

MINUTES
WV RACING COMMISSION
Tuesday, December 14, 2021
WV Racing Commission Conference Room

The WV Racing Commission met on December 14, 2021, to conduct business and consider administrative matters. Roll call was taken, and present were Chairman Ken Lowe Jr., Commissioner Figaretti, and Commissioner JB Akers. Counsel was represented by Kelli Talbott.

Agenda Item #1 – Approval of the Sept. 21st and Oct. 19th minutes

Motions to approve September 21st and October 19th minutes made by Commissioner JB Akers, seconded by Commissioner Figaretti. Motions were passed.

Agenda Item #2 – Executive Director's Report

Director Joe Moore - HISA's new timeline for when they anticipate taking over the medication testing is now January of 2023. Since, the RCI has released a statement that the racing jurisdictions would be more in line with the original July 1st transition, and that delaying any transition further would just cause more problems for budgeting matters. It is my understanding that each jurisdiction is going to negotiate individually with HISA and USADA, regarding the racetrack safety and medication portions of the new law. When notified of our next meeting with them, I will share that information, and we will determine how to best proceed through this transition period.

Commissioner JB Akers - With the ability to negotiate as individual jurisdictions, how far does that go?

Director Joe Moore - It would be regarding how much authority would remain with the racing commissions for each jurisdiction, the cost of the testing, and who is going to be responsible for paying that cost. There's a wide range of opportunity to negotiate who's going to pay for the testing. Whether the state will continue to be involved in racetrack safety and pay for the testing as we're doing right now, or if HISA is to govern the racetrack safety as well as the medication portions. HISA will work on an agreement with each jurisdiction to move forward in a regulation manner, like that we are currently working under, in addition to the cost of HISA.

Agenda Item #3 – Legal Update

Kelli Talbott - Adding more to the HISA topic that Joe discussed, RCI and Ed Martin have been on top of this, as it has become a central focus point for all racing jurisdictions. They have been sending us regular updates and analysis of the issues that have been coming up, which has been extremely valuable to us. Since these HISA medication rules would supplant our own, the Rules Committee has struck out those model medication rules that were proposed but left the purse release agreement mechanism in the rule, and the committee voted to pass the rule out to the full legislature.

Agenda Item #4 – Request to Amend Retirement Plan for Backstretch Personnel

Director Joe Moore - Agenda item number four is a request to amend the retirement plan for backstretch personnel. This request came to us directly from the Mountaineer Park HBPA, and Mike Lloyd is on the phone today and prepared to discuss amendments with the commission.

Mike Lloyd - I am presenting on behalf of the administrative committee of the Backstretch Retirement Plan, joining me is Jana Tetrault (Mountaineer Park HPBA) and Maria Catignani (Charles Town HPBA). The first part of what we'd like you all to consider is simply a restatement of the plan. We have six amendments that are being incorporated into the plan. Over the last seven years the plan has been amended and these amendments are being incorporated into a new version of the plan. The plan is also being cleaned up to take out things that no longer apply (that maybe applied in past years), also issues such as typos and cross references. The second part relates to moving this plan to a participant directed and daily value plan, which you all approved. The organizations that will be doing the administrative work will require engagement documents to be signed and we will present them when we receive the final copies. There is one issue that I believe merits special attention, and that relates to the eligibility request that we received recently, regarding plan eligibility for the health service providers such as farriers or veterinarians. It was denied by the administrative committee, and I have forwarded the reasons to Mr. Moore.

Maria Catignani (Charles Town HPBA) - Our board of directors was not in favor of the eligibility requests, since it has historically never been done. This program was in place as early as 2001, was rewritten in 2009, and the new plan began in 2010, which also did not permit eligibility for the health service providers. The board decided that it was best to remain consistent with our historical position.

Jana Tetrault (Mountaineer Park HPBA) - The intent of the plan was to cover people who worked on the backside day to day with the horses. The requestees are at a completely different tier in terms of financial income and did not fit into the original intent of the plan. Therefore, they should not be included in the plan.

Commissioner JB Akers – Is this something that must be done before the end of the calendar year?

Mike Lloyd - It is not something that needs to be done by year end.

Motion to table request made by Commissioner JB Akers, seconded by Commissioner Figaretti. Motion passes.

