

Washington Horse Racing Commission  
Meeting Minutes  
March 9, 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 opened the meeting at 9:30 A.M. at the Auburn City Council Chambers.

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

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

Item #2. Commissioner's reports.

Commissioner Lopez had nothing to report.

Commissioner Colliton had nothing to report.

Chairman Macomber had nothing to report.

Item #3. Advance Deposit Wagering (ADW) License renewal - TwinSpires.

Doug Moore reviewed the material submitted by TwinSpires in support of the license renewal request. Mr. Moore said he had received the renewal request and \$1,000 application fee on February 9, 2018. After review of the submission he said staff recommended approval. Mr. Moore introduced Mr. Carter Vance, Secretary, TwinSpires who was in attendance and was available to answer any questions.

Mr. Carter thanked the Commission for their consideration. Commissioner Colliton asked if Mr. Carter if he could tell him about how much was bet through BetAmerica; Mr. Vance said he wasn't aware of the figures. Mr. Moore said that it was his intention with approval from the commission to send to all licensed ADWs a request to begin reporting any wagers received through any sites handled by each wagering hub. Commissioner Lopez asked who had handled Bet America previously. Mr. Moore said it came in under Lien Games; they are no longer licensed in Washington State to conduct business.

Commissioner Lopez moved to approve the renewal application for TwinSpires. Commissioner Colliton seconded the motion. Unanimously approved.

Item #4. Industry Reports:

- a. Emerald Downs. Mr. Phil Ziegler, President, said he had nothing in particular to report except they are getting ready for the season. Jack Hodge said there are just under 600 horses on the grounds.
- b. HBPA. Pat LePley, President, reported on the situation at Golden Gate Fields. Chairman Macomber asked what would be the affect for Emerald Downs if Golden Gate closes down. Mr. LePley said they may pick up some extra horses. Mr. Moore said Golden Gate may not stay open for training year round this year. Mr. LePley said Golden Gate hopes to eventually stay open during the fair dates and run at least three days per week year round.
- c. WTBOA. Anne Sweet, Editor, said the banquet had a good attendance; lots of fun and it was a nice kick off to the season. She said they raised money for the association as well as the Washington Foundation. She expressed her thanks to Emerald Downs for providing the venue and the catering. She said the NW race series received good funding; a nice increase for the Gottstein futurity of \$40,000.
- d. Sun Downs. Shorty Martin representing the Class C meet at Kennewick said he didn't have much to report; the track is open for training and is in pretty good shape. They will be setting up the starting gate next week.

BREAK. 9:45 A.M. – Reconvened 9:50 A.M.

Item #5. Adoption Hearings:

- a. WAC 260-28-295 Trainer responsibility.

Chairman Macomber opened the adoption hearing for WAC 260-28-295 at 9:51 A.M. on March 9, 2018, for the purpose to afford all interested persons to submit comments to the WHRC to consider on proposed rules. The amendment to WAC 260-28-298 was filed on 1/10/2018 and published in the Washington State Register on February 7, 2018.

Mr. Moore reviewed the amendments to WAC 260-28-295 trainer responsibility and said these amendments were to add hair as a biological sample where the trainer ensures they or a representative attends during the collection and adds a specific WAC that details pre-race exam requirements. Mr. Moore said he'd received no comments on the amendments. Staff recommends adoption.

MaryAnn O'Connell, Executive Director for the WA HBPA said for clarification that these rules even though no formal comments were received, the HBPA had worked with WHRC staff regarding these changes.

Chairman Macomber called for public comment. Hearing none adjourned the hearing at 9:54 A.M.

Commissioner Colliton moved to adopt the amendments to WAC 260-28-295 as filed. Commissioner Lopez seconded the motion. Unanimously approved.

- b. WAC 260-50-045 The riding crop.

Chairman Macomber opened the adoption hearing for WAC 260-50-045 at 9:55 A.M.

Mr. Moore said the amendments add guidance regarding the use of the crop as to what is considered a chance to respond. These amendments will give the stewards and jockeys some guidelines as to what would be considered acceptable use and what may be considered abuse. Mr. Moore said no comments had been received on the amendments. Staff recommended adoption. Chairman Macomber called for public comment hearing none adjourned the hearing at 9:57 A.M.

Commissioner Colliton moved to adopt the amendments to WAC 260-50-045. Commissioner Lopez seconded the motion. Unanimously approved.

c. WAC 260-60-460 Cancellation of a claim.

Chairman Macomber opened the hearing for WAC 260-60-450 at 9:58 A.M.

