

MINUTES
WV RACING COMMISSION
Tuesday, January 29, 2019
WV Racing Commission Conference Room

The WV Racing Commission met on January 29, 2019 to conduct business and consider administrative matters. Roll call was taken and present were Chairman Jack Rossi, and Commissioner Ken Lowe, Jr., and Commissioner Anthony Figaretti. Counsel was represented by Kelli Talbott.

Elect Racing Commission Chairman

Motion made by Commissioner Lowe to elect and approve Jack Rossi as Racing Commission Chairman, seconded by Commissioner Figaretti. Motion passed.

Executive Director's Report
Joe Moore

Joe Moore provided an overview on the key points from the Director's Report. Senate Bill (SB) 13 has been introduced that would have a positive impact on the Racing Industry in West Virginia. SB13 is a bill that would appropriate monies to the racetrack purse funds that had previously been used for Worker's Comp and bond coverage. The Racing Commission is seeking sponsors for legislation approved by the Governor's Office that would utilize the fine monies collected at the thoroughbred tracks for necropsies and thoroughbred aftercare. Greyhound fines would be used for the adoption program.

The 2018 Russell Road Award for Thoroughbred Excellence will honor Late Night Pow Wow. Late Night Pow Wow is owned by Breeze Easy, LLC, bred by John McKee and trained by Javier Contreras.

Accountant's Report
Joe Moore

Joe Moore provided an overview of the accounting report. Joe Moore advised the commissioners on the concern with the current state of the Racing Commissions funds. The Racing Commission has not been able to run legislation to affect the monies coming into the administrative accounts as requested over the past several years.

Commissioner Lowe assumes the Racing Commission will be discussing this matter more in depth as we go along. Joe Moore and Chairman Rossi concurred it is a risk needing further discussion.

Figaretti asked Joe Moore how much we are down on the numbers. Joe Moore advised the instate earnings are down nearly 4%.

Commissioner Lowe would like the Racing Commission to work on re-evaluating and taking the appropriate action for passing an advanced deposit wagering bill in hopes it will help with addressing the funding issue.

Legal Counsel, Kelli Talbott, Chairman Rossi, and Joe Moore provided some historical background to date with the previous effort and current state trying to pass an advanced deposit wagering bill.

Chairman Rossi stated the Racing Commission will work together through the appropriate channels within state government to see how best to accomplish what's needed.

Legal Update Kelli Talbott

Kelli Talbott reports the thoroughbred racing rule the Racing Commission is seeking to amend to include the model rule on the jockey concussion protocol was taken up by Senate Judiciary Committee. She attended the meeting this week. It passed the committee and will more than likely be taken up the Senate Finance Committee. Assuming no issues with getting out of Senate Finance it would go to a full vote on the Senate floor. It would then have to go over the House for review. Kelli Talbott also advised the mid-Atlantic racing regulator group West Virginia (WV) has been regularly participating in the last several years is scheduled to meet on March 21st at Delaware. The agenda hasn't been provided yet. She anticipates the group talking about the medication rule compact. She reminded the commission of a previous meeting where she updated the commissioner the Winter Association of Racing Commissioners International (ARCI) meeting, because there was a pre-liminary medication rule compact meeting that took place there. Since that time there have been some bylaws drafted and circulated to potential compact members. The bylaws would outline how the medication rule compact would operate. The draft bylaws have now been distributed to stakeholders such as the National Horsemen's Benevolent and Protective Association (NHBPA). She has shared with the local HBPA chapters in WV. It is anticipated that there will be another medication compact meeting in California for the national ARCI meeting in April. As Kelli Talbott understands it, Maryland and Delaware already passed legislation allowing those states to participate in the medication rule compact. New York and Pennsylvania have introduced legislation in support of joining it. New Jersey is currently working with their Attorney General to introduce legislation to join. Virginia already has legislation. There are other states not apart of the mid-Atlantic already participating. WV does not have any legislation at this point. Although Kelli Talbott has provided input for the Racing Commission into the draft bylaws WV is not a voting member at this point for the medication rule compact. Therefore, WV would not have any final say into the bylaws adopted in the medication rule compact. The licensure compact WV is a part of and a voting member, because WV was one of the first states to pass legislation allowing WV to cooperate with other states for licensure. That licensure compact is scheduled to meet again on April 2nd at the ARCI meeting in California. At that time there will probably be some significant voting to do on various issues to try to expand the types of licenses that can participate. Currently, the licensure compact is for only owners and trainers.

Commissioner Lowe identified according to the written legal report Kelli Talbott provided to the commissioners there is an issue to work through with the Charles Town HBPA in order to move forward on the medication rule compact. Kelli Talbott concurred. Commissioner Lowe would like the Racing Commission to pursue working with the Charles Town HBPA to do whatever takes to get on board with the rest of the country to participate in the medication rule compact. Chairman Rossi concurs with Commissioner Lowe.

