

**MINUTES
WV RACING COMMISSION
Tuesday, January 21, 2014
WV Lottery Conference Room**

The WV Racing Commission met on January 21, 2014 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.

Election of Commission Chairman

Mr. McDermott made the motion to appoint Jack Rossi to the position of Chairman, seconded by Mr. Phillips. Motion passed.

Approval of December 9th minutes

The Commissioners and legal counsel received the minutes from the December 9th meeting prior to this meeting. Mr. Phillips moved to accept the minutes, seconded by Mr. McDermott. The Commission approved the December 9th minutes.

Approval of December 31st minutes

The Commissioners and legal counsel received the minutes from the December 31st meeting prior to this meeting. Mr. McDermott moved to accept the minutes, seconded by Mr. Phillips. The Commission approved the December 31st minutes.

**Executive Director's Report
Jon Amores**

Jon Amores, Executive Director, stated the Legislature is back in town and they have quickly taken up the Thoroughbred Rules that the stakeholders and counsel worked on over the summer. They are currently out of Senate Judiciary and to the Senate Floor.

As mentioned at the last meeting, we have begun to draft a set of Standard Operating Procedures, particularly with the State Vets and Vet Techs. Dr. Day at Mountaineer has spearheaded that effort and now our intent is to move that process over to Charles Town so we have a consistent set of Standard Operating Procedures at each track.

The RCI effort continues. The first area is the Rulings and the second is Licensing. We are still on the Rulings area and the judges and stewards are obtaining the necessary training for this area. Larry Carraher will be using the rest of this month and possibly all of next month to get all of the 2013 rulings we have to the RCI system, and to work with staff at the tracks to complete the training and to start inputting rulings into the RCI system on their own. Once the rulings are functioning smoothly in the RCI database, the next step is to move on to the Licensing function. This project is anticipated to take until mid-year to complete. Lastly, a news link has been added to our website as an information source to the public.

**Auditor's Report
Joe Moore**

Joe Moore stated the Auditor's report was provided in their binders and he would answer any questions they may have. Jon Amores noted that included in the Auditor's report was a note stating a mailing was done in early January to all participants of the Thoroughbred Development Fund for verification of race results for the 2013 calendar year. Distributions are to be made February 15th for this fund. Mr. Amores also noted the payments of supplemental purse awards for 3rd quarter FY13 were processed last week and sent to the Auditor's Office.

Accountant's Report Joe Moore

Joe Moore stated the financial summary report for December 2103 was provided in their binders. In state handle increased nearly 5% year to date, compared to fiscal year 2013. Revenue generated from live and simulcast racing decreased nearly 1% compared to fiscal year 2013. Also of note is the continued effort to pay out the Burdette settlement distribution of \$2,058,951.50. There are 4 participants totaling \$2,781.32 that failed to deliver the proper ownership documents to prove rights to those funds. The Racing Commission has taken the appropriate steps to now forward those monies over to unclaimed property to be held in those ownership names. There are 5 checks totaling \$114,435.07 being held at the Racing Commission still pending counsel direction on. The remaining balance of the distribution settlement has been paid out at this date. Mid-year financial projections are: main operating fund 7305 has received revenues totaling approximately \$1.2 million. The updated projection for revenues in 7305 is \$2,475,000. The updated projection in expenses for 7305 is \$2,583,000, leaving a deficit of \$108,000 in fund 7305. That will reduce the beginning year carry forward in that fund to approximately \$306,000.

Mr. Phillips commented he was interested in the 5 checks pending counsel's direction and was wondering what the issues were. Kelli Talbott responded there is a kennel, Fynmore Kennel, that is due a distribution. The owners of the kennel are now divorced and they are disputing who is entitled to this money. The other issue is related to two kennels that would have been owed a distribution but another kennel owner is disputing whether those monies should be paid to him or to the kennels.

