

**MINUTES  
WV RACING COMMISSION  
Tuesday, August 20, 2013  
WV Lottery Conference Room**

The WV Racing Commission met on August 20, 2013 to conduct business and consider administrative matters. Roll call was taken and present were Chairman Jack Rossi and Commissioner Bill Phillips and Commissioner Greg McDermott via conference call. Counsel was represented by Kelli Talbott.

**Approval of July 23<sup>rd</sup> minutes**

The Commissioners and legal counsel received the minutes from the July 23<sup>rd</sup> meeting prior to this meeting. Mr. Phillips stated there was a part of the minutes that needed to be amended. The section discussing the Commission adoption of the cruelty policy indicates Mr. Phillips withdrew a previously made motion but the minutes do not reflect the actual motion. That needs to be corrected. Mr. Phillips moved the minutes be approved with the appropriate changes made that were discussed this morning, seconded by Mr. McDermott. The Commission approved the July 23<sup>rd</sup> minutes.

**Executive Director's Report  
Jon Amores**

Jon Amores, Executive Director, provided an update on the IT operations. Larry Carraher and the Office of Technology are still working on constructing the VPN. This will allow the systems at all 4 racetracks to communicate with each other and share data. This project is approximately half way complete. Another project underway, and is a part of the VPN, is a shared drive. This shared drive is established and is being developed. All WVRC staff in the Charleston office can share this drive for a variety of documents. Lastly for IT operations is the continuation of knowledge transfer. The first step is documentation of all the IT processes in the office, and this has been done. The next step is to strategically determine, with the Commission's direction, how we want to proceed going forward.

Pursuant to the Inter-agency agreement with the Lottery, we are currently pursuing sharing the fingerprinting system used by the Lottery. This would allow for electronic fingerprinting instead of ink and paper fingerprinting.

An update on the lawsuit filed by Dr. Dibbern stated there was an answer, a change of venue, and a motion filed to dismiss the case. All of these items were timely filed.

In an effort to improve accuracy with the Thoroughbred Development Fund, preliminary letters were sent out to ensure the accuracy of information on record for each participant. This basically represents a "mock distribution" and serves as a means for Horsemen to notify of any discrepancies on file thus far.

**Auditor's Report**  
**Becky Carnefix**

Becky Carnefix stated she has provided each of the Commissioner's with a memorandum and a summary of the racetrack visits she made in July and August for their review.

The Thoroughbred Development Fund letters referenced by Mr. Amores in his report were mailed out last week and replies are starting to come in.

There were no capital improvement reimbursement requests submitted for any of the 4 tracks during July and early August.

**Accountant's Report**  
**Joe Moore**

Joe Moore stated the financial summary for July 2013 shows state handle is down 9.5% in total from June 2013 and up 8% compared to July 2012.

The auditors conducting the annual audit, Suttle & Stalnaker, will be on site next week to do the financial side of the audit. Draft financial statements are due to FARS September 13<sup>th</sup> and the final audit is due October 15<sup>th</sup>. Chairman Rossi inquired if these deadlines will be met. Joe Moore responded that the agency should meet these deadlines.

**Legal Update**  
**Attorney General's Office**

Kelli Talbott provided an update on what she has been working on for the WVRC. She stated she argued the Schweitzer case, which dealt with the permit holder allegedly hitting a dog in the head with his fist. His permit was revoked by the judges at Wheeling and he appealed it before the Commission. The Commission upheld the appeal and it was then sent to Ohio County Circuit Court. Briefs were filed on our behalf and oral arguments were made on this case. An order from the judge in this case is expected any day now.

Ms. Talbott attended a hearing in Charles Town involving an owner who appealed a ruling of stewards pertaining to a coupled entry matter. No resolution on this case has been made as of yet.

Ms. Talbott has been working on Mr. Burdette's lawsuit, which is in the discovery phase and is set for trial in October.

