

MINUTES
WV RACING COMMISSION
Friday, August 15, 2014
WV Racing Commission Buch Conference Room

The WV Racing Commission met on August 15, 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.

Hearing examiners decision regarding reduction of racing days at Mountaineer Racetrack. Consider request not to make up additional days that are cancelled and reduce number of races daily from ten to nine in Oct. and Nov.

Kelli Talbott stated a public hearing was held at Mountaineer in June because objections were received about Mountaineer's request from parties that were notified of the request. All three Commissioners were present at that meeting in June in which public comments and evidence were taken. The recommended decision from the hearing examiner came to the Commission around the first of August.

The recommended decision is that Mountaineer had not met the burden of showing there would be a shortage of thoroughbreds and the Commissioners basically deny the request to cancel or not have the December race dates, but that the Commission approve the track to go to eight races a day immediately, the track to consider reducing purses immediately or as soon as is practicable, and the track, with the input of the horsemen, revise and relook at the condition book so the conditions for the races would maximize the resources that Mountaineer has. The recommended decision leaves open that if at some point Mountaineer can demonstrate the statutory conditions, this matter could come back to the Commission, and if in deed there aren't enough entries to race, this matter could be revisited before the end of the year.

Mr. McDermott stated at the hearing that was held this past June, everyone who appeared and testified was understandably very upset over the prospect of not racing in December. Everyone was struck by the emotions that were expressed and he thinks those emotions were unanimous. That includes the emotions that were expressed by the representatives of Mountaineer and Mountaineer HBPA. We heard undisputed testimony from the representatives of Mountaineer that it would not be economically feasible to race in December because there would be no funds left to fund the purses. He wonders if we're in a situation where any races in December would not offer a purse? According to the undisputed testimony presented, wouldn't that create, by implication, a horse shortage? He understands the recommended decision gives Mountaineer permission immediately to reduce the racing schedule to eight races, and could be interpreted that when the purse funds run out, then at that point Mountaineer is to contact the Racing Commission immediately and go forward from there.

Mr. Phillips stated the emotions at the hearing were high. He read the documents submitted and the recommended decision and he realizes Mountaineer is in bad way but so would the horsemen be in a bad way if there wasn't racing in December. It seems to him the hearing examiner has struck a middle ground right now that at the time will give Mountaineer time to further develop their case concerning shortage of horses. One suggestion he has is for the WV Racing Commission and the Ohio Racing Commission to talk about how they could be influential in making certain these two tracks aren't running back to back on the same day.

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

Motion was made by Mr. McDermott to come out of Executive Session, seconded by Mr. Phillips. Motion passed.

Motion was made by Mr. McDermott that the recommended decision be adopted with the following modification: the decision shall and does provide that should purse funds run out before the end of the year, in such event there would be no further obligation to conduct racing from that point on, seconded by Mr. Phillips. Motion passed.

Request to not make-up cancelled racing days at Charles Town

Mr. Phillips stated it might be appropriate to table this item until the September meeting. We received a request in May to basically cancel and not make up 20 days of racing at Charles Town that occurred because of bad weather. There's not a real case laid out in the document provided other than the weather and obviously there are consequences, not only to the track but to the horsemen as well. Mr. Phillips made the motion to table this item until the September meeting and asked the officials at Charles Town to present a case to the Commission in September to go over some specifics and consequences of this action requested, seconded by Mr. McDermott. Al Britton, Charles Town, stated this was a joint request from the HBPA and Charles Town. Motion passed.

Test results for therapeutic drugs and enforcement options

John Myers stated at the last meeting discussion was had about some outstanding drug samples that were sent initially to Dalare but were forwarded out to Truesdail for screening and a possible quantitative test beyond what Dalare had done initially. Upon receiving those samples, when Truesdail did their screening, the vast majority of those tests did not test above the threshold limits. 3 horses and 7 samples tested above the threshold. His recommendation to the Commission is to go ahead with the quantitative test of these 7 samples or 7 drugs that were identified, but to go ahead and release the purses of the initial screens. Mr. Phillips asked from all 52 tests from July 9-26, there are 7 that need to be quantified further? Mr. Myers replied that was correct. Mr. Phillips added the purses that those 7 tests don't impact can be released? Mr. Myers replied that was correct. Mr. Phillips inquired about the price issue discussed at the last meeting and was it going to be \$900 for all 7 tests? Mr. Myers stated that is correct and that he was going to try and work out a deal if he thought all 52 tests were going to be done but the quantitative test is very labor intensive. Mr. Phillips asked if the Commission would be paying this cost or would they be sharing it with the other parties involved? Mr. Myers replied the Commission will be paying these costs. It's going to be in the neighborhood of \$7200-\$7500.

Motion was made by Mr. McDermott in favor of Mr. Myers suggestion, seconded by Mr. Phillips. Mr. Phillips asked if this has been discussed with the Stewards at both tracks? Mr. Myers responded yes it has. Motion passed.

Funding of new established back stretch pension plan

Mr. Myers stated the new backstretch pension plan was approved at the last Commission meeting and the next requirement to put that plan in place is to transfer money that has been held in the State Treasurer's Office over to the newly established account. At this time, the current balance held at the State Treasurer's Office is \$5,013,982.67. Motion was made by Mr. Phillips to transfer the funds, seconded by Mr. McDermott. Motion passed.

Public Comments

Rosemary Williams inquired on the motion granted on the reduction in racing days based on the purse money, can she submit to the Commission a couple weeks prior to when Mountaineer will run out of money so she can let all simulcast sites taking their signal, and all of their patrons know ahead of time? Chairman Rossi replied he would like to see it provided to the Commission sooner than two weeks. Ms. Williams replied she will try to do it a month out when she knows it's getting very close.

Next meeting – tentatively September 16, 2014

Adjournment

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