

Washington Horse Racing Commission  
Meeting Minutes  
Special Meeting VIA Conference Call  
Olympia, Washington  
March 13, 2020

Present were: Robert Lopez, Chairman; Doug Moore, Executive Secretary; Amanda Benton, Deputy Secretary; Patty Brown, Confidential Secretary.

Attending by phone: Commissioner Everett Macomber, DVM; Commissioner Claude Ragle, DVM; Anne Sweet, WTOBA; Phil Ziegler, President, Emerald Downs; MaryAnn O'Connell, WA HBPA; Lanna Allen, WA HBPA; WHRC Presiding Steward Ken Doll; WHRC Steward Danny Bryson; WHRC Investigator Darrell Farwell; WHRC Equine Medical Director Dr. Ron Friedman; Shorty Martin, Racing Secretary, Tri City Horse Racing Association; Claudia Canouse; Chad Riney, TwinSpires; Kim Toretta and Ken MacKenzie, Ebet Technologies.

Chairman Lopez opened the meeting of the Washington Horse Racing Commission at 9:30 A.M. and notified those in attendance that only the items listed on the agenda may be discussed today.

Item #1. Approval of the meeting minutes of February 14, 2020 (Action Item).

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

Item #2. Commissioners' report.

Chairman Lopez said he had attended along with Mr. Moore, the annual Washington Thoroughbred Breeder and Owners Association annual awards banquet; he said there was a good turnout. Commissioner Macomber said he had nothing to report. Commissioner Ragle said he had nothing to report.

Item #3. ADW License Renewal – TwinSpires (Action Item).

Mr. Moore presented the application for license renewal from TwinSpires. Mr. Moore said Chad Riney was present on the phone to answer any questions. After reviewing the application Mr. Moore said staff recommended approval. Mr. Riney said he was unhappy he was unable to attend in person and thanked the Commissioners for their time in considering the renewal. He said TwinSpires looks forward to continuing to partner with the state of Washington.

Commissioner Macomber moved to approve the renewal application for TwinSpires. Commissioner Ragle seconded the motion. Unanimously approved. Chairman Lopez said a letter would be sent today confirming the approval of the renewal application and an executed Order would be sent out at a later date.

Item #4. ADW License Application – Ebet Technologies, Inc (Action Item).

Mr. Moore reviewed the application for license renewal from Ebet Technologies. Mr. Moore presented the renewal application for Ebet Technologies. Ms. Kim Toretta and Mr. Ken MacKenzie of Ebet Technologies were present on the phone for any questions. Mr. Moore said after reviewing the application and finding nothing detrimental, staff recommended approval. Chairman Lopez asked when Ebet was acquired from 123Gaming. Mr. Moore said March 16, 2019; Commissioner Ragle and Macomber had no questions. Mr. McKenzie said Mr. Moore had covered it well and if there were no questions, thanked the Commission for their time.

Commissioner Macomber moved to approve the renewal application for Ebet Technologies. Commissioner Ragle seconded the motion. Unanimously approved. Chairman Lopez said a letter will be sent today confirming the approval of the renewal application and an executed Order would be sent out at a later date.

Item #5. Discussion of Governor’s Executive Order on Social Gathering – Impact to Emerald Downs live race meet.

Mr. Ziegler said he had sent a memo regarding what is happening; he said everything is being put on hold; at this point there’s no suspension in place because they are not running live. He said opening is April 18<sup>th</sup>; and by then they will probably not going to be able to open, but are waiting to see; one option may be to start at a later date and end later; and possibly to run without spectators are some of the other options. There’s nothing really known at this time. He did mention The Kentucky Derby may move to later in year. Commissioner Macomber asked Mr. Ziegler what would be the procedure for change. Mr. Ziegler said Oaklawn and Gulfstream are under similar orders; they are all operating without spectators at present. Mr. Ziegler said horse racing is the only sport currently operating at all. He said as long as tracks are running Emerald Downs will operate with fewer than 250 persons as mandated by Governor Inslee. They will rely on certain essential personnel; EMTs, Vet and their maintenance crew. But this could affect training, right now everything is normal, but it could change. Commissioner Ragle said, no question, this situation is fluid and we must stay tuned. Mr. Moore asked Mr. Ziegler to please keep him in the loop when and if any information is known. He said he will need to make decisions on staffing as well. Mr. Ziegler said when baseball opens; he felt that was a signal that we can start to look at opening. He said he hopes to know more by April 1. He felt the 250 limit is likely to be extended, noting schools are closed until April 24<sup>th</sup>. Commissioner Macomber asked if personnel at the track were being tested. Mr. Moore reiterated what everybody knows to stay home if you don’t feel well. Mr. Moore said one change to protocol other than safety measures, was taking fingerprints, if personnel were not comfortable taking them; don’t take them, ask licensees if they are comfortable and if they’re not, we can always have them taken at a later date. Mr. Ziegler said they might request to restrict access to barn area and stable area to essential people only. He said there will not be any of the public in the backstretch kitchen. Owners can come and watch on front side and stay out of restricted areas.