Joe Moore reported several discussions have occurred and continue at different levels with the Charles Town HBPA and NHBPA accomplish the buy in.

Commissioner Lowe and Chairman Rossi asked Joe Moore and Kelli Talbott to let them know what they need to accomplish this.

Commissioner Lowe asked on another topic about having a discussion regarding the status and rebidding the testing contract. Chairman Rossi said we can do some research and look to follow up on it as an agenda item in a future meeting.

Mountaineer Park Request to Reduce live race days to 130

Joe Moore presented the Mountaineer Park request for approval to reduce the live race days to 130. The Racing Commission has followed through with the process required by statute to properly notify the appropriate industry representatives by certified mail. No party has responded to the notification with any objection from them in the ten-day required time to do so. Therefore, it is his recommendation to approve the request.

Commissioner Figaretti asked why

Joe Moore stated there are different reasons that come into play. One being the amount of purse monies available to make races attractive to race in.

Commissioner Figaretti asked Joe Moore is there anything that can be done to increase the purses.

Joe Moore reported the Senate Bill 13 in process in the legislature would help with increasing the purses which could increase the number of races.

Commissioner Figaretti expressed his understanding and desire to somehow see what can be done to increase the number of races.

Motion to approve was made by Commissioner Lowe, seconded by Chairman Rossi. Motion was passed.

Approval of Mountaineer Park Stakes Schedule

Joe Moore provided an overview of Mountaineer Park's request to approve the WV Derby and the other stakes races will be ran on Saturday August the 3rd. The purse of the derby is five \$500,000 which is an improved purse compared to last years. There is also a grade three governor's stakes race for \$200,000. Joe Moore recommends approval for this request.

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

Mardi Gras Kennel Contract Approval – CET Kennels

Joe Moore presented the Mardi Gras request for the CET Kennel contract approval. Mr. Tomblin who ran Tomblin Kennels who is not to be confused with the previous Governor, Tomblin, has decided to retire from greyhound racing. This left a vacant kennel for Mardi Gras

which Carl Tomblin II has applied with this kennel contract to take over the kennel at Mardi Gras. Joe Moore recommends approval for this request.

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

Wheeling Island Capital Improvement Request – Refurbish Kennels

Joe Moore presented Wheeling Island's request for \$32,000 to refurbish two kennels on their kennel compound. Wheeling Island's overall goal is to refurbish all kennels at the compound. They want to complete the two kennels first before starting on the others. They have requested this under the capital improvement policy. The money is available. Joe Moore recommends approval for this request.

Motion to approve was made by Commissioner Figaretti,

Commissioner Lowe asked whether or not the Racing Commission received competitive bids for this work.

Wheeling Island management, Ben Travis, responded to the Commissioner's question stating they decided to use an existing contractor they do work with since historically due to the size of the projects its been unachievable to receive multiple bids on any work needed.

Commissioner Lowe asked Kelli Talbott if that's permissible. Kelli Talbott confirmed it is permissible since they are a private entity and not a state government entity.

Commissioner Lowe seconds the motion. Motion was passed.

Public Comments

Jim Funkhouser in his personal capacity wanted to offer a couple of clarifications regarding what said earlier. The advanced deposit wagering bill last year did achieve compromise amongst all the stakeholders. The bill contained and always has contained the ability for the Racing Commission to assess cost in addition to their 1% of storage market fees which would be estimated at \$100,000. It would be at the Racing Commissions discretion to assess those costs. Secondly, on the ARCI interstate medication rule compact the issue the ARCI failed to lead on the thresholds on all the exact formula for the threshold. That has left a vacuum for some people who sought for federal legislation to take over the state racing commissions authority on this. Now this compact come up. The compact in general sounds like a good idea, but it eviscerates what's inherit in our federal system. He strongly suggests the Racing Commission as a member of the ARCI to lead on these issues for this compact or this federal legislation is going to supersede it. He believes the compact is a symptom of the problem as a result of failure to keep the standards modern The ARCI does good things. We remember two years ago the updated the emergency rules. That was in December of that year. The bill amended and passed. We were all on board. The Racing Commission updated those standards. He encourages the Racing Commission to lead with the ARCI to solve these problems. Thirdly, he strongly encourages to talk with the department of agriculture who had a bill that passed bother chambers, but the governor vetoed, to enhance their testing ability. They were going to put a lab in Buckhannon. Jim Funkhouser spoke with Commissioner Leonhardt, and he thought that the legislation would facilitate the ability for the department of agriculture to have a lab that would be in compliant with the ARCI testing standards. That would allow

approximately half million dollars the state of WV spends every year to test horses and dogs to stay in WV to help our economy.

Chairman Rossi thanked Jim Funkhouser for his comments and will take them into consideration.

Adjournment

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