

MINUTES
WV RACING COMMISSION
Tuesday, July 19, 2016
WV Lottery Conference Room

The WV Racing Commission met on July 19, 2016 to conduct business and consider administrative matters. Roll call was taken and present was Chairman Jack Rossi. Commissioner Greg McDermott and Commissioner Bill Phillips were present via conference call.

Approval of the June 9 & June 21 minutes

The Commissioners and legal counsel received the minutes from the June 9th and June 21st meetings prior to this meeting. Motion was made by Mr. Phillips for approval, seconded by Mr. McDermott. Motion passed.

Executive Director's Report
Joe Moore

Joe Moore stated the FOIA request for the 3 month period, ending in June, has been provided to the Commissioners. 2 requests were received in June, both from Grey2K.

Work is still being done on an out-of-competition testing program. Kelli Talbott, Dr. Benson, Petra Hartman from Industrial Labs and himself will meet with the staff at Charles Town on Thursday to discuss processes needed to put an out-of-competition testing program in place for the Charles Town Oaks.

They are currently in the process of determining the likely starters for the Derby and the nominations. The intent is to have 50% of the field for the Derby tested. That is a process that is in Kentucky as well rather than testing all nominations or any other variation. The Kentucky Horse Racing Commission strives to get 50% of the actual starters tested so that is the goal with both the Derby and the Oaks this year.

The Greyhound Development Fund clerk, Jamie Divers, resigned from the Racing Commission as of May 31st. In her absence, since approximately February, Larry has picked up many of those duties regarding getting greyhounds registered, taking over the adoption process, calculating points for the monthly distribution, etc. It has taken him away from many of his other duties with the Racing Commission and has taken up a considerable amount of his time. He would recommend the Racing Commission move forward in advertising for interviewing and hiring a part-time clerk to take over those duties moving forward, and he would recommend starting that process immediately. Mr. McDermott asked as an alternative to bringing someone new in, would it or would it not be feasible and/or legal to have some arrangement with Larry to pick up those duties? Mr. Moore replied the legal part of that he's not real sure how that would work out. There have been discussions about the arrangements with Larry. Mr. McDermott stated he specifically asked about the legal issue because he did have it in his mind that there was some obstacle in that regard. Mr. Moore stated the way the State looks at your home office in regards to how it reimburses travel and expenses they pay for overnight stays and so forth, Larry's home office is considered Charleston. So as an employee of the State, any accommodations made for his stay and work here in Charleston is treated like any other State employee. Currently, any travel that he would do to a track or anything of that nature is reimbursable just as any other employees would be. The accommodations made to a State employee, the State will not pay for any expenses related to around their home office location.

Chairman Rossi stated as far as paying expenses, that's also dictated by IRS. His place of work is here. If you pay that guy "temporary living expenses" while he is here working at his primary place of business, it's taxable income to him. There has been controversy over similar situations at other State agencies and he doesn't want to go in that direction. As far as going in and changing a salary, he doesn't know what that entails. We have budgeted certain people, we have positions described, and he doesn't know how we would do that. We do have a position sitting out there and he doesn't know if there is a prohibition against covering two positions or not, but to him, he doesn't like the idea of going somewhere else, but on the other hand, he's not so sure that our IT is where we need it to be and he's not blaming Larry because this has taken some of his time from it. Our IT function is probably the most important function we have right now and over the past several years we have made several false starts and not accomplished a whole lot. We have accomplished some, but not to where it needs to be and he would like to see that time put toward improving the IT function. Mr. Phillips added having just been at the RCI Board meeting, there is new emphasis every day on the technology side of things and he thinks it's going to grow and we will have to be positioned to grow with it. Mr. McDermott stated he understands what they are saying about Larry's technical abilities and expertise and there is a strong sense they are needed in other areas.

Mr. Phillips added he wanted to comment on the out-of-competition testing. Having sat through the Model Rules Committee meeting last week, the Committee and Board at RCI have been working on this issue for quite a while. It appears to him that we are out in front on it and he wanted to point that out and commends everyone for getting that done at this point.