Item #6. Discussion of Federal Indictments in New York – Instituting OOC program for WHRC.

Mr. Moore explained the publicity regarding the prominent trainers and pharmacists in New York on the doping scandal. Mr. Moore said this shows the need for out of competition testing. The WHRC will be informing the industry that we will be instituting some testing. The criteria on how to select is still to be determined, whether random or a set criteria. Mr. Moore said however they proceed, they would make sure the industry is comfortable with the process and make sure any one trainer is not singled out in the process. Emerald Downs has said they will help with costs of this program.

Chairman Lopez asked Commissioner Macomber about the OOC and he said he had no concerns with this program and it has been discussed previously. I do hate to see that we have an event that precipitated the testing requirement; he said he sees this as a benefit and it should be done. Dr. Friedman said he thought that it is clear from indictments; the materials highlighted are difficult to test for. It would be his thinking that it would be better to come up with protocols statistically rather than a random program; targeting statistics rather than people. Commissioner Ragle said the devil is in the details; he felt it would be prudent to do this in the most effective and intelligent way possible. If Emerald Downs is willing to help with the budget and not compromise the other parts of our testing program; great. Ms. O'Connell said she was pleased by the protocols Dr. Friedman spoke about; she's not opposed, but would ask that when the testing is done, it not be too disruptive to morning training routine. She said there are some little details to work out; but had no problem going forward with this. Mr. Moore said this will be set up with as little disruption as possible. Mr. Moore said this will not be instituted tomorrow; he will be working with Truesdail Lab to move this sooner rather than later. An announcement will be made that we plan to do this. Mr. Moore said he's confident this is not happening here, but just to put that out there a notice that this is coming protects the integrity of the industry. Chairman Lopez said we should proceed forward and bring that back to next meeting along with the procedures. Mr. Moore said he would.

Item #7. Adoption Hearings:

- a. WAC 260-12-010 Definitions; and WAC 260-40-120 Identification prerequisite to start.

Mr. Moore said these sections were previously amended in preparation for the new digital tattoo program being instituted by the Jockey Club and the Thoroughbred Racing Protective Bureau in 2020. After a review of the initial amendments some changes were needed to ensure the new requirements would be followed. Mr. Moore said these two amendments need to be adopted together. The new digital program would be starting this year. Commissioner Ragle had no questions. Commissioner Macomber asked what would occur if the chip has moved or is missing and what is the process if that happens. Mr. Moore said the horse will be identified again and a new chip inserted. Mr. Moore said without a DNA sample it can be done digitally over the internet in a matter of hours. Mr. Moore said he has scheduled training with Curtis Linnell, TRPB for April 2<sup>nd</sup> he will be training the employees on how the system works. Ms. Sweet said this system was in place for their sale and confirmed what Mr. Moore said. Mr. Moore said in some cases, horses may end up with two or more chips; some had three chips but they were all noted on their digital registration papers. Staff received no comments on these amendments and recommended approval.

Commissioner Macomber moved to adopt the amendments to WAC 260-12-010 and WAC 260-40-120 as submitted. Commissioner Ragle seconded the motion. Unanimously approved.

- b. WAC 260-60-405 Declaring a horse ineligible to be claimed at time of entry.

Mr. Moore said the rule that allows a horse to be entered into a claiming race and the ability to declare the horse ineligible to be claimed has been discussed at length during the off-season. Changes were looked at to amend this rule. The consensus of the industry is to shorten the time the horse must be laid off to be eligible for consideration from 180 days to 100 days. Allowing the horses that leave Emerald Downs the ability to race elsewhere in the fall and early winter thereby giving the owner/trainer one start to be able to recoup the cost of training without fear of the horse being claimed. Mr. Moore said the WA HBPA supports this amendment and staff recommends approval. Commissioner Macomber asked who would track the days. Mr. Moore said the race office at the time of entry would have that ability. Commissioner Ragle had no questions.