She has received 2 new appeals since the report provided to the Commissioners was prepared. One was an appeal by Jockey Robbie Albarado and the 7 day suspension imposed upon him by the Stewards at Mountaineer for his interference with Russell Road on Derby Day. He has asked for a stay of his suspension and Commissioner McDermott denied that stay. The second appeal received has since been withdrawn.

The new Thoroughbred Rules and Greyhound Wagering Rules went into effect July 14<sup>th</sup> and she has not heard any reports of any issues at this time.

Chairman Rossi asked for permission to move item #9 on the agenda to the next item. Motion was made by Commissioner Phillips, seconded by Commissioner McDermott. Motion passed.

### **Occupational permit approval – Shelby Greynolds**

Jon Amores stated Ms. Greynolds is seeking an owner's permit from the Commission. Ms. Greynolds had a felony when she was 18 and was arrested for grand larceny. She received probation for grand larceny and possession of cocaine and violated the terms of that probation. She spent 18 months in jail as a result of the violation. She did complete a drug rehabilitation program while incarcerated, and since her release she has been in good standing on her probation. She has received support from the Stewards at Mountaineer and they do believe she is worthy of a conditional owners permit, which would allow the Stewards to conduct regular or random drug and/or alcohol testing at their discretion. Motion was made by Commissioner McDermott to grant permit approval, subject to the conditions discussed. Seconded by Commissioner Phillips. Motion passed.

### **Adoption of Commission Cruelty Policy/comments**

Chairman Rossi stated he feels existing statutes give the WVRC the authority to do everything contained in the proposed policy. Commissioner Phillips stated the Commission needs to be very cautious to the referrals to the Prosecuting Attorney's office. He complimented Sam Burdette on the material he provided. Mr. Burdette does have some concerns over having a policy of blanket referrals to the Prosecuting Attorney. Commissioner McDermott concurred with Commissioner Phillips' comments. He added that he believes the law already afforded the stewards and judges the discretion needed to refer possible cruelty cases to the Prosecuting Attorney.

Sam Burdette stated the Greyhound Breeders and Owners Association dislike animal cruelty for two reasons: the first being they keep the dogs for 12-18 months so they tend to bond with the dogs a bit and the second being when you do practice animal cruelty on dogs, they develop defensive traits which are adverse to racing conditions. He stated there are times when you have to discipline the dogs but where do you draw the line between discipline and cruelty? In training dogs, there are basically 3 principles. The first is positive reinforcement. This principle tends to work best with single dogs. Greyhounds, however, are trained as a group. The second method, or training methodology used in groups of dogs is the discipline method. This is communicating to the dog when something isn't proper so that it will change its behavior. The third method is a combination of both of these methods. The question then becomes if you have to use some form of force on a dog as a trainer, where do you cross over the line? There are times when a dog may be acting in a way that needs to be corrected. If a person flies into a fit of rage and starts beating or hitting a dog, more than likely that is animal cruelty and needs to be corrected, but there are instances where a dog may be starting a dog fight and the dog needs to be corrected. The letter he submitted to the Commission describes different instances when a distinction between the two are made. He provided the Commissioners with a proposed modification to the Animal Cruelty Policy. The main modification is the cruelty/mistreatment of animals included use of excessive force on an animal beyond that necessary to train and discipline that animal. Cruelty and mistreatment of animals includes the beating of an animal and/or infliction of pain or injury on an animal in frustration or anger or misguided human behavior that is beyond the bounds and limits called for in a certain

situation. You must be able to prove that person used excessive force beyond what was called for in that certain situation.

Christine Dorchak, Grey2K USA, stated they support the agency's anti-cruelty policy. They find the policy to be clear and consistent with mainstream values and is well drafted. They are joined by the Charleston Daily Mail in supporting this policy.