Mr. Moore said the amendments expand the circumstances requiring the cancellation of a claim. He said previously language only allowed the claim to be void if the horse suffered a catastrophic injury during running of a race. This amendment would deem a claim void if any incident occurs prior to the official transfer of a claimed horse that would require a horse to be euthanized. Another section adds where the official veterinarian feels the horse should be euthanized; but the original owner feels they may be able to save the horse, that owner would maintain ownership, but the claim would still be void. Mr. Moore said some felt this would add pain and suffering to the horse; but staff and the majority of stakeholders agree if someone would want to try to save the horse they should be given the opportunity with the knowledge the claim is void and it would not become a financial decision in an attempt to have the claim approved. Mr. LePley submitted comments with some reservation on the expansion of the cancellation process. Commissioner Colliton asked Mr. LePley if the comments as related by Mr. Moore reflected Mr. LePley's comments adequately and if not gave Mr. LePley an open and fair opportunity to provide further comments on this rule. Mr. LePley said Mr. Moore had adequately related his comments. Chairman Macomber asked for public comment. Hearing none adjourned the hearing at 10:02 A.M.

Commissioner Lopez moved to adopt the amendments to WAC 260-60-460. Commissioner Colliton seconded the motion. Unanimously approved.

d. WAC 260-70-540. Veterinarian's report.

Chairman Macomber opened the hearing for WAC 260-70-540 at 10:03 A.M.

Mr. Moore said the amendments are clarifying changes. In section 1(c) it is indicated that procedures should be noted on daily vet reports. The language of procedures is now added to the first paragraph in section 1 for consistency. It also clarifies when the daily vet reports are due on a horse entered to race. Mr. Moore said no comments were received and staff recommended adoption. Chairman Macomber called for public comment and hearing none closed the hearing at 10:05 A.M.

Commissioner Lopez moved to adopt the amendments to WAC 260-70-540. Commissioner Colliton seconded the motion. Unanimously approved.

e. WAC 260-70-545 Prohibited practices.

Chairman Macomber opened the hearing for WAC 260-70-545 at 10:06 A.M.

Mr. Moore said the amendments to this section were to adopt into rule additional substances which have been added by the Association of Racing Commissioners International (ARCI) since initial adoption for substance that should not be found in a horse at any time. Mr. Moore said no comments were received and staff recommended adoption. Chairman Macomber called for public comment and hearing none closed the hearing at 10:08 A.M.

Commissioner Colliton moved to adopt the amendments to WAC 260-70-545. Commissioner Lopez seconded the motion. Unanimously approved.

f. WAC 260-70-555 Veterinarians' practices (New Section).

Chairman Macomber opened the hearing at 10:09 A.M.

Mr. Moore said the new section would add language that mirrors State Veterinary Statutes regarding veterinary, client, patient relationships already mandated by law. Mr. Moore said this section would ensure that the practicing veterinarian is the primary diagnostician and prescriber for the horse. No comments received staff recommended adoption. Chairman Macomber called for public comment and hearing none closed the hearing at 10:11 A.M.

Commissioner Lopez moved to adopt the new section WAC 260-70-555. Commissioner Colliton seconded the motion. Unanimously approved.

g. WAC 260-70-570. All horses are subject to veterinarian inspection.

Chairman Macomber opened the hearing for WAC 260-70-570 at 10:12 A.M.

Mr. Moore said the amendments to this section gives trainers clear requirements when a horse in their care is entered to race or scheduled for a workout to be removed from the veterinarian's list. Mr. Moore said he'd received no comments and staff recommended adoption. Chairman Macomber asked for public comment.

Mr. LePley commented that on relying on the stewards to exercise common sense would likely avoid unnecessary hearings regarding this. His worry was that a problem may arise when a pre-race inspection occurs that because of icing legs and possibly didn't remove bandages in time would result in an unnecessary hearing. Ms. Doris Harwood a trainer for many years said it has at times, on race day, the horse would get a bath and be wet; the vet inspects them or they may be on the machine and a leg may be wet, they think the horse was deliberately hosed but really they hadn't done anything.

Chairman Macomber closed the hearing at 10:17 A.M.

Commissioner Lopez moved to adopt the amendments to WAC 260-70-570. Commissioner Colliton seconded the motion. Unanimously approved.

h. WAC 260-70-575 Out of competition testing (New Section).

Chairman Macomber opened the hearing for WAC 260-70-575 at 10:18 A.M.