Accountant's Report Joe Moore

Joe Moore stated for the entire year, compared to FY15, live wagering was down 8%. Export wagering was down 17% compared to FY15. Simulcast wagering was roughly level, ending the year down 5%, compared to FY15. Total in-state handle decreased 3% compared to last year.

As a special revenue agency, with revenues declining we continue to increase our efforts in cost-saving functions within the Racing Commission and will continue to do that in FY17. He has provided the FY17 to the Commissioners for their review. It is unchanged as far as administrative dollars goes compared to the budget that was presented last year.

The supplemental purse awards payments for 1QFY16 were processed last week. For Charles Town there were approximately 91 recipients and \$400,000. Mountaineer Park had roughly 45 recipients totaling about \$109,000. An important thing to note on the \$109,000 is the allocated money from the Excess Lottery Fund for the year is \$110,000, which means they've roughly used the entire amount allotted in the first quarter. So, for future quarters of the fiscal year 2016, their supplemental purse awards will only be derived from the uncashed pari-mutuel tickets. He would expect to have a pretty large allocation, pro-rata portion, of that being paid out.

The FY16 year-end payment for the Greyhound Breeding Development Fund will be processed next week. Those checks will be calculated and out the door prior to July 31st.

Thoroughbred & Pari-Mutuel Rules – 30 day comment period

Joe Moore reminded the Commission that last year's Rule changes had to be put back in front of the governor this year for his approval to be sent out for public comment. Both the Thoroughbred and Pari-Mutuel Rules are now up on the website and filed with the Secretary of State's office for the 30 day comment period. That period ends approximately around August 12th, which would allow it to end in time for the Commissioner's consideration to have it as an agenda item for their August Commission meeting and to consider any public comments received and still have those filed by the Secretary of State deadline, which he believes is August 26th.

Charles Town request to reschedule 3 Live Racing days

Joe Moore stated the requested days to make up the 3 live racing days are October 12th and 13th, and December 30th. This request comes from the 7 days that were lost: 6 due to the track condition earlier in the year and then a weather related event, totaling the 7 days that were to be made up at Charles Town. They have requested these specific 3 days and the Charles Town HBPA has submitted a letter from Mr. Funkhouser who has agreed to making up only these 3 days and foregoing the other 4, however they do note this agreement does not extend to the rest of the racing calendar. If any other days are missed they may be requested they be made up as well. Mr. Phillips stated when the special meeting was held back in May regarding the track situation and the rocks at Charles Town where they were closed, he thought it was agreed that all of those days would be made up. He just wonders what was the change of heart? He thought Chairman Rossi directed the full make-up of days at that time. Chairman Rossi stated he is correct and that was presented to them at the time. Erich Zimny stated Commissioner Phillips is correct and they had applied for the days to be made up. In the interim period between when they sent the letter to the Commission and the next Commission meeting, they had conversations with the HBPA and they had requested they withdraw the request and sit down and talk about it. They have discussed this several times and have arrived at this type of conclusion. Part of what has changed is the \$1.2 million that is subsequently going to be taken out of the purse fund going forward because of the recent Legislative changes. They came to this conclusion between the two of them very mutually that this was the best thing to do. Mr. Phillips asked if the HBPA voted on this or just discussed it? Maria Catignani stated the HBPA did agree by Board vote that they would only go for those 3 days, and as Mr. Zimny stated it was after mutual discussions with Charles Town track management.

Motion was made by Mr. McDermott to approve the request, seconded by Mr. Phillips. Motion passed.

Charles Town request to offer Export signal to Penn ADW, LLC

Joe Moore stated this is similar to any other export request the Commission sees each month. Charles Town is requesting to add Penn ADW, LLC to their list of export sites that they will allow to televise their races. An approval letter from Mr. Funkhouser from the Charles Town HBPA has been provided with the request, and is required for their simulcast and export agreements.