Chairman Rossi stated we have a drafted policy that was posted on our website. The amendments Sam Burdette referred to have not been posted to the website but he spoke on those today. He also stated Ms. Talbott had some discussion with Mr. Burdette concerning his amendments and has prepared a memo addressing such for the Commissioners in their binders. Ms. Talbott stated Mr. Burdette wants to define animal cruelty but our rules don't even define animal cruelty, nor is it defined in a criminal statute. The judges/stewards at the tracks apply the common, ordinary meaning of that term and therefore, she advises against defining the term in a policy. Commissioner McDermott asked if the Commission already has the discretion to refer a case of animal cruelty to a Prosecuting Attorney if it was deemed appropriate. Ms. Talbott replied yes the Commission does have that authority. Commissioner McDermott asked if there are any further hearings required as a result of a referral of a case to a Prosecuting Attorney. Ms. Talbott replied there would be no further hearing.

Motion was made by Commissioner Phillips to adopt the cruelty policy that was placed on the website but with an amendment to that draft. In the last paragraph strike the words "for possible criminal prosecution" out of the draft. Mr. Amores stated he will make that change. Commissioner McDermott seconded the motion with the comment that the Commission already has the discretion to make a referral of a case of animal cruelty to a Prosecuting Attorney in a particular case. Motion passed.

#### **Referral of James Grace and James Bloom to Ohio County Prosecuting Attorney / comments**

Mr. Amores stated additional information has been received since last month's meeting and has been provided to the Commissioners. It is the discretion of the Commission if they choose to refer this case to the Prosecuting Attorney and it is the Prosecuting Attorney's discretion as to if he wants to take up the case. Commissioner McDermott asked what Mr. Amores' recommendation was to the Commission? Mr. Amores said if the Commission desired, he would recommend this case to the Prosecuting Attorney. Commissioner McDermott made a motion for referral, seconded by Commissioner Phillips. James Grace addressed the Commission on his behalf and his recollection of the incident. Motion passed.

#### **Hearing Examiner's recommended decision, Christopher Grove appeal**

Kelli Talbott stated this case involved a horse at Charles Town racetrack that tested positive for a Class I drug. There are very few positive tests for Class I drugs in any given year. Stewards had a hearing on this matter and suspended Mr. Grove's permit for 6 months, which was basically the minimum penalty, and fined him \$5000. Mr. Grove appealed that to the Commission. The Hearing Examiner's recommended decision is to uphold Stewards ruling and the sanctions imposed on Mr. Grove. The trainer is ultimately responsible for the drug showing up in the horse. Motion was made by Commissioner McDermott to adopt the recommendation from the Hearing Examiner, seconded by Commissioner Phillips. Motion passed.

**Mountaineer Racetrack Capital Improvement Request, \$23,397.52 for new entrance to backside**

**Mountaineer Racetrack Capital Improvement Request, \$16,027 to improve Winner's Circle**

**Mountaineer Racetrack Capital Improvement Request, \$19,506.60 to replace broken block at entrance coming into Clubhouse**

Becky Carnefix stated all three projects have been reviewed for quotes and work to be performed, funding is available, and all three projects are recommended for approval. Motion was made by Commissioner Phillips to approve all three projects, seconded by Commissioner McDermott. Motion passed.

**Mountaineer Racetrack, request to add new wagers: two 50 cent Pick 5 wagers, and an additional Daily Double**

Rosemary Williams stated Mountaineer is proposing to add two new wagers: two Pick 5's 50 cent minimum to their wagering menu and also to add a middle Daily Double to their sixth race. The reason behind adding these new wagers is to grow revenue and grow handle. Pick 5 wager would be a carryover pool also, 25% would be paid out and 75% carried over until the person correctly picks the correct 5 in that race. Commissioner Phillips stated he thinks it's encouraging to see one of the four tracks looking for ways to grow revenue and encourages the others to do likewise. Commissioner McDermott made a motion to approve the request, seconded by Commissioner Phillips. Motion passed.

**Public Comments**

There were no public comments.

**Next Meeting**

The next Commission Meeting is scheduled for September 17, 2013.

**Adjournment**

Motion was made by Commissioner McDermott to adjourn the meeting, seconded by Commissioner Phillips. Meeting adjourned.