Mr. Moore said this new section gives guidance to both the commission and the stakeholders as to the authority of the commission to conduct Out of Competition Testing (OCT). Specifying which horses are eligible to have a sample taken. Horses eligible for OCT would have to show an intent to race in Washington by having the registration papers in the office, nominated for a stakes race, or be on the grounds of a licensed race meet. Commissioner Colliton asked Mr. Moore to clarify OCT. Mr. Moore said the commission has no authority at the farms; our authority lies at the race meet itself. Mr. Moore said he'd received no comments and staff recommended adoption. Chairman Macomber asked for public comment and hearing none closed the hearing at 10:21 A.M.

Commissioner Colliton moved to adopt the new section WAC 260-70-575. Commissioner Lopez seconded the motion. Unanimously approved.

- i. WAC 260-70-630 Threshold levels.
- j. WAC 260-70-640 Permitted medication.

Chairman Macomber opened the hearing at 10:22 A.M.; because WAC 260-70-630 and WAC 260-70-640 were related; comments would be received for both rules.

Mr. Moore said the amendments to WAC 260-70-630 would lower the threshold on three substances to ARCI model rule recommended Clenbuterol to 2 pg/ml in serum and adding a 140 pg/ml level in urine for thoroughbreds; it would remain prohibited in Quarter Horse and mixed breed races. Dexamethasone level to 5 pg/ml and Methylprednisolone level to 100 pg/ml; the 2 pg/ml for clenbuterol is being recommended in lieu of the limit of detection language in ARCI rules; the amendments to WAC 260-70-640 would lower levels of the three approved non-steroidal anti-inflammatory drugs (NSAIDs) to ARCI recommended levels for Phenylbutazone 2 mcg/ml, Flunixin 20 ng/ml; and Ketoprofen 2 ng/ml. Mr. Moore said staff is recommending adoption.

Testifying not in support of the amendments to WAC 260-70- 630 and WAC 260-70-640 were:

Pat LePley, President, WA HBPA; Debbie Pabst, Breeder/Owner/operator Blue Ribbon Farm; Frank McDonald, owner; Doris Harwood, trainer; Candi Tollett, trainer; Dr. Gerald Bergsma, practicing Veterinarian. MaryAnn O'Connell, Executive Director HBPA. Four petitions with twenty signatures of non-support and one petition with ten signatures of non-support; and one petition with fifteen names of non-support. Dean Essex, trainer, owner; Ramona Tingdale, practicing Veterinarian; Jenyka Bergsma, practicing Veterinarian; Richard Baum, owner, trainer; Mike Pattison, owner; Renee Houlbjerg, owner; Debi Jahns, trainer, owner.

Comments in support of the amendments to WAC 260-70-630 and WAC 260-70-640:

Alan Foreman, horse industry attorney; Terence J. Meyocks, National Manager, Jockey Guild.

Other Comments:

Dr. Ron Friedman, Equine Medical Director, WHRC.

Dr. Colette Bergam, Official veterinarian, WHRC

All written comments were made a part of the official record.

Chairman Macomber closed the public comment period at 10:49 A.M.

Mr. Moore wanted to address one issue from one of the comments. Mr. Pattison questioned the need to conduct a financial impact statement on the CR 102 filing. Mr. Moore said the requirements for a financial impact statement made it unnecessary as the commission was not imposing any new fees creating no financial impact. Mr. Moore will be writing to Mr. Pattison with this explanation.

Commissioner Lopez moved to adopt the amendments to WAC 260-70-630 and WAC 260-70-640. Commissioner Colliton seconded the motion.

Commissioner Lopez spoke to those present his reasoning behind his decision to support the rule amendments. That explanation will also be made a part of the record. Commissioner Lopez thanked everyone who provided written and oral comment; and thanked Dr. Friedman for his work with providing information to the commission. He stated he had read all materials provided. In part, Commissioner Lopez said the WHRC must be in compliance with other jurisdictions. He said Arizona is compliant with the model rules, except for bute. They would be compliant on bute except for a rule making moratorium imposed by Arizona's governor; while Canada has not published thresholds, their withdrawal times are consistent with model rule levels; and Oregon is in the process of moving to the model rules. He said the commission is responsible to all, the public, horsemen, jockeys and the horses; the Jockey Guild supports the model rules. Commissioner Lopez said it is his intention if the commission adopts the proposed changes to request the commission approve a policy statement on how to treat overages in post race samples. The commission will continue to test at no cost to horsemen, to enable them to see how they are doing with dosages and withdrawal times. This is not being done to penalize, but educate and become compliant with the new levels.

