

MINUTES
WV RACING COMMISSION
Wednesday, February 24, 2021
WV Racing Commission Conference Room

The WV Racing Commission met on February 24, 2021 to conduct business and consider administrative matters. Roll call was taken, and present were Chairman Ken Lowe Jr., Commissioner Anthony Figaretti, and Commissioner JB Akers. Counsel was represented by Kelli Talbott.

Approval of the Dec. 15th, Dec. 29th and Jan. 28th minutes

Motions to approve the meeting minutes for December 15th, December 29th, and January 28th were made by Commissioner Figaretti, seconded by Commissioner Akers. Motions were passed.

Executive Director's Report

Executive Director, Joe Moore, provided the following from the executive director's report. Live handle to date is down twenty-eight percent compared to 2020. It is important to keep in mind this figure will rebound a little bit due to months of March through June were affected by COVID closures for 2020. Year to date account status reports show three administrative funds have a combined deficit of approximately \$500,000. Staff at your Charleston office completed the Thoroughbred Development Fund payout for the 2020 earnings. The total distribution was \$3.1 million to six hundred sixty participants. The 2020 calendar year Advanced Deposit Account Wagering (ADW) reconciliation. The total reported handle for the six-month period was over \$4.6 million. The Racing Commission had a total of five ADW operators licensed during calendar year 2020.

Chairman Lowe asked for Erich Zimny's thoughts about what happened with the fatal injuries that occurred at Charles Town recently that were reported on by the press.

Erich Zimny said he participated in a meeting yesterday along with Joe Moore to trying to ascertain any cause to it we can determine. The reality was we had reps from the Charles Town Horsemen's Benevolent and Protective Association (HBPA) as well as Denver Beckner there was nothing remarkable anyone could point to.

Chairman Lowe asked if Denver Beckner wanted to comment.

Denver Beckner reported there is no indication at this point for the cause. He as well as the other stewards are going to keep a close eye on it.

Chairman Lowe asked then if it was fair to say we are concerned and continuing to monitor to do what needs to be done considering it is the number one priority.

Erich Zimny and Denver Beckner concurred.

Commissioner Akers asked Joe Moore what the total revenue was prior to 2020 year impacted by COVID. He also asked what the Racing Commission has in reserves.

Joe Moore does not have that information in front of him but can share the Racing Commission expenses have exceed revenue at a deficit for a number of years. The Racing Commission expenses have remained flat compared several years ago. The Racing Commission currently has approximately \$390,000 in it three administrative accounts.

Commissioner Akers asked based on past several years performance if even considering the impacts of COVID this year will exceed our reserves the Racing Commission will need to match its expenses.

Joe Moore said absolutely, and currently are in discussions with the Department of Revenue and Legislature to get something approved to address the Racing Commission revenue needs. If no action were taken would result in funds being exhausted before the end of State Fiscal Year (SFY) 2022.

Commissioner Akers does not want to ask anything further that Joe Moore is not able to answer at this time but wondered if there is a confidence level, he is willing to share.

Joe Moore has confidence it will get done, but not able to say at this point how it would get done. He fully believes they will come up with in some form or fashion the funding needed for the Racing Commission for SFY2022.

Commissioner Akers does not mean to Joe Moore too much on the spot, but also does not want to wait until this summer in case things do not work out the way we hope they will then be in a position it may be too late. He asked to please let the Commissioners know if there is anything they need to be doing and if he is confident it is being done as best as it can right now.

Joe Moore reported the Racing Commission has addressed its revenue short falls with the Department of Revenue and the Governor's Office, and it has all pointed to this particular legislative session. He is comfortable where we are right now, we are going to receive the funding. He will let the Commissioners know if anything changes.

Chairman Lowe expressed his confidence in Joe Moore, and everyone involved in getting the funding necessary for the Racing Commission.

Legal Update

Legal Counsel, Kelli Talbott, provided the following legal updates to the commissioners. Yesterday the Senate Judiciary took up the amendments to the Thoroughbred Racing rule, the promulgation of the ADW rule, and the amendments Greyhound Racing rule. They all passed out of Senate Judiciary without comments or changes to go next to the full floor of the Senate. She will continue to monitor those rules and keeping the Commissioners updated throughout the legislative session. They have not heard anything from the House possibly due to the House waiting on the Senate to send them over. She did participate in a conference call with the regulator group in the Mid-Atlantic to go over various initiatives and safety issues as well possible rule promulgation for future rule making cycles. Everyone is also keeping an eye on the federal legislation which she believes is slated to go in effect in the summer of 2022. She has not seen any reports lately for nominations to serve on the board to be established to work with United States Anti-Doping Agency (USADA) for rules to be promulgated. Any rules we take up will be pre-empt to when the federal rules would be put in place. There may be cases where we do not have rule in place but will change if a federal one is put in place. This will be some of the complications all state Racing Commissions will be facing. The Mid-Atlantic group will be keeping an eye on this as it continues to develop. There was one ejection appeal hearing. We were able to do the meeting via GoToMeeting. She believes the format worked out well. We can expect a recommended decision from the hearing examiner soon to review in that case. That will be something the Racing Commission will be charged with acting on once they receive and review it.

Approval of 2021 ADW License - NYRA

Joe Moore presented the request from NYRA Application for ADW License Renewal. They have sent everything required within the application along with their fee. Joe Moore recommends for the Racing Commission to approve.

Motion to approve request was made by Commissioner Figaretti, seconded by Commissioner Akers. Motion was passed.

MG Requests Approval of 2021 Stakes Race

Joe Moore presented the request from Mardi Gras to approve their 2021 stakes race. They are requesting their two stakes' races for 2021 with a Juvenile stakes race for \$35,000 purse with a final on March 27th, 2021 and the open stakes for \$65,000 purse with a final on June 26th, 2021. Joe Moore recommends for the Racing Commission to approve.

Motion to approve request was made by Commissioner Figaretti, seconded by Commissioner Akers. Motion was passed.

Consideration of delegating authority to approve make-up days

Joe Moore presented the consideration of delegating authority to approve make-up days. Due to unforeseen events at tracks such as weather requires the Commissioners to approve any requested make-up days. This request would delegate the authority to approve make-up days only to the Racing Commission executive director. This request if approved does not change the total number of race days or the requirement to receive written agreement from the track and all parties involved such as the HBPA.

Motion to approve request was made by Commissioner Akers, seconded by Commissioner Figaretti. Motion was passed.

Consideration of proposed penalty for ADW provider

Motion made to enter executive session was made by Commissioner Akers, seconded by Commissioner Figaretti. Motion was passed.

Motion made to exit executive session was made by Commissioner Akers, seconded by Commissioner Figaretti. Motion was passed.

Motion to have Kelli Talbott carry out the action discussed during executive session was made by Commissioner Akers, seconded by Commissioner Figaretti. Motion was passed.

Public Comments

Adjournment

Motion to adjourn was made by Commissioner Akers, seconded by Commissioner Figaretti. Motion was passed.