

**MINUTES
WV RACING COMMISSION
Monday, November 14th, 2022
WV Racing Commission Conference Room**

The WV Racing Commission met on November 14, 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. Counsel was represented by Anthony Eates.

Agenda Item #1 – Approval of August 30 and September 27 minutes

Motions to approve of August 30th and September 27th minutes made by Commissioner JB Akers, seconded by Commissioner Figaretti. Motions were passed.

Agenda Item #2 – Executive Director's Report

Director Joe Moore – We have filed our FY22 annual audits, I'll forward that information later this week. I have completed the request for exemption from the Lasix provision for HISA, and I will copy each of the commissioners on that electronic submission.

Agenda Item #3 – Legal Update

Anthony Eates – Nothing new pending in our HISA federal court cases. A Baxter appeal is still pending without any developments.

Agenda Item #4 – Reinstatement of Occupational Permit Request - Patrick Beaver

Director Joe Moore – Mr. Beaver is before you today because he has had an alcohol problem in the past and has been before this Commission with multiple rulings against him for the use of alcohol. Mr. Beaver has gone through more than one rehabilitation process and received additional rulings after that, is currently summarily suspended and is barred from the grounds of Mountaineer Park as well. I would like the Commission to consider possibly authorizing the Mountaineer Park stewards to remove the suspension in West Virginia from the RCI database, allowing Mr. Beaver to attempt to regain his career in the other racing jurisdictions prior to asking West Virginia for a license again. I've received commitment from his brother, who has racing operations in other jurisdictions, that he's got work for him to do. By removing the suspension, it would allow Mr. Beaver to attempt his trade elsewhere.

Patrick Beaver – I just want to say that I know that I had a problem with alcohol and it's something that I've dealt with for years. This last year I lost my house and a friend die in a fire just a few months prior to the incident at Mountaineer Park. I know that I've made more than one mistake, especially at Mountaineer Park and I apologize for that. I'm just hoping to get to rebuild my life and to just be a good example and to show others that there is the possibility to change. I understand that the that things like this take time. I am just trying to put the past behind me and move forward in a positive direction

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

**Agenda Item #5 – West Virginia Breeders Classics, LTD contract renewal for WVBC
XXXVII**

Director Joe Moore – LTD has requested contract renewal for WVBC XXXVII that is to be held on Saturday October 14th of 2023. Unless there are any questions or discussions, I would recommend this for approval.

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

Agenda Item #6 – CT Requests Capital Improvement Project - CAFO Phase D

Director Joe Moore – This is phase D of the capital project that the commissioners have been updated on each meeting. We have a quote from Perry engineering for phase D that is a little over \$2.5 million. The money is derived from racetrack media lottery funds and separated into capital improvements funds for each of the racetracks

Greg Perdi – This phase is one of the largest phases and we're requesting the funds to proceed. This work will conclude in the middle of June of next year, while the training track is phase C and still set to be completed by the end of January.

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

Agenda Item #7 – AmWest Requests 2023 ADW Renewal

Director Joe Moore – Each year the active ADW licensees in West Virginia must renew their license by December 31st. AmWest has provided the licensing renewal application and have indicated no change since the initial application. AmWest is in good standing in West Virginia and up to date for timely payments, unless there are any questions, I would recommend approval.

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

Agenda Item #8 – XPressBet Requests 2023 ADW Renewal

Director Joe Moore – I forwarded you the dictation where they did indicate some changes since their previous application was submitted and approved. Those changes included an update to their plan of operation which has been provided to you, as well as all the required financial information with their submission. Unless there are any questions, I would recommend it for approval.

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

Agenda Item #9 – Lien Games Requests 2023 ADW Renewal

Director Joe Moore – Lien Games has submitted a request for 2023 ADW renewal. They indicated some budgetary changes from their previously approved application. They are in good standing and unless there are any questions I recommended for approval.

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

Agenda Item #10 – PennADW Requests 2023 ADW Renewal

Director Joe Moore – They have submitted a few changes since their previous approval including the parent company and additions to their board of directors. Unless you have any questions, I would recommend this for approval.

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

Agenda Item #11 – WI Requests approval of 2023 Import/Export sites

Director Joe Moore – I provided you all a listing on the import/export sites. Unless you have any questions, I would recommend this for approval

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

Agenda Item #12 – WI Request approval of 2023 Live Race Calendar & Wagering Format - 263 Days

Director Joe Moore – Wheeling has submitted to you all a live race calendar with all matinee post times being 1 o'clock, closed on Monday & Tuesday, 15 – 20 races Wednesday thru Sunday, for a total of 263 live race days. You have their holidays special report performance schedule, as well as their annual calendar and wagering formats.

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

Agenda Item #13 – WI Requests approval of 2023 Stakes Race Schedule

Director Joe Moore – Wheeling has submitted to you for your approval their \$35,000 juvenile and \$65,000 opens stakes races for 2023. The juvenile has a championship round on Saturday September the 23rd, and the open has a championship round on Saturday October the 21st. The

\$100,000 from these two races combined comes out of the WV GBD Fund each year. Unless there are any questions, I would recommend for approval.