Commissioner Colliton also had a statement that he wanted to share. He said he endorsed everything said by Commissioner Lopez and did not come to debate this today. There has been ample time to express opinions and make themselves heard; and from the past two meeting we've received packets of statements. Commissioner Colliton said this is not a political issue; the goal is uniformity for the overall safety of the horse, riders and the survival of our industry nationwide. He said several comments were concerning possible decreased revenues and costs to owners and vets. Costs and revenues are not a factor. Safety and welfare of the horse is. Commissioner Colliton said he's been in the business for seventy years and loves this sport. The perception is that the horse industry is constantly racing drugged horses; this fuels the media and for organizations like PETA; for uniformity providing safety to horses and riders the model rules will help us get there. Commissioner Colliton's comments in entirety will also be made a part of the record.

Chairman Macomber said there is an education need within the community and he said the commission and himself would cooperate on the movement of the implementation of the rules; he said it has been asked to delay or not penalize implementation for 60 days; there has been a discussion about that and he believes the delay should be applied to the full year of racing at Emerald Downs.

Mr. Moore said his intent is to do that.

Chairman Macomber said he has expressed concern over some issues and looked at opportunities to make changes in the industry, in the threshold area there is a way to do that without the delaying the start of this program.

Chairman Macomber said the commission would give the horsemen one year to operate within the rules without penalty unless the overage is over the last year's thresholds. He said we have a great opportunity to get with the program and meet with other jurisdictions and work with them. He said he had made many phone calls to race tracks and regulators in other jurisdictions and asked if they had any regrets. Chairman Macomber said he'd not found one person who regrets moving forward. He then asked if they would go back and not one person said they would go back. They've learned to work within the latitude of the model rules thresholds and he is convinced we will work with horsemen and see this through. He said he appreciates all comments and support within the community.

Motion unanimously approved.

Mr. Moore said this has been an emotional and hot topic. The commissioners have made their decision and made it clear to work together to implement this and he asked stakeholders to put their differences aside and work together. He said he will be contacting them soon to set up meetings.

Commissioner Lopez moved to direct Mr. Moore to draft a policy statement for the April meeting in concert with Dr. Friedman and stakeholders on how to best treat overages in samples and to give stewards direction on how to treat these new rules. Commissioner Colliton seconded the motion. Unanimously approved.

j. WAC 260-70-665 Hair testing (New Section).

Chairman Macomber opened the hearing at 11:09 A.M.

Mr. Moore said this new section is added to provide stakeholders with specific guidance as to the commission hair testing rules and procedures; what is being tested for; which breed is eligible for hair testing; when; what designates a violation; minimum requirements for the length of mane that is needed; and what would designate a violation.

The Northern Racing Quarter Horse Association submitted a letter of support. Mr. Moore said this is a quarter horse rule and there is no intention to move into thoroughbred racing; abuse is clear in quarter horse racing. Staff recommended adoption.

Ms. O'Connell commented that the HBPA has found this problematic, but has accepted support by Quarter Horse factors in state. Mr. LePley said that when Quarter Horse racing comes into Emerald Downs, they are represented by the HBPA also.

Chairman Macomber hearing no further public comment closed the hearing at 11:13 A.M.

Commissioner Lopez moved to adopt the new section WAC 260-70-665. Commissioner Colliton seconded the motion.

Mr. Martin said he pooled most of the trainer's and all were in support of the new section.

Motion unanimously approved.

Ms. O'Connell read an article regarding burden of proof and trainer's perceptions. She stated that she would not "hold a grudge" and will work with the industry and wants what's best.

Item #6. Executive Secretary's report:

Mr. Moore said the Governor hasn't signed the budget but it has been passed. This includes the WHRC legislation to reduce FTEs at the commission from 28.5 to about in half. There will be a savings but not sure at this point how much.

Mr. Moore reported that foals are now being microchipped and not tattooed and the registration papers would now be electronic. Mr. Moore said Oregon is hosting a Steward's CE class next week and a speaker will be there to explain how this will work.

Mr. Moore said he had been reminded that the Commissioners were due for public records training. Ms. Patty Brown will give you a link to follow to be able to take the training.

Mr. Moore updated the commission regarding an addition to the split sample labs list; University of Florida has received accreditation and has been added to the list.

Mr. Moore said at the last meeting it was asked what the 2017 Donohue funds were used for and Nancy Sorick, Secretary for Tri City Horse Racing Association responded and said the race office needed a new roof and several padlocks were purchased for stalls to track who is on the grounds.

Mr. Moore said he had drafted a Necropsy internal policy guidelines on horses; i.e., which horses go and which ones don't. The association and the HBPA had reviewed and agreed to the policy. This was just an update for your information.