Legal Update Attorney General's Office

Kelli Talbott stated currently there are two cases pending in the WV Supreme Court. The first case is the Schweizer case dealing with the revocation of the permit holder's permit at Wheeling Island for abuse to a greyhound. The second case is the PNGI vs. WVRC case that was recently appealed to the Supreme Court contesting certain procedural rules that the Commission promulgated some time ago that governed ejection appeals. There are currently two cases in Kanawha County Circuit Court. The first one is the Christopher Grove appeal and the second is the Randy Wehrman case. Ms. Talbott also noted that Mr. Amores mentioned the 2014 Rules are pending, and the one item left that WV was not able to get in its 2014 effort was to adopt the point system for medication rule violations that all the other Mid-Atlantic states are getting into their rules now and she would recommend the Commission put into its Rules for the 2015 effort. Mr. Phillips stated in regards to the point system, he recalls there being some concern about the point system as it relates to us in West Virginia, and inquired if the other states are adopting this system and is there any controversy concerning this? Ms. Talbott replied she is unaware of any controversies in the other states and they are all in various stages of adopting the point system. Mr. Phillips stated he would like for the Commission to move forward in this process as well. Chairman Rossi added he would like for the staff to solicit

information on this issue and bring it to the Commission at the next meeting, at which time they may consider if the Rules Committee should reconvene on this topic.

Capital Improvement Request policy, procedural rule language

Jon Amores stated that as a group, the Commission has already voted to have the Capital Improvement Rule submitted as a procedural rule, however, there have been some modifications made to it, one of form and one of substance. As a result of these changes, it has been brought back to the Commission for a second approval. The form change is that it is now in the appropriate form, rule format form, for it to be filed with the Secretary of State and the form it would be adopted in. The substantive change is in sections 5.2 and 5.6, at the suggestion of Commissioner Phillips. This change was that the rules provide for some way that a track verify and send information regarding the projects construction and verify its completion by a type of certification. Section 5.2 explains the type of documentation needed to show the reimbursement request is appropriate before the project is approved for reimbursement. Section 5.6 states once the project is completed, the track shall submit a letter certifying it is completed. Once the rule is approved by the Commission, it will be filed with the Secretary of State's office and there will be a comment period before it becomes official on file. Mr. Phillips added there is another change as well. He suggested at a previous meeting that we needed some type of narrative from those seeking reimbursement about how these capital improvement funds would serve the betterment of racing, and this change is in Section 4.1.b

Motion was made by Mr. Phillips to adopt the new procedural rule as explained and as printed in their binders, seconded by Mr. McDermott. Motion passed.

Charles Town Racetrack, Capital Improvement Request, \$101,010.53 for surveillance cameras in barn area

Charles Town Racetrack, Capital Improvement Request, \$67,697.12 for surveillance recording equipment upgrade

Charles Town Racetrack, Capital Improvement Request, \$24,752.05 for surveillance equipment, barn area

Joe Moore stated these projects have been reviewed and determined to be racing related or for the betterment of racing and funding is available for the projects. Motion was made by Mr. McDermott to approve the projects, seconded by Mr. Phillips. Motion passed.

Hearing Examiner's Recommended Decision, Billy Ray Davis and Cliff Tuomisto

Kelli Talbott stated this was an ejection appeal from two permit holder's that were ejected from Charles Town Racetrack. The incident that led to their ejection was the same incident the Commission acted on against permit holder's Scooter Davis and Doug Shanyfelt, which was a program trainer scheme at Charles Town Racetrack. The Hearing Examiner's recommendation is to uphold the ejection, but allow Mr. Tuomisto and Mr. Davis back on the racetrack as of February 14, 2014, which would make it a full year since these gentlemen had been ejected. Motion was made by Mr. McDermott to adopt the Hearing Examiner's recommended decision, seconded by Mr. Phillips. Motion passed.

Mountaineer Racetrack, Capital Improvement Request, \$2,079.72 for washing machine in Jockey's Room

Joe Moore stated this project has been reviewed and the funding is available. Motion was made by Mr. Phillips to approve the project, seconded by Mr. McDermott. Motion passed.

