

Washington Horse Racing Commission
Meeting Minutes
October 11, 2019
9:30 A.M.

Present were: Everett Macomber, DVM, Chairman; Robert Lopez, Commissioner; Representative Joe Schmick, Legislative Ex-Officio Member; Doug Moore, Executive Secretary; Patty Brown, Confidential Secretary; Claude Ragle, DVM, Commissioner due to a late arriving flight, was not able to attend.

Item #1. Approval of the meeting minutes of September 13, 2019 (Action Item).

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

Item #2. Commissioners' reports.

Chairman Macomber had nothing to report at this time. Commissioner Lopez had nothing to report at this time.

Item #3. Industry Reports:

- a. Emerald Downs. Phil Ziegler, President, reported on the season that just ended. He said overall they were pretty happy although down somewhat in horse population resulting in the field sizes being down the overall handle, which includes the selling of the signal, ended up. Mr. Ziegler presented the preliminary 2020 live race dates; 63 days total; noting that July 3 typically their fireworks celebration date lands on a Friday next year and July 4 on Saturday this would be a three day race week; they will not run on May 25th, Memorial Day, but have included Labor Day next year. Mr. Ziegler noted that three day race weeks tended to place a hardship on the horse population, so the loss of the days in the schedule will be due to running only two days a week after Labor Day in 2020. Mr. Ziegler said by not racing as many three day weeks, it gave a better opportunity fill races with this schedule. Overall the schedule has four less race days and hopefully this will have a positive effect on the horse population. Chairman Macomber asked if Mr. Ziegler knew if this schedule in comparison with Saratoga shortening their schedule. Mr. Ziegler said every track is trying to shorten their meets due to financials; he said there are very few meets running five days a week any more. The only real difference is at the end, when there was a struggle to make race cards; this is the trend in the entire industry. He said they are coming into their busy season with the holiday banquets and other off season activities.
- b. HBPA report. Pat LePley, President, said he had been meeting with Emerald Downs management regarding the 63 day meet. He said they have spent time looking at figures,

wagering dollars and horse population and said there are some concerns; he said they are down 60-70 horses in comparison with the previous year. He noted that Ms. MaryAnn O'Connell, Executive Director will be attending the National meeting on October 22-24. The major issue is to continue to place horse racing under Federal Government regulations and the effort to stop this. He also reiterated the HBPA's support for the WHRC legislation requesting the ability to receive state funding to continue to operate. He said if Sports Betting can be established this could add an additional source of revenue to not only assist the Commission but also with the horse population to support horse racing overall. Mr. LePley said he was planning to attend Breeders Cup and has hopes to talk to California regarding examination of horses pre-race and any safety measure they have in effect. He said the horsemen meet annually with management to discuss what's worked and what didn't. Mr. LePley said he would be meeting with the board to discuss Mr. Ron Schmid's proposed claiming rule changes.

- c. WOTBA. Dana Halvorson, President, at the last meeting the recent sale was discussed, which he said went well; some new people attended to purchase. He noted that his Administrative Assistant is moving and they are looking for a replacement.
- d. Sun Downs. Mr. Moore had spoken to Shorty Martin and said there was nothing new to report. Mr. Martin mentioned the Sun Downs board would be making a decision on whether they would be able to ask for 2020 dates and Mr. Moore said he would know in December whether or not they will be submitting an application to run.

Item #4. Annual review of Source Market Fees.

Mr. Moore reviewed the source market fee figures with the previous years' figures. He noted there was an increase of 5.13 percent and with everyone's current financial issues that any redistribution of the percentages would create a hardship on whoever would be losing it and therefore staff recommended no change. Commissioner Lopez moved to keep the source market fee distribution the same. Chairman Macomber seconded the motion. Unanimously approved.

Item #5. Owners/Breeders awards update.

