington delegation on the Federal legislation to let them know we do not want or support this legislation.

Mr. Ziegler said they haven't talked with anyone about joining the safety alliance. He said he didn't know the process and does agree they need to join. Ms. O'Connell said this is a way to unite and this is a good way to do that.

- c. WTOBA. Dana Halvorson, President, reported they are ready to go on the annual awards banquet that is to be held at the end of February. They are still looking for donations for the auction. He said this is one of the best social events of the year and have always had a good turnout. Anyone wanting volunteering to help getting it together would be appreciated. Mr. Halvorson said they had met with the HBPA on the claiming rule. Anne Sweet, Editor, Washington Magazine said the date of the banquet is February 22, Saturday.
- d. Sun Downs. Mr. Moore reported for Shorty Martin who wasn't able to attend the meeting. Mr. Moore said he had spoken with them about the WHRC inability to assist with grant money to support their meet. Mr. Moore said Tri-City Horse Racing Association will announce at the Quarter Horse Banquet, they will not be applying for dates in 2020; there would be funds to hold a meet.

Item #5. Class C purse fund update.

Mr. Moore reviewed the figures for the Class C purse fund which showed a 4.5 percent downturn in comparison with last year. He said with Sun Downs not applying for dates; this money will set in the account until someone comes and applies for dates.

Item #6. Approval of Split Sample Laboratories. (Action Item)

Mr. Moore said the list is the same as prior year and the only exception is no response from Scientific Laboratories from Kentucky, who was not on the RMTC accredited list this year, but did know the reason they had been removed.

Commissioner Macomber moved to approve the Split Sample Laboratory list as submitted. Commissioner Ragle seconded the motion. Unanimously approved.

Item #7. Adoption Hearings:

- a. WAC 260-20-090 Association security.

Amending rule to require licensees to cooperate with association security in a respectful manner. Mr. Moore reviewed the amendment to WAC 260-20-090 and said stakeholders support this change. Staff recommended approval.

Commissioner Macomber moved to approve the amendment to WAC 260-20-090. Commissioner Ragle seconded the motion. Unanimously approved.

- b. WAC 260-24. Association officials and employees.

Mr. Moore said amendments include increasing maximum penalty assessed by stewards; assess multiple medication violation points, the ability to place a horse on the stewards list for unexcused scratches, clarifies how a dead heat is determined, recommendations for rule changes, listing required items in daily and weekly reports made available to the public, changes to duties for the paddock judge and official starter to comply with ARCI model rules. Stakeholders requested that a horse not be placed on the stewards list for a first violation of an unauthorized scratch. Staff recommended approval.

Chairman Lopez called for a motion with the caveat that WAC 260-24-570 not be approved until WAC 260-28-200 amendment be approved. Commissioner Macomber so moved. Commissioner Ragle seconded the motion. Unanimously approved.

- c. WAC 260-28-200 Trainer-paddock duties & WAC 260-40-110 Horses must be in the care of and saddled by a licensed trainer.

Mr. Moore reviewed the amendment that would remove the requirement that a trainer physically saddle a horse, but allow supervision of the saddling of the horse, and only a licensed individual that has been approved and demonstrated the skills required to saddle would be allowed and if it was an owner, they could saddle only a horse they have an ownership interest in. HBPA supports this amendment.

Commissioner Macomber said some times in the past a horse would need to be resaddled behind the gate and this could help relieve this. Staff recommended approval.

Commissioner Macomber moved to approve the amendment to WAC 260-28-200 and WAC 260-40-110. Commissioner Ragle seconded the motion. Unanimously approved.

d. WAC 260-34 Testing.

Mr. Moore said the amendment proposed would include assistant trainers and grooms in the random testing program. The HBPA supports this amendment. Staff recommends approval.

Commissioner Macomber moved to approve the amendment to WAC 260-34. Commissioner Ragle seconded the motion. Unanimously approved.

e. WAC 260-36-250 Industrial Insurance.

Mr. Moore said this amendment proposed would give the WHRC the discretion on the rounding of the Labor and Industries premiums up to the nearest dollar; by moving the database to the cloud, this is no longer possible. When the new database is installed, the language of rounding will amend from must to may round. No comments were received, staff recommended approval.

Commissioner Macomber moved to approve the amendment to WAC 260-36-250. Commissioner Ragle seconded the motion. Unanimously approved.

f. WAC 260-48-620 Pools dependent on betting interests.