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

Agenda Item #14 – MG Requests approval of 2023 Import/Export sites

Director Joe Moore – Mardi Gras requests approval of their 2023 import/export sites. Unless there are any questions, I would recommend for approval.

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

Agenda Item #15 – MG Request approval of 2023 Live Race Calendar & Wagering Format - 260 Days

Director Joe Moore – Mardi Gras has submitted to you a live race calendar totaling 260 live race days. It is a straight five-day week calendar, Tuesday thru Saturday, with evening post times at 6:00 PM (around 15 races). They have a special post time of 7:00 PM on Kentucky derby day (15 races). I provided you with their annual calendar as well as their wagering format.

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

Agenda Item #16 – MG Requests approval of 2023 Stakes Race Schedule

Director Joe Moore – Mardi Gras has submitted two stakes races, a \$35,000 juvenile and a \$65,000 open. The finals round for the juvenile will be on March 25th, with the finals round for the open being conducted on May 27th. The \$100,000 for these stakes races comes out of the WV GBD Fund each year.

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

Agenda Item #17 – CT Requests approval of 2023 Live Race Calendar - 220 Days

Director Joe Moore – What is before you today for approval for Charles Town is there a statutorily required request of 220 live race days. Unless there are any questions, I recommended for approval.

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

Agenda Item #18 – MP Requests approval of 2023 Live Race Calendar - 210 Days

Director Joe Moore – This is Mountaineer Park’s statutorily required submission to the Commission of 210 live race days. Unless there any questions, I would recommend it for approval.

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

Agenda Item #19 – MP Requests approval of 2023 Import/Export sites

Director Joe Moore – Mountaineer Park has submitted to you their listing of all import/export sites for 2023, along with the agreement of the Mountaineer Park HBPA. Unless any questions, I would recommend it for approval as well.

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

Agenda Item #20 – MP Requests approval for reduction in 2023 Live Race Days

Director Joe Moore – Mountaineer Park and the horsemen, along with their tellers union president, have all agreed that an appropriate number of race days for calendar year 2023 is 124.

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

Agenda Item #21 – HISA/HIWU Voluntary Agreements

Director Joe Moore – We recently received the voluntary agreement implementations for both HISA and HIWU year 2023. As far as the HISA side of the agreement (the racetrack safety program), the Commission is currently in a modified agreement. Alex and I have talked about this combined agreement, specifically about the possibility of splitting it into an agreement with HISA for the racetrack safety, and a potential agreement with HIWU for the medication. My reasoning for splitting it is I think the HISA of piece would be a much smoother agreement if we extend our current, whereas I believe the HIWU agreement is going to be more difficult for the Commission to determine any sort of modified agreement or even if HIWU will compromise on any of their requirements.

Alex Waldrop – I think there's a possibility. HIWU, I think they are limited in terms of their willingness to alter the scope of work.

Director Joe Moore – The last page of the agreement (exhibit A) lists the state requirements. This is how close and how far off we are in terms of the HIWU requirements. For example, the collection personnel minimum, neither of our two test barns are anywhere close to this minimum. If HIWU were to have to hire individuals for these test barn positions I'm told that is already included in the assessment for which we received, and the tracks will be paying no

additional monies above and beyond these assessments. It would merely lessen the credit that the Commission may get. We have not been contacted by HIWU to initiate those conversations. The effective date of the medication program is January 1st, 2023.

Commissioner JB Akers – When was this sent to us?

Director Joe Moore – I believe it was sent to us in October.

Commissioner JB Akers – How many personnel need to be hired in order to implement these requirements beginning January 2023?

Director Joe Moore – Implementing these minimums would require that the State of West Virginia hire an additional 12 individuals.

Commissioner JB Akers – What about other requirements like trainers testing, testing programs, concussion management, are those requirements things that could be filled by existing personnel?

Director Joe Moore – Those requirements and mandates that are currently being performed and filled by the combination of Commission staff and track personnel.

Commissioner JB Akers – HISA/HIWU expects us to hire these by beginning of next year and we're in the middle of November, how could we do this by January 2023?

Director Joe Moore – Couldn't be done by 2028. The racing commission does not have the funding to hire twelve additional full-time personnel.

Commissioner JB Akers – What happens if they can't be hired by January 2023? Our executive director has stated that we do not have the resources or ability to hire people for these mandates, so is HISA or HIWU going to claim that the state of West Virginia is out of compliance, or are those organizations going to take the responsibility and accountability to say that they similarly could not find these individuals and therefore we are allowed to continue with our racing and not claim that WV racing should be disallowed because we don't have the personnel to fulfill these regulatory mandates?

Alex Waldrop – The burden is on HIWU to be prepared by Jan 1st, 2023.

Commissioner JB Akers – I would like to make sure that again he's stating today that the burden should be on HIWU to make sure these requirements are implemented by January 1st, 2023.

Alex Waldrop – We would remove the negligence requirement; you are not the first person to point that out.

Agenda Item #22 – Public Comments

No Public Comments

Agenda Item #23 – Adjournment

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