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

Charles Town Capital Improvement Request – Modulator for High Def Channel

Charles Town Capital Improvement Request – Starting Gate Magnets

Charles Town Capital Improvement Request – Rock Picker

Joe Moore stated the first request is for a modulator for the high definition channel. This is a sole-source request in keeping it with the TV production vendors that they currently have contracts with. The amount of this request is \$2,239. The Director of Audits has reviewed this request and recommends it for approval.

The second request is for starting gate magnets for a total of \$2,400. This request has also been reviewed and recommended for approval by the Director of Audits.

The third request is for the rock picker purchase. The amount of this request is \$57,000. It has been reviewed and recommended for approval by the Director of Audits. Funding is available for all three projects.

Mr. Phillips stated on the request for the rock picker, he knows the event that happened earlier in the year was an unusual event, so does a rock picker need to be on hand all the time or are we having rocks we don't know about and therefore need this available for helping solve this issue? If it is something that only occurs under very unusual circumstances, do you need a piece of \$57,000 equipment sitting there? Can it not be rented vs. sitting waiting for rocks? Mr. Zimny replied first there's no inclination or reason to believe for now there are any rocks on the track at all so it's not something for any ongoing issue whatsoever. With what happened last time, the rock picker that was purchased they likely would not have been able to get up and be racing again as soon as they were had they not purchased that rock picker. It is better than the one they have access to at Penn and there is such a lag time with renting a rock picker like that, or transporting it to the track, that it's almost imperative to have the rock picker on site if you want to fix the problem and be up and running as soon as you can be. Mr. Phillips asked if he understood Mr. Zimny to say they had already purchased this? Mr. Zimny replied yes they did. It is better than the one they had access to and they purchased it to get up and running ASAP back in May. Mr. Phillips stated the letter they have dated June 30th requests tentative approval? Mr. Zimny stated he doesn't know why the word tentative was used.

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

Mountaineer Park Capital Improvement Request – Rheem Water Heater – Rec. Hall

Mountaineer Park Capital Improvement Request – Stadium Seating

Joe Moore stated the first request is for a Rheem water heater for the rec. hall. The water heater that was there failed and subsequently discharged water throughout the hall. The total cost is \$3,215.98. This has been reviewed and recommended for approval by the Director of Audits.

The second request is for stadium seating on the grandstand apron. The cost of this request is \$5,907.38. This request has also been reviewed and recommended for approval by the Director of Audits. Funding is available for both of these projects.

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

West Virginia Breeders Classics request for \$1,170,000 purse for WVBC

Joe Moore stated this is a request for the 30th running of the WV Breeders Classic. The \$1,170,000 is strictly purse money for that event. He has provided the Commissioners with a reconciliation of the funding available for that event that totals \$1,173,177. Their request for purse funding is \$1,170,000. In the reconciliation he provided it accounts for the remaining current year contract and has been backed out of that total.

Mr. Phillips stated to Mr. Moore that he just mentioned the contract. He thinks it was a couple years ago he brought up this contract and it being a sole-source contract and he brought it up too late for it to go out for competitive bidding. He doesn't recall what happened with the contract last year, but do we anticipate that this will be an ongoing contract, and if so, what's involved in doing a competitive bidding? Carol Holden stated they did get the contract last year and there is a clause in there for it being renewable for 3 years. The Commission is in charge of the contract, however, she would appreciate them approving the request for the purse funds today.

Motion was made by Mr. McDermott to approve the request, seconded by Mr. Phillips. Mr. Phillips added he thinks if they are going to go forward with this contract again, he thinks they should exercise a competitive bid contract. State contracts that are renewable for 3 years are able to be null and void after proper notification and a certain amount of time. Chairman Rossi stated he would have Mr. Moore look into the specifics of that and get back to them. Motion passed.

Public Comments

Rose Mary Williams stated she wanted to invite everyone to the WV Derby that will be running August 6th. First post is at 2:00pm.

Adjournment

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