

MINUTES
WV RACING COMMISSION
Tuesday, November 30, 2021
WV Racing Commission Conference Room

The WV Racing Commission met on November 30, 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 – Executive Director’s Report

Executive Director’s Report

Director Joe Moore – The Racing industry recently suffered a loss with the passing of Sam Huff. The Racing Commission will prepare a resolution and adopt it in a following meeting, honoring and acknowledging Mr. Huff’s contributions to the Racing industry in West Virginia. A quick update for the status of our wagering activity. Through October of 2021, live handle is up at the racetracks an average of about 18%, simulcast is down nearly 11%, making our overall instate handle up 1% compared to FY21 (year to date). The export handle for most tracks is up as well. Mountaineer Park is down quite a bit. I understand that’s in large part due to the wagering based out of jurisdictions. They’ve got smaller field size on average this year. Last year was 7.5 on average, this year is around 6.4 (or so). At the end of this call expect an email of the account status reports for your administrative accounts. We are still looking okay YTD based on the \$800,000 supplemental appropriation we received from the state in August to our general administrative fund.

Commissioner Ken Lowe – What’s the status on the Chesapeake Bay project at Charles Town?

Erich Zimny – One phase of the project is going to take longer than expected, because of something they found when digging. Which to my understanding, may necessitate a redesign.

Commissioner Ken Lowe – Is the training track able to be utilized?

Erich Zimny – It is not. It can’t be with the machinery and activity that’s going on over there.

Commissioner Ken Lowe – How are we doing stall wise? I see 1124 stalls. How many empty stalls are there?

Charlie McIntosh – I walked the barn area on November 14th, and we had 295 empty stalls. Out of that 295, all but 66 were assigned to trainers currently on the grounds who had empty stalls.

Commissioner Ken Lowe – Is your receiving barn up and running?

Charlie McIntosh – Yes, it is.

Commissioner Ken Lowe – How about your racing go situation?

Charlie McIntosh – It is a case-by-case decision.

Commissioner Ken Lowe – How are we doing at Wheeling as far as the track service goes, preparing for the winter or otherwise?

Kim Florence – We do not have any concerns or problems with the track conditions.

Commissioner Ken Lowe – How many dogs do you have on site?

Kim Florence – Wheeling has 13 active kennels with just over 800 active dogs.

Commissioner Ken Lowe – Do you know about the other track?

Kim Florence – From what I recall, they (Mardi Gras) have 11 kennels, and are running about 500 to 600 active dogs.

Commissioner Figaretti – Is that full capacity?

Kim Florence – They are allowed 85 dogs per kennel at Wheeling, and it's slightly under that for Mardi Gras at 72. The kennels that we have contracted with us (at both properties) are full and open.

Agenda Item #3 – Legal Update

Kelli Talbott – The federal legislation (Horse Racing Integrity and Safety Act) that passed through Congress late last year, is going to substantially change how thoroughbred racing is regulated in West Virginia. The HISA board has informally circulated two sets of rules related to racetrack safety issues, and another set related to medication. It's been circulated throughout the industry informally for people to make informal comments (before such time as these must be officially filed with the Federal Trade Commission). We've seen those drafts, although it's kind of a rolling thing. We were given a draft and told that there is going to be another one soon, or that there's going to be changes. I don't think it's hard to see, in looking at the rules, that there's going to be a substantial cost component in order to implement them. To date HISA hasn't (at least to my knowledge) shared any information with the states about how much each state is going to be expected to contribute. That's something we need to keep our eye on. If some of these draft rules and components get put into place, regarding medications and thoroughbreds, the state would no longer be adjudicating medication violations. This would be done by USADA, through an administrative hearing process, that would be separate from the state racing commissions.

Commissioner Ken Lowe – They were suggesting that split tests can be done, but they will be done by the same laboratory that did the original test. Too me that makes zero sense. I've repeatedly said, "I am opposed to doing away with Lasix". We can't afford this in my opinion.

Kelli Talbott – There is a federal statute that will allow a state to continue using Lasix (for an undetermined amount of time).

Agenda Item #3 – AmWest Requests 2022 ADW Renewal

Director Joe Moore – AmWest has submitted their renewal application. The information in their application has not changed since their initial approval back in August of 2020. They have been current on ACH payments for their monthly activity. I would recommend at this time that the Commission approve AmWest for their 2022 ADW license in West Virginia.

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

Agenda Item #4 – WatchandWager Requests 2022 ADW Renewal

Director Joe Moore – Much like AmWest, the information contained in their renewal has not changed since their initial application and approval. They are current on ACH payments for their monthly activity, and I would recommend that the Commission approve their request.

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

Agenda Item #5 – WI Requests New Year's Eve Post Time Change

Director Joe Moore – Wheeling Island is requesting permission of the Commission to change their December 31st, 2021, New Year's Eve post time from 5:00 PM, back to the original New Year's Eve activities. Unless there are any questions, I would recommend that the Commission approve that request.

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

Agenda Item #6 – WI Requests permission to operate casino on Christmas Day without Simulcast Signal

Director Joe Moore – Wheeling Island is requesting permission to operate the casino on Christmas Day with no simulcast signal. This has come up the past few years, as you're aware our statute requires that there be some form of racing at the facility for the casino to operate. I know it was an issue last year, may have been an issue the year before that, where the track is not running and there has been no signal to simulcast at their facilities. Wheeling Island is requesting that the Commission approve, for Christmas Day, that they be able to operate the casino without any simulcast signal made available.

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

Agenda Item #7 – WI Requests approval of 2022 Import/Export sites

Director Joe Moore – I've submitted these to you for your review. They are (in large part) the sites that they have submitted in previous years. Unless there is any discussion, I would recommend them for approval.

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

Agenda Item #8 – WI Request approval of 2022 Live Race Calendar – 261 Days

Director Joe Moore – The calendar submitted contains 261 live race days. They will continue to be dark on Monday and Tuesday. They will race Wednesday through Sunday, with a proposed schedule of 15 to 20 races. That brings up the conversation that we've recently had where Wheeling Island reduced their number of races to 215. The Commission approved this same schedule last year, giving them that ability to fluctuate between 15 and 20 races. They're

submitting the same request to you this year, that they have the ability (should the need arise) to reduce from 20 to 15 races, without going to the Commission for approval.

Commissioner Ken Lowe – Why would it need to be reduced from 20 to 15 races?

Kim Florence – Staffing issues due to COVID.

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

Agenda Item #9 – CT Request approval of 2022 Live Race Calendar – 220 Days

Director Joe Moore – Charles Town requests approval of their 2022 live race calendar. This request is for the statutorily required 220 race days. By statute, each year Charles Town is required to request 220 live race days, and there is a mechanism where the track will request a reduction in race days.

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

Agenda Item #10 – MP Request approval of 2022 Live Race Calendar – 210 Days

Director Joe Moore – Mountaineer Park requests approval of their 2022 live race calendar. By statute, each year Mountaineer Park is required to request 210 live race days. I suspect in the future we will get a request for a reduction in their calendar. Before you today, is for approval of the requested 210 live race days, that they must submit by statute.

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

Agenda Item #11 – Public Comments

(no comments)

Agenda Item #12 – Adjournment

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