Commissioner Macomber moved to adopt the amendment to WAC 260-60-405 as submitted. Commissioner Ragle seconded the motion. Unanimously approved.

Item #8. Amendment to Policy 2007-003 Drug and Alcohol Testing. (Action Item)

Mr. Moore said the amendment was to add the groom and assistant trainer to the random testing program. Staff recommended approval. Ms. O'Connell, WA HBPA had no questions.

Commissioner Macomber moved to adopt the amendments to WHRC Policy 2007-003. Commissioner Ragle seconded the motion. Unanimously approved.

Item #9. Executive Secretary's Report.

a. Wagering Recap (February 2020).

Mr. Moore reviewed the wagering recap for Advance Deposit Wagering comparison for January 2019 and 2020 showing a variance of 9.34 percent. For Emerald Downs and satellite sites for February 2020 reporting a variance of 13 percent; for Emerald Downs date range July 2019 through 2/2020 showing a variance of minus 4.21 percent; and for the race year a variance of 3.84 percent overall.

b. Monthly Financial Statement (January 2020).

Mr. Moore reviewed the revenues and expenditures. He reported the fund balance at the end of January 2020 at \$553,782. Mr. Moore said he's meeting with budget analyst and will pursue the agency request legislation that stalled during legislative session again next year.

Item #10. Tri Cities Horse Racing – Additional funding. (Action Item)

Mr. Moore said at the February meeting Tri-Cities Horse Racing Association had submitted a request for additional funding to supplement their purse account and the request was tabled for the next meeting in the hope that WHRC legislation would pass to enable the Commission to grant their request. That did not happen and therefore he could not recommend the grant request from Tri-Cities Horse Racing Association be granted.

Chairman Lopez said he was sorry, but their request cannot be granted at this time.

Mr. Martin thanked the Commission for all their assistance in the past, and said that if you don't ask you won't ever receive anything.

Commissioner Macomber asked how the Governor's restrictions might affect Sun Downs. Mr. Martin said he didn't know and will proceed until someone says to do different. Commissioner Macomber and Commissioner Ragle support Mr. Moore's recommendation.

Item #11. COVID-19 – Future meeting plans & travel consideration.

Chairman Lopez said that he and Mr. Moore had planned to attend the Spring Conference of the Association of Racing Commissioners International, but due to the outbreak those meetings have cancelled as of March 11. Mr. Moore said the only travel may be what happens at Sun Downs, that he and Ms. Benton and possibly Mr. Vince Funk.

The next meeting of the Commission scheduled is scheduled for April 17, 2020 will be held at Emerald Downs and will also be a conference meeting that is the plan today. The Commissioner's may attend by phone. A number will be published to attend. Mr. Moore encouraged attendance by phone.

Item #12. Legislative update – Review of work session with House Commerce and Gamin Committee.

Mr. Moore said at Commissioner Macomber's request, we were able to meet with the Gaming and Commerce Committee for an hour. I've included the handout that was given to the Committee was included in the packet. Mr. Moore said we did get our points out. It included a chart of other jurisdictions and the assistance that they each receive to support horse racing. Mr. Moore said he's received emails from the Committee and peaked at least their interest in our situation.

Chairman Lopez asked Ms. O'Connell if Pat LePley had gotten any comments from that meeting. Ms. O'Connell said she hadn't talked with him.

Chairman Lopez asked if it would be prudent to request an opinion from the Attorney Generals' office if the historical if it currently legal or if we need legislation. Maybe the Legislature thinks it is legal. Commissioner Macomber said we need to move and Commissioner Ragle said we need to at least ask. Chairman Lopez requested Mr. Moore reach out to the AG office to get an opinion. Mr. Moore said he has reached out to get more information on the Texas sales tax assistance model but was also working with Kentucky Horse Racing Commission for details on the Historical Horse Racing machines and have asked their district courts to receive any documents indicating their opinion on their legality.

Chairman Lopez said the next meeting of the Commission is April 17<sup>th</sup> at Emerald Downs and will be a conference meeting beginning at 9:30 A.M.

Meeting adjourned. 11:09 A.M.

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Doug Moore, Executive Secretary