

MINUTES
WV RACING COMMISSION
Tuesday, December 10, 2019
WV Racing Commission Conference Room

The WV Racing Commission met on December 10, 2019 to conduct business and consider administrative matters. Roll call was taken, and present were Chairman Jack Rossi, Commissioner Ken Lowe Jr., and Commissioner Anthony Figaretti. Counsel was represented by Kelli Talbott.

Approval of Jan 29th, Mar 12th, Sep 5th, Oct 25th, and Nov 12th minutes

Commissioners have reviewed the meeting minutes and have only found need to correct misspellings where they exist.

Motion to approve was made by Commissioner Lowe, seconded by Commissioner Figaretti. Motion was passed.

Executive Director's Report

Executive Director, Joe Moore, provided the following overview from the Executive Director's Report. The Racing Commission continues to work with representatives of the mid-Atlantic jurisdictions for various best practices and procedures. Those include both mortality review boards at both horse racetracks, investigators, and or safety compliance officer duties, crisis management communications, as well as pre-race exams. Once those documents are finalized, they will be forwarded out to the commission for the commissioner's review.

Mountaineer Park's last race day for this season was December 4th. Employees of the Racing Commission will remain full time through December 20th. At that point, the vet tech and two stewards will be reduced to .2 Full Time Employee (FTE) or will be responsible for working one day a week through April 11th. The license clerk will be reduced to .5 FTE and will be required to work twenty hours a week through April 11th as well.

Tomorrow afternoon legal counsel, Kelli Talbott, and Joe Moore will be attending an Advanced Deposit Wager (ADW) meeting with Senator Blair. This is a continuation of meetings that were previously held with various stake holders.

Commissioner Lowe will be attending the Association of Racing Commissioners International (ARCI) meeting on behalf of the Racing Commission later this week.

Accountant's Report

Joe Moore provided an overview of the following from the Accountant's Report. The wagering summary report pari-mutuel wagering comparison for October of Fiscal Year (FY) 2020 live handle is down three and three-quarter percent compared to FY 2019. Export handle is up thirteen percent compared to the same year. Simulcast handle is down seven percent. Total in-state handle has decreased five-point seven percent compared to FY2019. The

expenditure schedule for the administrative funds is provided for review. The first five months of FY2020 the Racing Commission is eating into its reserve balance and its general administrative fund 7305 to the tune of about fifty thousand dollars a month. At a clip of six hundred thousand dollars a year that fund will expire its reserve during FY2022. The Racing Commission is looking at a couple years out to get changes in place to get things realigned before the Racing Commission starts experiencing difficulties in our administrative fund.

Legal Update

Legal Counsel, Kelli Talbott, reported and advised on the following needs. Thoroughbred racing rule amendments are pending legislature. The Racing Commission were informed the amendments will be on the December 18th legislative rule making review committee agenda. Kelli Talbott and Joe Moore will be attending the committee meeting to represent the Racing Commission. The Racing Commission, as a member of the National Racing Compact, a licensure compact, which allows certain categories of permit holders to apply for license that would be good across participating jurisdictions. The compact is scheduled to have a meeting on December 12th. The agenda for the meeting was received today. As the Racing Commission's delegate, Kelli Talbott will be calling into the meeting. She will provide an update to the Racing Commission after the meeting. The compact was looking at broadening the categories of permits. She believes its currently limited to only owners and trainers.

West Virginia Breeders Classic Contract Approval

Joe Moore presented the request to approve the WV Breeder's Classic contract with WV Breeder's Classic Ltd. The 34th WV Breeder's Classic will be held Saturday October 10th, 2020. Joe Moore recommends for approval.

Commissioner Lowe asked legal counsel, Kelli Talbott, if he should abstain from voting sine the gala event is being held at his hotel. Chairman Rossi, Joe Moore, and Kelli Talbott concurred the request to approve the contract is not a conflict of interest since in previous year the ethics commission has ruled Commissioner Lowe's hotel where the gala has been held before is not a conflict.

Motion to approve was made by Commissioner Lowe, seconded by Commissioner Figaretti. Motion was passed.

Mardi Gras Requests Approval of 2020 Live Race Calendar

Chairman Rossi announced Mardi Gras's request for approval of their 2020 live race calendar. Chairman Rossi requested for any discussion. There was no discussion regarding the request.

Motion to approve was made by Commissioner Lowe, seconded by Commissioner Figaretti. Motion was passed.