Mr. Moore said regarding TC02 testing, a split sample is taken as practice at the time and one is sent off to Iowa State for testing at \$10 each. Now, based on funding, Iowa State will no longer do testing. We've reached out to other labs and found that at the cost has gone up to \$50 per test and this seems prohibitive. We may just send both sample and split to the primary lab, but he wanted to discuss with Ms. O'Connell and come back to see how we will eventually handle splits.

a. Wagering Recap.

Mr. Moore reported the wagering for the month of February, down 6.58%; for the race year down 7.81%; for the fiscal year down 0.1%.

b. Monthly Financial report.

Mr. Moore said an entire week was missing from the total and that explains the shortfall for this report. He said revenue to charges shows under spent for this period and the Fund balance is \$758,356.

Chairman Macomber asked about the FTE reduction, specifically the numbers. Mr. Moore said the WHRC is billed for 28.5 FTEs. With the reduction in tracks, recently the WHRC FTE level has typically been down to about 12.5 FTEs.

Ms. Sweet asked about the microchipping discussion; would she be able to attend that discussion. This would impact them if they were to go to microchipping. Mr. Moore said that he would inquire for her and let her know. He could not see any reason she couldn't.

Chairman Macomber asked about migration of the chip. Mr. Moore said had lots of questions and hopefully will get answers.

Item #7. Tri-Cities Horse Racing – Additional funding.

Mr. Moore said Tri City Horse Racing Association is requesting \$25,000 to assist with jockey insurance and \$17,329.98 to support full purses of \$15,800 per day. Commissioner Lopez asked how much was in the purse account this year. Mr. Moore said \$77,470.02. The total grant would be \$42,329.98. Staff recommended approval.

Commissioner Colliton moved to approve and Commissioner Lopez requested Commissioner Colliton amend his motion to include a letter to inform Tri City Horse Racing Association that there may be insufficient funds for this next year. Commissioner Lopez seconded the amended motion.

Mr. Martin thanked the commission for their support and said it was very much appreciated.

Motion unanimously approved.

Item #8. Discussion items – Commissioners.

Commissioner Colliton said the Governor of Arkansas would be speaking at the ARCI luncheon about uniformity and rules. Commissioner Colliton said his term as ARCI Chairman will be up in April and Mike Hopkins of Maryland will become the new chair. Mr. Moore, who is a key member of model rules committee, will continue and Commissioner Lopez will again become a board member, the WHRC will continue to be well represented.

Chairman Macomber proposed to start an educational program on the implementation of the new model rules. Mr. Moore said he would meet with Ms. O'Connell with times to get things started.

Commissioner Lopez asked about published thresholds in Trainer's Manual would they now not be consistent with rule. Mr. Moore said Dr. Friedman is preparing a document with all approved medications and their threshold and will get that published and out to trainers and owners.

Commissioner Lopez asked about voluntary testing at no charge and how this will work. Mr. Moore said the WHRC will offer that to trainers. Chairman Macomber asked who will do the sampling. Mr. Moore said Dr. Friedman will take the sample; Ms. Holmes will seal it and send to Truesdail Laboratories for testing.

Mr. Moore said he has a report on where the trainer's levels were last year and he could provide that data to any trainer who wants it. Ms. O'Connell also said the weight of a horse is a factor. Mr. Moore said he did see where some tracks were posting weights on horses.

Mr. Hodge said Portland Meadows has a digital scale to weigh horses. Mr. Moore asked if he knew what the cost was. Mr. Hodge said he will find out and get back to Mr. Moore.

Ms. O'Connell asked if there was any chance for assistance in funding for the morning vet program. Mr. Moore said he's asked Mr. Hodge to hold off on that request until he could find out how funds are after startup. He said if the Class Cs weren't to receive financial grants, the statute requires they be first consideration; we would not be able to fund any other grant requests.

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

Commissioner Lopez asked Mr. Moore about developing the trainer responsibilities best practices protocol. Mr. Moore said he is working on this and hopes to have that out soon, as well.

Mr. LePley said the HBPA annual meeting is on June 23 at twelve noon at the WTOBA Pavilion. He is inviting the Governor and any Legislators possible along with management at Emerald Downs. He also wanted to extend the invitation one or more commissioners to attend. He said it is a chance to talk to horsemen to share concerns on many topics; general discussion on the future of Washington racing to get better and survive. He's said there's been concern about that for a long time and also horse shortages.

Mr. Moore said he is unavailable for that date hoped a commissioner was available to attend.

Meeting adjourned 11:45 A.M.

---

Doug Moore, Executive Secretary