

MINUTES
WV RACING COMMISSION
Tuesday, December 20, 2016
WV Lottery Conference Room

The WV Racing Commission met on December 20, 2016 to conduct business and consider administrative matters. Roll call was taken and present was Chairman Jack Rossi. Commissioner Bill Phillips and Commissioner Greg McDermott were present via conference call. Counsel was represented by Kelli Talbott.

Approval of the November 15 minutes

The Commissioners and legal counsel received the minutes from the November 15th meeting prior to this meeting. Motion was made by Mr. McDermott for approval, seconded by Mr. Phillips. Motion passed.

Executive Director's Report
Joe Moore

Joe Moore stated he and Ms. Talbott have been working on several of the proposed ideas for statutory changes for the 2017 Legislative Session. Some of the Administrative and Procedural changes are changing the requirement of a Legislative Auditor's Annual Report from a calendar year to fiscal year basis, changing the track application for licenses from a calendar year to a fiscal year basis to more align it with the purse monies that are appropriated, directing fines collected at the thoroughbred tracks to a fund dedicated for the expense of necropsies and thoroughbred aftercare and the fines at the greyhound tracks for the adoption program and giving the Racing Commission more flexibility in approving fewer race days than that required by the statute.

The Commissioners were provided the thoroughbred medication violations from Mountaineer and Charles Town, along with the fatality and injury reports.

The RMTC and NTRA recently amended and sent out new recommendations for Test Barn and Chain of Custody requirements and those have been forwarded to the tracks. He expects to receive a report back from the employees regarding any shortfalls we currently may have and any changes we need to implement, hopefully prior to an official NTRA visit.

Mr. Phillips stated back in October he asked that a plan be developed between the tracks and our staff regarding out-of-competition testing for 2017 and he wonders where that stands? Mr. Moore replied he is currently working with Rose Mary to finesse their budget to free up some testing money for out-of-competition testing in 2017. Mr. Phillips asked if they would have something firm and in writing for the next meeting? Mr. Moore replied he hopes to have something to them in January.

Auditor's Report
Becky Carnefix

Becky Carnefix stated the capital improvements submitted for reimbursement and paid for the month were Charles Town submitted 5 projects for reimbursement, with total payments of \$27,105.12. The details of the projects paid were provided to the Commissioners.

For the supplemental purse awards, 14 day letters for residency verification for 3QFY16 claims were mailed out this morning. Those claims are expected to be paid out in January.

Her audit schedule for the remainder of FY17 has been provided to the Commissioners for their review.

Accountant's Report Joe Moore

Joe Moore stated live racing increased nearly 5% compared to November 2015, in large part due to Mountaineer being open in November of this year compared to their last race day in October last year. Exports increased for the same reason. In-state handle is down 4% compared to FY'16. He plans to have the live race day vs. wagering report in the January meeting, along with the budgeted vs. actual expenditures in January.

The finalized audit from Suttle & Stalnaker was received this week and has been filed with FARS and is now complete for FY'16.

Chairman Rossi stated from a Commission standpoint he thinks they should say thank you to the staff people that are here. There have been some hardships this year and some employees have been off for an extended period of time and the staff people that are here have been operating on a staff of 3 and he just wants to thank them for their work.

Legal Update

Kelli Talbott stated she has a hearing coming up in Charles Town on January 19th in the case of the trainer, Jose Nunez. He had 2 very significant drug positives in 2 different horses he trained. She has been working on her preparations for that hearing.

She has been working with Mr. Moore on possible statutory changes that the Commission might consider with the new Legislative Session coming up.

She has also been discussing rule-making with Mr. Moore. In light of there being some rules that have to be addressed to comply with NTRA standards, as well as new model rules that RCI just adopted on out-of-competition testing and the multiple medication violation point system, she would suggest that there be some consideration given to re-convening the Rule Committee sometime after the first of the year to start looking at that. We will probably have more to look at this coming year than we have in past years so the sooner they can start on that the better.

Approval to Establish the Russell Road Award for Thoroughbred Excellence

Joe Moore requested the Commission approve the Russell Road Award for Thoroughbred Excellence. How the award is designed is at the conclusion of each annual racing calendar, the Racing Commission will acknowledge a WV Thoroughbred for its yearly achievements. The award will be established in the honor of Russell Road for his career achievements and representation of thoroughbred racing in the state of WV. The inaugural award will be issued to the connections of Russell Road and will list his career statistics. Each award thereafter will be issued to the connections of the WV-bred thoroughbred with the highest percentage of win place show over their total number of starts, with the caveats that there are a minimum number of starts of 6 and a minimum earnings of \$100,000.

Motion was made by Mr. Phillips for approval, seconded by Mr. McDermott. Motion passed.

Hearing Examiner Recommended Decision – Eddie Clouston

Kelli Talbott stated Mr. Clouston was punished by the Stewards at Mountaineer for a corticosteroid positive in a horse he trained. Not only was Mr. Clouston given a penalty for that positive but since this infraction added a point under the multiple medication violation point system to his record, it triggered an enhanced penalty that added a 30-day suspension to his permit. The underlying offense he got a \$1,500 fine and a 15-day suspension but since he had an accumulation of points it resulted in an enhanced, additional penalty of 30 days, so a total 45-day suspension. The hearing was held and the Hearing Examiner recommended the penalty be upheld and that costs be assessed. There were a couple minor errors in the recommended decision that she sent to the Commissioners. Some of the dates were wrong as to when the Stewards' hearing arose and the test results came back. She would recommend the Commission adopt his decision with the modification the dates be corrected in the Final Order. The costs that were to be assessed included the Hearing Examiner, Ms. Talbott's travel costs and the court reporter, with a total of \$5,730.40.

