

**MINUTES**  
**WV RACING COMMISSION**  
**Tuesday, December 20th, 2022**  
**WV Racing Commission Conference Room**

The WV Racing Commission met on December 20, 2022, to conduct business and consider administrative matters. Roll call was taken, and present were Chairman Ken Lowe Jr., Commissioner Figaretti, and Commissioner JB Akers.

**Agenda Item #1 – Executive Director’s Report**

**Agenda Item #2 – Legal Update**

Director Joe Moore – I'm going to combine agenda items number one and two and give a couple quick updates before we proceed. Mountaineer Park is currently dark, and a few employees are serving a reduced FTE for duties. Those employees will go back to full time early to mid-April in preparation for the April 30<sup>th</sup> start dates. There was an update in the Georgina Baxter case. Their party failed to file their brief with the intermediate Court of Appeals and the Court has since dismissed the case from their docket. I understand it, that case is now finalized, and the Commission will proceed forward with rulings and the redistribution of the purses.

**Agenda Item #3 – TVG Requests 2023 ADW Renewal**

Director Joe Moore – TVG has requested their ADW renewal for 2023. They have paid their annual fees, are current with all monthly source market fee payments, and I would recommend it for approval.

*Motion to approve made by Commissioner Figaretti, seconded by Commissioner JB Akers.  
Motion passed.*

**Agenda Item #4 – NYRA Bets Requests 2023 ADW Renewal**

Director Joe Moore – NYRA Bets requests 2023 ADW renewal. Like TVG, they are current with their annual and monthly fees, and I would recommend it for approval.

*Motion to approve made by Commissioner Figaretti, seconded by Commissioner JB Akers.  
Motion passed.*

**Agenda Item #5 – CDTIC Requests 2023 ADW Renewal**

Director Joe Moore – CDTIC is requesting their 2023 ADW renewal for 2023. Like the last two, they are current with their annual and monthly fees, and I would recommend it for approval.

*Motion to approve made by Commissioner Figaretti, seconded by Commissioner JB Akers.  
Motion passed.*

### **Agenda Item #6 – Premier Turf Club LLC requests approval of 2023 ADW License**

Director Joe Moore – Premier Turf Club LLC is requesting approval for their 2023 ADW license. They submitted their new application with the application fee and supporting documentation. I have talked with the TRPV regarding their recording functions in West Virginia. Unless there are any questions, I would recommend it for approval.

*Motion to approve made by Commissioner Figaretti, seconded by Commissioner JB Akers.  
Motion passed.*

### **Agenda Item #7 – WI Requests approval of 2023 Kennel Contract**

Director Joe Moore – Wheeling Island is requesting approval of their 2023 kennel contract. The contract that is before you from Wheeling Island (and for Mardi Gras) is a three-year contract for 2023 thru 2025. Wheeling Island currently has this contract with 13 kennels in place.

Chairman Ken Lowe – Do we have any idea why this was changed (from one year)?

Kim Florence – In past years we have had multiyear agreements. There is nothing to report in terms of major changes. A three-year deal gives us opportunity to maintain stability in how we're running the operation, and we won't have to go through it every year for the next three years.

*Motion to approve made by Commissioner Figaretti, seconded by Commissioner JB Akers.  
Motion passed.*

### **Agenda Item #8 – MG Requests approval of 2023 Kennel Contract**

Director Joe Moore – Same as Wheeling Island, Mardi Gras has submitted to you their three-year contract with their kennels. They currently have 11 kennels in their contract.

*Motion to approve made by Commissioner Figaretti, seconded by Commissioner JB Akers.  
Motion passed.*

### **Agenda Item #9 – Charles Town requests reduction in live race days**

Director Joe Moore – Charles Town is requesting a reduction in live race days. They are requesting a reduction to 164 live race days. A reduction below 180 requires the approval of the HBPA and the president of the parimutuels union. We have received letters from both indicating their approval for the reduction in race days, and with those three parties in agreement I'd recommend it for approval.

*Motion to approve made by Commissioner JB Akers, seconded by Commissioner Figaretti.  
Motion passed.*

### **Agenda Item #10 – Charles Town requests approval of 2023 Import/Export sites**

Director Joe Moore – Charles Town is requesting approval of their 2023 import/export sites. You have the HBPA's letter before you, approving this list of export and import sites, and with that I would recommend it for approval.

*Motion to approve made by Commissioner Figaretti, seconded by Commissioner JB Akers.  
Motion passed.*

### **Agenda Item #11 – HISA Update**

Director Joe Moore – The 5<sup>th</sup> Circuit Court ruling has declared HISA officially unconstitutional, and a subsequent ruling for the states of West Virginia and Louisiana that lifted the stay that was in place of the HISA racetrack safety rules. Those two rulings essentially made HISA inoperable in the states of West Virginia and Louisiana. The ARCI wrote a letter on behalf of all its members to the FTC, requesting that they defer any approval of the medication rules until the lawsuits on the constitutionality are cleared up. The FTC has in fact disapproved (temporarily) the antidoping medication rules. They also asked that HISA & HIWU refile if they were cleared up in their favor, and the FTC would readdress them. In West Virginia we are following our thoroughbred rules of racing on January 1<sup>st</sup>, and we will continue to follow them for the foreseeable future.

Commissioner JB Akers – Essentially it was an unconstitutional delegation of authority. HISA had authority over the FTC, which meant that the federal government had delegated authority to a private entity, which could then mandate rules and regulations for the federal government. Parties at this stage are appealing to what's called the en banc panel. Someone has influenced the politicians who are responsible for writing this 4000+ page legislation, to insert a couple paragraphs (page 1930), where they're attempting to fix the circuit courts constitutional analysis. Whether or not that would satisfy those constitutional concerns, in HISA's favor or the FTC's favor, I don't know. This is yet another example of where we get things in last minute, the stakeholders get things last minute, and now we're being asked to figure this out with a week left to go in the year.

### **Agenda Item #12 – Charles Town update on training track & jumbotron**

Greg Paradis – The man-made soil is on schedule. We are installing the liner and we expect that piece of the project to still be completed towards the end of January. I am seeking third party pricing to restore the practice track to its original condition. I expect to have that pricing back, with lead times, by the end of this week and then we'll immediately execute a contract. Once I have that information, I'll be able to update you more accurately on when the practice track will be returned to its original condition and ready to move forward.

Charlie McIntosh – I don't have much to report on the jumbotron. We are still waiting on parts for the existing board (there is a supply issue), and at the same time we are starting to explore replacing the board altogether.

**Agenda Item #13 – Public Comments**

*No Public Comments*

**Agenda Item #14 – Adjournment**

*Motion to adjourn made by Commissioner Figaretti, seconded by Commissioner JB Akers.  
Motion passes.*