Agenda Item #5 – PENN ADW LLC Requests 2022 ADW Renewal

Director Joe Moore - PENN ADW LLC requests their 2022 ADW renewal. I've submitted to you their renewal request. They have indicated that some of the information on the renewal application is different than was originally submitted and provided explanation for that. Unless there are any questions, I would recommend we approve PENN ADW LLC's 2022 ADW renewal request.

Motion to approve request made by Commissioner JB Akers, seconded by Commissioner Figaretti. Motion passes.

Agenda Item #6 – TVG Requests 2022 ADW Renewal

Director Joe Moore - TVG requests their 2022 ADW renewal license. I've submitted to you their renewal request. They've indicated that the information contained in this renewal request has not changed from their original application submission. Unless there are any questions regarding their application, I would recommend it for approval.

Motion to approve request made by Commissioner JB Akers, seconded by Commissioner Figaretti. Motion passes.

Agenda Item #7 – NYRA Bets Requests 2022 ADW Renewal

Director Joe Moore - NYRA Bets requests their 2022 ADW renewal. NYRA had submitted their renewal application for our review, and they have indicated that there have been some changes in the information since their original submission in February of 2021. They provided you an appendix of those changes in their management and operations. Unless there are any questions regarding their application, I would recommend it for approval.

Motion to approve request made by Commissioner JB Akers, seconded by Commissioner Figaretti. Motion passes.

Agenda Item #8 – CDTIC Requests 2022 ADW Renewal

Director Joe Moore - Churchill Downs Technology Initiatives Co. (common name TwinSpires) requests 2022 ADW renewal. They have submitted the application for your review indicating that there have been some changes since their original submission. They provided those in detail to you on their application. Unless there are any questions, I would recommend it for approval.

Motion to approve request made by Commissioner JB Akers, seconded by Commissioner Figaretti. Motion passes.

Agenda Item #9 – Lien Games Racing LLC Requests 2022 ADW Renewal

Director Joe Moore - Lien Games Racing LLC requests 2022 ADW renewal. I've submitted their application for renewal to you for review. They've indicated there has been no changes in this application from their original submission. Unless you have any questions, I would recommend it for approval.

Motion to approve request made by Commissioner JB Akers, seconded by Commissioner Figaretti. Motion passes.

Agenda Item #10 – MG Requests permission to operate casino on Christmas Day without Simulcast Signal

Director Joe Moore - Mardi Gras requests permission to operate the casino on Christmas Day without a simulcast signal. We got a similar request from Wheeling Island last meeting. It was brought to my attention that request came in as an umbrella from Delaware North, but we didn't address Mardi Gras part. This is their official request that they be able to operate the casino without a simulcast signal since they cannot find an available signal to broadcast on Christmas Day.

Motion to approve request made by Commissioner Figaretti, seconded by Commissioner JB Akers. Motion passes.

Agenda Item #11 – MG Requests approval of 2022 Import/Export sites

Director Joe Moore - Mardi Gras requests approval of 2022 import and export sites. They provided those to you for your review and I would recommend them for approval.

Motion to approve request made by Commissioner JB Akers, seconded by Commissioner Figaretti. Motion passes.

Agenda Item #12 – MG Request approval of 2022 Live Race Calendar - 263 Days

Director Joe Moore - Mardi Gras requests approval of the 2022 live race calendar. Mardi Gras submitted their live race calendar to you, including 263 days with a daily post time of 7:00 PM, Tuesday through Saturday. Special events on Memorial Day, Labor Day, and Independence Day. They would be dark on Sunday and Monday. Again, that is 263 total race days.

Motion to approve request made by Commissioner Figaretti, seconded by Commissioner JB Akers. Motion passes.

Agenda Item #13 – MG Requests Approval of 2022 Stakes Races

Director Joe Moore - Mardi Gras requests approval of 2022 stakes races. Mardi Gras has submitted to you their stakes races for both the juvenile stakes and the open stakes. The juvenile stakes, a \$35,000 stake, is to be completed on March 26th of 2022. The open stakes, a \$65,000 stake, is to be completed on May 28th of 2022. These stakes races are statutorily set to be paid out of the West Virginia Greyhound Breeding Development Fund. Unless there are any questions, I would recommend it for approval.