Motion was made by Mr. McDermott for adoption of the Hearing Examiner's recommended decision with the modification just described regarding date corrections, seconded by Mr. Phillips. Motion passed.

Permit Reinstatement Request – Dennis Meehan

Joe Moore stated Mr. Meehan is requesting a renewal of his blacksmith license at Charles Town. Mr. Meehan has a felony drug offense on his record. The Commissioners have received the background and fingerprint check for their review. The Stewards at Charles Town have made a recommendation that Mr. Meehan be granted his permit back based on their review of his background, with the Chief Investigator's report and recommendation to the same. Danny Wright stated they are comfortable with the reinstatement of Mr. Meehan's permit.

Motion was made by Mr. Phillips for approval, seconded by Mr. McDermott. Motion passed.

Charles Town request to reduce live race days to 166

Joe Moore stated at a previous Commission meeting Charles Town came to the Commission with a request to reduce live race days. The Commission then went through the procedures required by statute to notify certain parties of their request. A 10-day objection period was offered to those parties and no objections were received. Now it is before the Commission for the approval of the 166 live race days.

Motion was made by Mr. McDermott for approval, seconded by Mr. Phillips. Motion passed.

Charles Town Capital Improvement Request – Apron benches, \$18,510

Charles Town Capital Improvement Request – Hardscape camera stand, \$6,800

Becky Carnefix stated the first request is from Charles Town and is for new apron benches in the amount of \$18,510. The existing wooden apron benches are old and dated and the new benches will be more comfortable for racing patrons and nearly maintenance free.

The second request is also from Charles Town and is for a new hardscape camera stand in the amount of \$6,800. The existing wooden camera stand has safety issues, requires costly repairs and the required recording of races is compromised if the camera stand is not stable during operation. She has reviewed the information submitted for both requests and recommends for approval.

Motion was made by Mr. McDermott for approval, seconded by Mr. Phillips. Motion passed.

WI request to add Ebet to 2017 Export site list

Joe Moore stated the Commissioners have the request before them and he has provided the Ebet hub details to them for their review. This is an export site that is currently on the thoroughbred list of export sites as well, with the approval of the HBPA organizations.

Motion was made by Mr. McDermott for approval, seconded by Mr. Phillips. Motion passed.

Request for approval of 2017 WI Kennel Contracts

Joe Moore stated Wheeling Island will have a total of 12 contracted kennels for 2017. He has reviewed the contracts, along with Ms. Talbott, to make sure they are within the rules of racing and the racing statute and he would recommend approval of the 12 kennel contracts at Wheeling Island.

Motion was made by Mr. McDermott for approval, seconded by Mr. Phillips. Motion passed.

Racing Commission Administrative Rule – Appeal Hearing Application Fee Increase

Kelli Talbott stated this was put out for a 30-day public comment period and the only amendment was to raise the filing fee for appeals of Stewards and Judges rulings from \$100 to \$500. One comment was received and was circulated to the Commissioners for their review. It was from the Charles Town HBPA's attorney and they were opposed to the increase and thought it was bad public policy. She added this fee of \$100 has been in place at least 18 years, if not longer, so this fee has not been increased in 18 years or more. Even if we are assuming it is bad public policy because of the reasons that the Charles Town HBPA has about folks having a burden to bear with making that fee upfront, it seems to her she doesn't have any bills that haven't raised in 18 years so that's probably a good enough reason in and of itself to raise it. It is up to the Commission now to consider that comment and decide if they want to give any weight to that comment and proceed accordingly. If the Commission doesn't want to consider the comment, the next step would be to file the rule and submit it to the Secretary's office and it would then be finalized with the Secretary of State and would probably go into effect 30 days from filing with the Secretary of State.

Motion was made by Mr. McDermott to file the rule with the Secretary, seconded by Mr. Phillips. Motion passed.

Discussion of Live Race Calendars

Mr. Phillips stated he asked for this item to be put on the agenda and he did so before he was aware there is consideration being given to asking the Legislature to change the racing calendars. The purpose he asked for it to be put on is at the November 15th meeting the Commission approved the calendars for 2017 and those were received just prior to the meeting and he doesn't think the Commission is able to give enough thought and consideration to the calendars with such short notice. It was his intention today to make a motion to require the racing calendars be presented by September 1st each year which would then give the staff and the Commissioners themselves at least 60 days to look at these, think about them and negotiate if need be. He can still make that motion not knowing what will come of the Legislature or we can use this as simply putting everyone on notice that our expectations would be September 1, 2017, barring any changes made legislatively. Chairman Rossi stated he understands what Mr. Phillips is saying and he would suggest we table this issue until we find out where we're going with legislation. Mr. Phillips stated he's not going to make a motion, we can just continue to keep it on the agenda each month until we see what the Legislature is doing. Mr. McDermott stated he's in agreement with the idea of holding off until we see what the Legislature is going to do.

Mountaineer Park request to approve Mystery Voucher Program

Rose Mary Williams stated these are the mystery vouchers that they do periodically throughout the year and they would like to conduct one on Saturday, January 21st and also Friday, January 20th. It would be the same database and the same amount going out to the patrons.

Motion was made by Mr. Phillips for approval, seconded by Mr. McDermott. Motion passed.

Public Comments

Rose Mary Williams stated the Commission wanted an update on their NTRA application and they have submitted that. It went out in the mail yesterday.

Erich Zimny stated their application is completed and should go out in the mail overnight tomorrow.

Adjournment

Motion was made by Mr. McDermott to adjourn, seconded by Mr. Phillips. Meeting adjourned.