

MINUTES
WV RACING COMMISSION
Tuesday, September 27th, 2022
WV Racing Commission Conference Room

The WV Racing Commission met on September 27, 2022, to conduct business and consider administrative matters. Roll call was taken, and present were Chairman Ken Lowe Jr., and Commissioner JB Akers. Counsel was represented by Anthony Eates.

Agenda Item #1 – Approval of June 7, June 9, June 23, June 28 and July 19 minutes

Motions to approve of June 7th, June 9th, June 23rd, June 28th and July 19th minutes made by Commissioner JB Akers, seconded by Commissioner Ken Lowe. Motions were passed.

Agenda Item #2 – Executive Director's Report

Director Joe Moore – I have provided a parimutuel wagering comparison for July of 2022 compared to June of 2022, July 2021, and year to date of last year. We are a little behind in our wagering activity for July compared to July last year in most of the categories. Our total in state handle, which is a combination of our live and simulcast, is down approximately 7%. We are up compared to last month live handles by nearly 11 ½ %, but again July compared to last year is down. I've also provided you with your account status reports of your administrative accounts through August, as well as the FY24 budget appropriation request that will be running through the governor's budget bill this year. Our draft of our FY22 financials audit report was submitted on September 15th and I'll share that information with you for your review prior to submitting the finals, which must be done by October 15th. Our new auditor for Charles Town will begin work on October 8th and we will have our auditor from Wheeling up there the following week to train. I believe Greg Paradis is on the call to give a status update on Charles Town's track project.

Greg Paradis – We are about 95% completed with the grading, close to the end of phase C, and then we will seamlessly move into phase D. In phase D we have the pond liner which we expect to have in around the end of November, and then our plan is to start installing topsoil and seeding around the beginning of January. That will take 2-3 weeks to complete, weather dependent, and then we will turn it over to track maintenance.

Doug Bowling – Track maintenance will be about a two-to-three-week project.

Agenda Item #3 – Legal Update

Anthony Eates – There has been no development in either of the two cases challenging HISA that you are a party too. In the 6th Circuit case, the parties are still submitting briefs, so I think we are a little farther from the decision in that case.

Agenda Item #4 – Mardi Gras Requests Approval of Capital Improvement Funds - Lure & Rail System Parts

Director Joe Moore – I sent to you the request received from Delaware North and Mardi Gras stating that their sole provider for their motor parts is Red Hound Racing Repairs, and they are going to be shutting down their operations in very short order. Mardi Gras is requesting to purchase the remaining parts that Red Hound has on hand in a lump sum, the cost of this is \$49,890.04. The Commission has not considered the purchase of inventory or parts as a capital improvement in the past, although our capital improvement policy is more lenient than some others in what we have approved and what we can approve. I'll put two options out there for the Commission to consider. We can approve this request as written today as lump sum payments and consider this as a capital expenditure item. The other option would be to approve the purchase of these items, but only reimburse items when they are put in service. Mardi Gras would take in that cost and when used they would then submit to the Commission an itemized invoice for reimbursement.

Motion to approve purchase and reimburse when utilized made by Commissioner JB Akers, seconded by Commissioner Ken Lowe. Motion passed.

Agenda Item #5 – HISA Discussion

Director Joe Moore – Ken and I participated in a state specific phone call with representatives of HISA and Drug Free Sports. The laboratories that are currently authorized by the RMTC are unlikely to be grandfathered into Drug Free Sports. The Commission will be able to choose its primary laboratory, so we can stay with our current lab or choose one of the others to be utilized as our primary. Testing samples and your split samples will all be sent to the primary lab at the same time and held there for additional testing. If there is an additional split required, it will go to an accredited lab of Drug Free Sports choosing. The testing costs are included in the total assessments that will be assessed to the state, currently paid for by the racetracks. The Commission has previously elected not to pay the assessment and it is being assessed to the racetracks, to which they are accustomed to paying. From what I am hearing, the assessment that is handed down will be approximately three to four times the initial assessment. I envision a quasi-memorandum of understanding from the Commission should we choose to enter into any agreement because we may or may not have all the required staff on hand currently that HISA requires to carry out those duties. I sent to you the HISA Lasix Exemption form, where the Commission can request exemption from the no Lasix rule for a period of three years. I would suggest that we have more extensive conversation over how to write up what an agreement would look like or to authorize the chairman and myself to negotiate, once the assessment comes down.

Motion to authorize Director Moore and Chairman Lowe to negotiate on the Commissions behalf made by Commissioner JB Akers, seconded by Commissioner Ken Lowe. Motion passed.

Agenda Item #6 – Public Comments

No Public Comments

Agenda Item #7 – Disposition of civil penalties, Necropsy expenditures

Motion to enter Executive Session made by Commissioner JB Akers, seconded by Commissioner Ken Lowe. Motion passes.

[Executive Session]

Motion to continue with our current necropsy funding formula made by Commissioner JB Akers, seconded by Commissioner Ken Lowe. Motion passes.

Agenda Item #8 – Adjournment

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