Mardi Gras Requests Approval of 2020 Import/Export Sites

Chairman Rossi announced the request for Mardi Gra's approval of their 2020 Import/Export sites. It was noted no changes from previous year. Chairman Rossi requested for any discussion. There was no discussion regarding the request.

Motion to approve was made by Commissioner Figaretti, seconded by Commissioner Lowe. Motion was passed.

Mardi Gras Requests Approval of 2020 Kennel Contracts

Chairman Rossi announced the request for Mardi Gra's approval of their 2020 kennel contracts. Drafts of the contracts were provided for review and were reviewed prior to the meeting. No issues were taken up with the contracts.

Motion to approve was made by Commissioner Lowe, seconded by Commissioner Figaretti. Motion was passed.

Wheeling Island Requests Approval of 2020 Import/Export Sites

Chairman Rossi announced the request for Wheeling Island's approval of their 2020 Import/Export sites. Chairman Rossi requested for any discussion. There was no discussion regarding the request.

Motion to approve was made by Commissioner Figaretti, seconded by Commissioner Lowe. Motion was passed.

Wheeling Island Requests Approval of 2020 Stakes Races

Joe Moore presented the request for Wheeling Island's approval to run their thirty-five thousand-dollar juvenile race as a Saturday matinee on September 26th, 2020. Their sixty-five thousand-dollar panhandle championship will be a Saturday matinee on November 21st, 2020. The funding for these two stakes races is statutorily set and comes out of the Greyhound Breeding Development Fund. Joe Moore recommends for approval.

Motion to approve was made by Commissioner Figaretti, seconded by Commissioner Lowe. Motion was passed.

Charles Town Requests Approval of 2020 Stakes Race Schedule

Joe Moore presented the request for Charles Town's approval for their stake's races in April and September. They increased the purses of the Russell Road and the Misty Bennett from seventy-five thousand-dollars to a hundred thousand-dollars. They increased the purse of the Dance to Bristol from hundred thousand-dollars to a hundred-fifty thousand-dollars. They have added a new hundred thousand-dollar race on their April card for the Book Review stakes. All other races such as the Charles Town Classic and the Charles Town Oaks remain unchanged from last year. A letter from Charles Town and the Charles Town Horsemen's

Benevolent & Protective Association (CTHBPA) approving the request was received by the Racing Commission.

Commissioner Figaretti asked why the purse amounts were being changed and how the wagers can support it.

Charlie McIntosh responded the increase for Russell Road and Misty Bennett is to comply with requirements to participate in the region's Mid-Atlantic Thoroughbred Championship Series (MATCH) Series.

Joe Moore also shared the contract allows the track to use eight percent of the purse funds on stakes races. The legislature this past year gave the eleven million dollars that were diverted from the workers comp fund back to the Racing Commission thoroughbred racing fund. This allows the ability of Charles Town's portion of the eight percent to increase the purse sizes.

Motion to approve was made by Commissioner Lowe, seconded by Chairman Rossi. Motion was passed.

Charles Town Requests Approval to Reduce # of Live Race Days

Joe Moore presented the request for Charles Town's approval to reduce the number of 2020 live race days from 220 to 173. This is consistent with the previous year live race schedule. Charles Town's request comes with the approval as required by the Charles Town pari-mutuel union and CTHBA. Joe Moore recommends for approval.

Motion to approve was made by Commissioner Lowe, seconded by Commissioner Rossi. Motion was passed.

Charles Town Requests Approval of Import/Export Sites

Joe Moore presented the request for Charles Town's approval of their 2020 Import/Export sites. Charles Town's request also comes with the letter of approval from the CTHBPA. Joe Moore recommends approval.

Motion to approve was made by Commissioner Lowe, seconded by Commissioner Figaretti. Motion was passed.

Hearing Examiners Recommended Decision - Scott Lane

Kelli Talbott reported this is a case where one of the Racing Commission's permit holders, a trainer, was ejected indefinitely by Charles Town racetrack. The basis for the ejection was the trainer's failure to adhere to a rule the racetrack has about selling race horses to slaughter for not refraining from selling a racehorse to slaughter or conducting proper due diligence in the sell of horses to make sure they do not end up with a kill buyer and a slaughterhouse. In this case, Mr. Lane had sold a horse to a specific person who apparently there was evidence that person on more than one occasion sold horses to a well-known kill buyer as the term is used in the industry. The horse was sold to slaughter but was ultimately rescued by a rescue outfit from the slaughterhouse. Mr. Lane appealed to the ejection under the Racing Commission's rules. There was a hearing held on the appeal by the Racing