Mr. Moore said Emerald Downs management asked why they must offer show pools based on field size and at times cause a minus pool. Mr. Moore said he reached out to ARCI pari-mutuel auditors committee and they found no reason the associations should not be given greater latitude in making the decision to conduct place and show wagers. The amendment would be to change the language from must to may offer place and show pools. No comments were received and staff recommended approval.

Commissioner Macomber moved to amend WAC 260-48-620. Commissioner Ragle seconded the motion. Unanimously approved.

g. WAC 260-52-045 The riding crop.

Mr. Moore said the amendment proposed would incorporate a strike limit in using the crop. The jockey would only be allowed to use the crop three consecutive times without allowing the horse to respond. The HBPA supports this rule change with the understanding the violation would not result in a disqualification. Staff recommends approval.

Commissioner Macomber moved to approve the amendment to WAC 260-52-045. Commissioner Ragle seconded the motion. Unanimously approved.

h. WAC 260-60-300 Who may claim.

Mr. Moore said this amendment comes at the request of the HBPA. Their request would prohibit a licensee in violation of a financial agreement from claiming. The HBPA supports the amendment as written. Staff recommends approval.

Commissioner Macomber moved to approve the amendment to WAC 260-60-300. Commissioner Ragle seconded the motion. Unanimously approved.

Item #8. Public comment period:

a. WAC 260-40-280 impaired horses.

Mr. Moore said at the November meeting it was talked about amending the impaired horses section to prohibit heel nerved horses from racing. Dr. Friedman requested a prohibition of heel nerved horses from racing and his comments are included in the Commissioners' packets. Another amendment was suggested by Commissioner Ragle to change language regarding trachea tubed to a temporary or permanent tracheotomy to update current terminology used. Mr. Moore was asking the Commission for direction on how to go forward with this request and suggested to return with this item in February or March.

Chairman Lopez stated he had no problem with Trachea changes. Commissioner Macomber said he felt the Virginia rule allowing heel nerving on the lower but does not allow the upper above the ankle was reasonable. He said desensitizing may not change the lower nerve for the long term. The complications with denerving can occur after and you would need to be able to recognize those issues. Chairman Lopez asked would the amendment completely prohibit upper and lower. Mr. Moore said currently only the lower is allowed. Commissioner Ragle said this has a lot of historical background in racing, it hasn't been done for several years; very few horses are a great candidate for this. He thought this is a non-issue in the big picture. Chairman Lopez asked if there was an ARCI model rule. Mr. Moore said yes, it is currently similar to what we have. Ms. O'Connell said transparency is what we're after. Dr. Friedman said he agrees it is not a huge of an issue. Chairman Lopez said maybe an amendment would be needed to leave this to the discretion of the veterinarian and to possible expand the language. Mr. Moore said this is covered in WAC 260-77-020.

Chairman Lopez said at this point, it is the opinion that we leave the rule as is. Mr. Moore said the Virginia rule has stronger language for section 3 and he would bring back in February or March for consideration. Chairman Lopez asked Mr. Moore to distribute the language to Commissioners for individual comments.

b. WAC 260-60-460 Cancellation of Claims

Mr. Moore said in his research the comments received on potential amendments to cancelling claims; every one of the rules presented had problems and those that responded in turn said the Washington rule was liked. Mr. Moore requested the Commissioners direction on how to proceed. Commissioner Macomber said he had read the comments and there are a lot of different opinions. He said in California 20% of the claims were being voided. His thought was to leave as it is at this time. Commissioner Ragle said his philosophy is if you claim horse there should be some risk, there's no guarantee you have a horse that may have an injury; how much information can a person have to claim prior to the claim. He said this would create more problems; his thought was to leave it the way it is. Chairman Lopez said it was strange that medical records were not open for public inspection. Mr.

Moore said that is no longer true, if those records are given to the WHRC, they become a public record. Chairman Lopez said he was glad that has changed. His thoughts are similar to Commissioner Macomber and Ragle, it is part of the business and said his thoughts were to not make changes at this point, leave it as it is.

Mr. Moore said there is an issue with this being a public record, a lot of jurisdictions they are not public records. Mr. Moore said he needs to talk with Board of Veterinary Medicine to inquire about an exemption for equine medical records submitted by rule to the commission. Ms. O'Connell said nationally they have discussed this; the claimant has the right to request a test if the horse on a claimed horse to protect them if the run the horse back in a short amount of time if the horse had been treated by the previous trainer that may trigger a positive test. The losing owner in some jurisdictions are required to provide up to the last thirty days of treatment records so the new owners won't treat that horse a second time if it is unnecessary.