Mountaineer Racetrack, request for approval of The Omni "A Show Quinella" Wager

Jon Amores stated the request is within the wagering rules, however, it is a new type of wager so the Commission is required to approve it. Rosemary Williams stated the wager is actually a New York Racing Commission wager in which the participants pick the first three horses and it's called an Omni wager. The horses can finish in any order to make up a Quinella, so it's similar to a show quinella. Mr. Phillips inquired if it was a \$1 minimum bet? Rosemary Williams responded yes. Motion was made by Mr. McDermott to approve the request, seconded by Mr. Phillips. Motion passed.

Mardi Gras Racetrack, Sportech smartphone wagering request

Jon Amores stated this is a request similar to what other tracks have done in allowing more options for wagering. The start-up date, if approved, is scheduled for mid to late February. He recommends for approval. Mr. Phillips asked if this will only be operable on-site? Mike Staats replied this is considered an on track wager and you must be in their wi-fi or controlled wi-fi area to make a wager. Motion was made by Mr. McDermott to approve the request, seconded by Mr. Phillips. Motion passed.

Mardi Gras Racetrack, approval of 2014 WVGoba Juvenile Stakes and WVGoba Open Distance Stakes

Jon Amores stated this is a request that is approved every year. The rules were posted to our website for informational purposes. He recommends approval. Motion was made by Mr. Phillips to approve the request, seconded by Mr. McDermott. Motion passed.

Backstretch pension plan review

Jon Amores stated legal counsel was available by phone and could join the meeting if needed. The Commissioners just received the information from Mr. Lloyd last month and it took a little bit of time to get Mr. Rutledge re-appointed as our special Attorney General. Mr. Rutledge has reviewed all of the proposed amendments, however, and can provide feedback if the Commissioners so desire at this time, or it may be better to receive such advice in an Executive Session first. Chairman Rossi stated he is inclined to agree with Mr. Amores and meet with Mr. Rutledge in an Executive Session at a later date. After that Executive Session, Mr. Rutledge should meet with interested parties and with counsel for the Horsemen. Mr. McDermott stated he agrees with Chairman Rossi and for this meeting to be meaningful, this needs to advance to the step where there is dialogue between Mr. Rutledge and counsel for the Horsemen. Chairman Rossi asked Mr. Amores to set up a meeting within the next few weeks to have an Executive Session with Mr. Rutledge and the Commissioners.

Discussion of greyhound training tracks

Chairman Rossi stated they have had a request to vote on the greyhound training tracks. He added there was a presentation given to the Commission about the feasibility of this by the Greyhound Breeders Association some time ago. Mr. Phillips he really doesn't know much about the whole issue. He asked to receive a copy of the feasibility study that was done, but at this time, he was not prepared to vote on this until he was more educated and informed on the issue. Mr. McDermott made the motion to table this issue until the Commissioners have had more time to become better acquainted with the issue. Chairman Rossi added this is an issue that has been around for some time. He asked Larry Carraher to re-circulate the feasibility study to the Commissioners.

Sam Burdette stated it was in 2009-2010 they performed the feasibility study. The feasibility study basically concluded the cost per trip around a track for a greyhound to train would be approximately \$8-\$10 a trip, basically because there are not enough dogs in WV to have two training tracks to make it financially feasible. To compare that, currently when they have greyhounds train in other states, they pay around \$2 per trip around the track. For those reasons he believes the Commission did not act on it in 2009. The \$2 million for the tracks was taken from the Greyhound Breeding Development Fund. Burdette stated that the Commission should either build the training tracks or return the money so it can be re-distributed from the Greyhound Breeding Development Fund.

Motion was passed to table this issue until a later time.

Public Comments

Mike Staats, Mardi Gras, stated he would like to bring to the Commission's attention since they didn't race last week they have purse monies that need to be distributed and they would like to distribute that over the next four week period.

Randy Funkhouser, CT HBPA, stated this morning they delivered the Economic Impact of the Thoroughbred and Greyhound Racing Industry study.

Next meeting

Next meeting is February 18, 2014. There will be a special meeting scheduled to discuss the pension plan.

Executive session, Executive Director personnel report

Motion was made by Mr. McDermott to go into Executive Session, seconded by Mr. Phillips.

Motion was made by Mr. Phillips to exit Executive Session, seconded by Mr. McDermott.

Adjournment

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