Mr. Moore reported on the distribution for the Owners and Breeders Awards. The amount to be distributed to the owners is \$507,555.17 and the amount to the Breeders is \$126,888.79. Mr. Moore has confirmed these amounts with Joe Henry, Controller for Emerald Downs. Mr. Moore said he didn't know why there was such a downward turn in the exotic wagering on Emerald Downs of 17.06 percent. Mr. Ziegler said he didn't know either, but would take a look at the figures. Mr. Moore said the hope is to have the awards out in early November and that is still on schedule.

Mr. Ziegler discovered later in the meeting that a day had been left of the comparison of exotics wagering report. Mr. Moore said he would go back to the office and rerun the report.

Item #6. Ownership transfer satellite sites – Kirkland and Yakima (Action Item).

Mr. Moore presented the application of Maverick Kirkland II, LLC and Maverick Yakima, LLC subsidiaries of Maverick Caribbean, LLC located in Lakewood, Washington. On September 16, 2019, Mr. Moore gave preliminary approval in order to allow the satellite sites to remain open during the application process. The principle owner is Mr. Eric Perrson, President, Washington, LLC; Tim Merrill who is present to

answer any questions and is the contact for Maverick Yakima, LLC. Mr. Moore said in working with the Gambling Commission, they allowed him to review the background files they had already investigated and found nothing that would harm the request for the ownership change. Staff recommended approval. Chairman Macomber asked if there were any changes. Mr. Moore said both facilities will remain the same with their managers and employees.

Commissioner Lopez moved to approve the ownership transfer for the satellite sites in Kirkland and Yakima. Chairman Macomber seconded the motion. Unanimously approved.

Item #7. Petition to amend WAC 260-60-460 Cancellation of claims.

Mr. Ron Schmid had filed the Petition for Adoption, Amendment, or Repeal of a Stat Administrative Rule requesting a review of WHRC WAC 260-60-460 Cancellation of Claims rule. Mr. Moore said he reviewed the reasoning for this amendment. Mr. Moore said the Commission would not take any action today, this is to take public testimony only and ascertain from the Commission whether to proceed or not. Mr. Moore said there are two options; one is to deny the request; or to open the rule for additional comment. Mr. Moore said if the petition was denied that it must be done in writing and also any alternative means to address the request. Mr. Schmid's request has to do with what constitutes voiding a claim; currently only a catastrophic injury that occurs during the race, or within two hours of running from an injury during the race, would trigger a void and the request is to expand the rule as in California where a claim is voided for bleeding, found to be unsound, or lame. Mr. Moore said today is only to take public comment and either approve or deny the petition. Mr. Moore said the HBPA may have comment on this.

Mr. Schmid spoke on behalf of his petition. He said he has been an owner for twenty-one years; he's claimed many horses and on July 14 he claimed a horse that when it returned to the barn was limping. He said four veterinarians had all said this horse should not have run; it could have broken down and died on the track. Mr. Schmid said he's paid for surgery for this horse and it may come back as a brood mare. He wants the state to consider at-risk horses; to stop this from happening again; you have to have a rule change. He said he won't claim another horse here unless the rule is changed. He said he also realizes that the WHRC hands are tied, he understands that. But to protect owners that want to come back through claiming; he doesn't want another Santa Anita, that is the last thing we need.

Commissioner Lopez said the proposal; he sees there may be some liability to the state vet, with a claim against or recourse against the state agency. If claimant says that even though the horse is lame and still wants it anyway, or the horse goes back to original owner. Mr. Moore said there is an "opt out" that send the horse back to the original owner. Mr. LePley said it would have been nice to have this issue come before the HBPA before bringing it to the Commission. He said two or three years ago this rule was opened at HBPA suggestion regarding a catastrophic injury when the claim should be voided. At that time there was a discussion about whether to go to the California rule and there was no support from the HBPA board at that time. The second time this rule was opened only one owner was in favor, no one else was in favor of the California rule. He was not sure why there was opposition to the California rule. It was his feeling that this places a lot on the state vet to void a claim. Chairman Macomber asked about the down side of the California rule; Mr. LePley said it's that you never know if the horse will pass the vet examination, and many horses in California that didn't come back to win several times following the claim being voided. Mr. Schmid said the vet checks every horse and this would be a backup to him; this horse should never have been on the track. This change would give a claimant an extra protection for not only owners but the animals. Mr. Moore spoke to the allegation