Motion to approve request made by Commissioner Figaretti, seconded by Commissioner JB Akers. Motion passes.

Agenda Item #14 – MG Requests Approval of 2022 Kennel Contract

Agenda Item #15 – WI Requests Approval of 2022 Kennel Contract

Director Joe Moore - Mardi Gras and Wheeling Island have requests for approval of the 2022 kennel contract. The contracts are the same for Delaware North companies. Typically, we would have the signature sheet of all the kennels provided to us as well, but due to the timing of this commission meeting those signature sheets have not yet been received. We have been notified by email from the president of the West Virginia Kennel Owners Association, Steve Sarris, that its members have all agreed to this contract, and it's merely a matter of timing regarding getting the sheets returned. Unless the commission would have any questions, I would recommend agenda items 14 and 15 for your approval.

Motion to approve request made by Commissioner JB Akers, seconded by Commissioner Figaretti. Motion passes.

Agenda Item #16 – MP Requests a reduction in 2022 Live Race Days

Director Joe Moore - Mountaineer Park requests a reduction in their 2022 live race calendar. If you recall last meeting, the commission approved the statutory mandate of 210 race days for Mountaineer Park. Since then, they've come to an agreement with their HPPA and the local tellers union to reduce the number of race days down to 135. They will have a 7:00 PM post for all evening performances, except the western Derby, which is scheduled to run August 6th, 2022, with a 2:00 PM post. Again, we've got the signature approval of all three parties with this submission.

Motion to approve request made by Commissioner JB Akers, seconded by Commissioner Ken Lowe. Motion passes.

Agenda Item #17 – MP Requests approval of 2022 Import/Export sites

Director Joe Moore - Mountaineer Park requests approval of the 2022 import and export sites. I provided for you their request for approval, along with the required agreement of the local HPPA and the sites to be approved. Unless there are any questions, I would recommend them for approval.

Motion to approve request made by Commissioner Figaretti, seconded by Commissioner JB Akers. Motion passes.

Agenda Item #18 – Personnel Matter - Approval to hire Part-time Steward at Charles Town

Director Joe Moore - The approval to hire a part-time steward at Charles Town. This agenda item is related to longtime steward Danny Wright. Mr. Wright currently fills in for the racing commission as a contract vendor, while being a retiree of the state. Rather than pay him as a contract vendor, to more commonly get his payments out as regular employees do, it's my intent to get him in as a part-time employee of the racing commission.

Motion to approve request made by Commissioner JB Akers, seconded by Commissioner Figaretti. Motion passes.

Agenda Item #19 – Personnel Matter - Approval to hire Part-time License Clerk at Charles Town

Director Joe Moore - The approval to hire a part-time license clerk at Charles Town. This is related to Donna Kercheval, who retired back in the fall. We have since hired a full-time license clerk at Charles Town. This request is to provide backup to that license clerk on a part time basis. Since they are collecting money and preparing deposits for our auditors, it's better for the individual to be an actual employee of the state. I would recommend we process Donna Kercheval as a part-time employee in the racing commission.

Motion to approve request made by Commissioner Figaretti, seconded by Commissioner JB Akers. Motion passes.

Agenda Item #20 – Personnel Matter - Approval to Assign Chief Steward Classification - Charles Town

Director Joe Moore - I'm requesting that the commission officially assign the classification of Chief Steward to Denver Beckner, who has carried out the chief steward duties at Charles Town since Mr. Wright's retirement a year ago.

Motion to approve request made by Commissioner JB Akers, seconded by Commissioner Figaretti. Motion passes.

Agenda Item #21 – Public Comments

Kathy Cooley - I just wanted to ask if anyone was aware of an invalid claim for a horse that I claimed on June 28th. I haven't got any progress on it, and I'd like to know how long it's going to be before I get the FOIA information documents that I requested.

Director Joe Moore - Miss Cooley submitted a FOIA to the racing commission yesterday, requesting documents related to her claim of a horse at Mountaineer Park. The racing commission staff is currently in the process of compiling those documents. By FOIA law the racing commission has five business days to respond to a FOIA request, either with the completed documents or with a notification that it will take more than the five days to fulfill the request.

Agenda Item #22 – Adjournment

Motion to approve request made by Commissioner JB Akers, seconded by Commissioner Figaretti. Motion passes.