Mr. Moore said we offer to test claimed horses at our cost; there is a box on the claim blank to request to have this done. Chairman Lopez said we need to have this information in the trainer's manual. Mr. Moore said that it is already.

Item #9 Executive Secretary's report.

a. Wagering Recap November/December 2019.

Mr. Moore reviewed the wagering for November 2019 reporting Emerald Downs satellite sites up 1.78 percent; for December 2019 down 22.55 percent. Race Year Comparison for January 1 2020 and January 1 2019 down 9.91 percent; for Date range 7/1/2019 to 12/31/2019 down 6.56 percent; Advance Deposit Wagering comparison for October 2019/2018 up 6.68 percent and November 2019/2018 up 1.66 percent.

b. Monthly Financial Statement October/November 2019.

Mr. Moore reviewed the revenues for October 2019 overspent \$3, 809; November 2019 underspent \$29,980 resulting in an ending fund balance as of November 30, 2019 at \$543,586.

c. ARCI Model Rules update.

Mr. Moore reviewed the proposed model rule changes from the meeting in December 2019 at Tucson.

Chairman Lopez asked of the rules passed does our rules address them. Mr. Moore recommended no changes in the middle of the meet, particularly regarding medication issues; they will be discussed at a later time.

Mr. Moore said he would be sending the link to the Public Disclosure Commission for the Commissioners to submit their yearly F1 report and that it is due April 15 to the Public Disclosure Commission.

Mr. Moore reported the WHRC effort to implement debit/credit cards will be set up by February 1. There will be a 3% convenience fee added into the license fees due.

Mr. Moore requested the Commissioners to reconfirm his authority to talk to legislature on the sports wagering bill and to oppose any tribal only legislation.

Commissioner Macomber moved to confirm the authority to Doug Moore to speak with the legislature on sports wagering. Chairman Lopez seconded the motion. Unanimously approved.

Mr. Moore said our decision package was not placed in the Governor's Supplemental budget. He said the supplemental budget was mostly for corrective actions. He said another reason for not being included was that they wanted to wait until there was legislative change to our statute. Mr. Moore said he would make sure we were ready to come back with the decision packet for next year.

Mr. Moore said no Sports Wagering bill for Tribes only had been dropped; and if they try to drop one in the Senate, we're working to stop that. He's made several calls to EA Washington; he's spoken with Ms. Sweet and Ms. O'Connell to get support on this. Commissioner Macomber asked to have copies of any information presented to them. Mr. Moore said January 21st is a supposed work session; Mr. LePley said a hearing on the bill is scheduled on January 30, although the bill had not been filed. Ms. O'Connell asked if could generate some talking points on what to say.

Item #10. Travel – April ARCI General Membership Conference (Action Item).

Mr. Moore asked for Commission approval for one or more commissioners to attend the WTOBA Banquet February 22nd. Commissioner Macomber moved to approve one or more to attend the WTOBA banquet. Commissioner Ragle seconded the motion. Unanimously approved.

Mr. Moore said the ARCI General Membership conference in New Orleans, April 7-10, 2020; Chairman Lopez is scheduled to become Vice President; depending on the departure date, the total cost would be about \$2500 leaving Friday, leaving Saturday, \$2800. For the Executive Secretary and one Commissioner the cost would be about \$4000 total. Commissioner Macomber asked if we have budgeted for this. Mr. Moore said yes. Chairman Lopez said if we are going to participate in a leadership role, we need to approve this. Commissioner Macomber stated that we've budget for this, the benefits are significant with the model rules participation, we should continue.

Commissioner Macomber moved to approve the travel and expenses to attend the ARCI Spring Board meeting in New Orleans. Commissioner Ragle seconded the motion. Unanimously approved.

Item 11 Discussion.

Commissioner Macomber said he would be working on Bisphosphonates and would be talking with Dr. Scollay and Dr. Arthur on percentage of horses that broke down with Bisphosphonates in their system and the science behind the 6 month vet list requirement after a horse is treated.

California has had a Committee meeting reviewing the breakdowns at Santa Anita. There was consideration on a possible lawsuit and if some information was not being released.

Chairman Lopez asked if he could get a status report, or hear more about freezing, icing of legs during morning inspections by Dr. Friedman during pre race exams.

Ms. O'Connell is worried about the grant for the morning vet, the HBPA account that the money comes from is overspent. She has warned Emerald Down management about this.

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

Chairman Lopez announced the next meeting of the Commission is February 14, 2020, 9:30 A.M., at the Auburn City Council Chambers.

Hearing nothing more, meeting adjourned at 11:50 A.M.

Doug Moore, Executive Secretary