that this horse should not have been on the track; he said Dr. Friedman went back to the records and found nothing in the treatment records and the workout pattern that would have indicated Mr. Schmid's allegations. Nothing showed previous to the race to indicate the horse was at risk; and the information offered by Mr. Schmid nobody could have known until after the fact by taking images. Dr. Friedman supplies written statement that he supports the proposed rule regarding the post race exam. Mr. Moore said in Oregon, they have a hybrid rule and it did not fix this. Two horses in Oregon passed the post race inspection and were lame shortly after and protests were filed. Commissioner Lopez said the issue is whether or not we are going to accept this petition and open this up. He so moved. Chairman Macomber seconded the motion. Unanimously approved.

Mr. Moore said he would open this rule and also work with the HBPA and Mr. Schmid and bring this back to the Commission for consideration.

Item #8. Meeting Dates for 2020 (Action Item).

Mr. Moore reviewed the proposed dates for 2020 and said this proposal is meeting the second Friday of each month with the exception of the change to have a meeting on the fourth Friday of July and no meeting in August. Mr. Moore said this was a well received move this year due to this being a busy time for Emerald Downs during August. He said there will again be no meeting in May, August and December.

Commissioner Lopez moved to approve the date schedule as proposed. Chairman Macomber seconded the motion. Unanimously approved.

Item #9. Executive Secretary's report.

a. Wagering Recap (September 2019).

Mr. Moore reviewed the wagering handle comparison for September 2019 by date range and race year and comparison of the revenues and distribution for Advanced Deposit Wagering.

b. Monthly Financial Statement (August 2019).

Mr. Moore reviewed the revenues and expenditures and the Fund balance at the end of August was at \$596,327. Mr. Moore said the projection at the end of the fiscal year, June 2019 is \$547,000; and for the end of the biennium, June 30, 2021 is \$371,000. He said by cutting expenses; revenue cuts; reducing the approved grant money this year; and by continuing targeted testing we have managed to continue to do business, but, in the decision packet it is stated that by cutting these expenses we are not doing a good service; by cutting programs and regulatory oversight, the WHRC is not doing the job that is expected by the public and stakeholders. Commissioner Lopez asked about if in the forecasts is there any money to go to the Class C race meets. Mr. Moore said there would zero grant money available in 2020 without the approval of the decision packet. Mr. Moore said the request legislation has been submitted for review to OFM and the Governor's office and he said there may be no decision from them until December. Mr. Moore said he had met with Representative Strom Peterson, WHRC Legislative Ex-officio member and he understands the problems and why we need to fix the RCW. He said he would also consider being a sponsor on our bill. Mr. Moore said he has meetings scheduled next week with Representative Kristine Reeves and Senator Steve Conway

has agreed to meet. Commissioner Lopez said this is two-fold, change statute and request funding. Mr. Moore said yes, and at the least we need to move forward with changing the statute. Representative Schmick said the most important factor here is to stress this is for the horse racing industry and the jobs it creates.

Mr. Ziegler said for information, they are updating the economic impact statement figures.

Item #10. Further Discussions.

Chairman Macomber hearing none moved to Item #11.

Item #11. Any other business that may be properly brought before the Commission.

Chairman Macomber asked Mr. Ziegler if they used more than Twitter. Mr. Ziegler said yes, Facebook, Groupon, Instagram and others. He said they mostly receive a lot of Groupon coupons; that he felt was the better of the marketing tools.

Commissioner Lopez asked when the awards will go out. Mr. Moore said about the first week of November.

Mr. Moore said to plan on a little longer meeting next month that WSU would be giving a presentation on the necropsy program for the Commission.

Hearing nothing further, Chairman Macomber adjourned the meeting. (10:33 A.M.)

Doug Moore, Executive Secretary