Commission's hearing examiner. Kelli Talbott provided the transcript as well as other supporting documentation such as exhibits from the hearing to the Racing Commission. The hearing examiner's review of the case determined the facts support the track's decision for Mr. Lane's ejection for not adhering to the track's slaughter rule and that the ejection be upheld. Kelli Talbott noted Mr. Lane was ejected in June 2019 indefinitely. The hearing examiner's recommendation is for Mr. Lane to remain ejected until March 8th, 2020. Mr. Lane may then submit application for a permit to be approved by the Racing Commission after March 8th, 2020 if he would wish to do so. Joe Moore stated Mr. Lane's permit will expire on December 31st, 2019. Therefore, after March 8th, 2020 Mr. Lane would have to reapply for permit and write the track to allow him back on the property. At that point the racetrack would have to respond to Mr. Lane's request in writing.

Commissioner Lowe commented after reading through the legal documents several times. He understands the situation but suggests to all horsemen. They should be as good as they can be in their notes, answers, clarifications, and written records. Because if their story comes out as being confused chances are you're not going to hear the answer you want to hear. If it appears slightly shaded or gray, it's not going to work out. That's what he read in the documents in the case. Commissioner Lowe is not saying someone should totally be allowed to get off because of that, but the horsemen have got to do the right thing exactly the best they can. If they need help get somebody else to help write it on their behalf. They have got to give the same answers all of the time. He knows there are instances sometimes with these things are not properly done. He means that as far as the kill ban goes. There's a few that have been found wrong and they didn't do anything wrong, but that does not appear to be the case here. Commissioner Lowe said perhaps he's being nice, but it appears to be sloppy with the details. Because of that somebody's going to pay the price for a couple more months until March and come back again. So, let's get off on a good foot then.

Chairman Rossi agrees with Commissioner Lowe. He thinks during the times and the changes in racing the horsemen need to really do their due diligence in everything they do. They need to be cautious and dot the I's and cross the T's as we go forward.

Commissioner Lowe stated for the horsemen to not be shy or aggressive. They should talk to the HBPA. They will help you to make sure you do things right.

Motion to approve was made by Commissioner Lowe, seconded by Commissioner Figaretti. Motion was passed.

Employment Matter - Hire Equine Medical Director

Chairman Rossi announced the efforts the Racing Commission has been working hard on the hiring of an Equine Medical Director. Commissioner Lowe and Joe Moore conducted interviews for the position.

Joe Moore presented the request for approval to hire Dr. Francis W. Daniel as the Racing Commission Equine Medical Director. On October of 2019 the state vet with Charles Town Dr. Joan D'Alonzo retired leaving the commission with a stable of fill in vets on a contract basis. During which time Commissioner Lowe and Joe Moore interviewed applicants for the state vet position and in line with the Racing Commission's efforts with the Mid-Atlantic. Joe Moore is recommending today the approval to hire Dr. Francis W. Daniel, III or better known as Dr. Chip Daniel as the Racing Commission's Equine Medical Director and state vet at Charles

Town. With this approval Dr. Daniel will start at Charles Town on Saturday January 4th, 2020 just ahead of their January 8th start date to their winter meet.

Commissioner Lowe is very pleased that Chip has agreed to do this. He's a good person and he will do a good job. He would also say whole heartedly welcome and at the same time let's get this good news out to the public. Let's let the folks at People for the Ethical Treatment of Animals (PETA) and otherwise know what we're doing has been done and who we got handling that issue. He thinks its great news.

Chairman Rossi stated he knows Dr. Daniel and think it's an excellent choice. He thinks we should be grateful the Racing Commission is able to hire Dr. Daniel. The horsemen should be grateful we're able to have Dr. Daniel there.

Motion to approve was made by Commissioner Figaretti, seconded by Commissioner. Lowe. Motion was passed.

Public Comments

Commissioner Lowe stated when he heads to the ARCI meeting tomorrow to attend modern rules committee, he is going to not support agenda item#9, regarding interference shift to the IFHA category one. He sent copies to the commissioners of where he was coming from. He sent some to the HBPA. He hasn't heard from anyone. Commissioner Lowe talked with the National HBPA president about their position. The National HBPA president will announce their position at the meeting. He cannot support it. He will explain that in length or presentation at the meeting on Thursday when he gets the chance to speak to it. It does not make sense to Commissioner Lowe as horse owner, breeder, and racing official to support it.

Adjournment

Motion to adjourn was made by Commissioner Figaretti, seconded by Commissioner Lowe. Motion was passed.