

MINUTES
WV RACING COMMISSION
Wednesday, June 16, 2021
WV Racing Commission Conference Room

The WV Racing Commission met on June 16, 2021, 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 Kelli Talbott.

The Racing Commission will conduct an emergency meeting to address an ongoing lack of 24-hour access to the barn area at Charles Town Racetrack causing equine health, safety, and welfare concerns. An emergency meeting is necessary to address the health, safety and welfare concerns impacting animal welfare and to address the substantial and imminent harm posed to animals.

Chairman Lowe started by stating he sees this as four steps. We have got a problem. We need to know what the issues are. We need a remedy or remedies, and then we make a decision.

Commissioner Akers just wants to add one thing quickly. He just wants to make sure everyone knows this emergency meeting is a health safety welfare issue. He is sure everyone knows this, but as a public body they have legal requirements they have to meet. When we call a meeting, we are supposed to provide public notice which we did as an emergency meeting. He wants to make sure they can find everything today about the health safety welfare issues. The public has a right to have notice to attend these meetings. There is a fair amount of work required by the Racing Commission's executive director, Joe Moore, and legal counsel Kelli Talbott, to obtain approval from the Secretary of State's office to get everything published for this meeting today. So, this is not a matter of arranging a phone call on behalf of the staff and the people who do the work for us.

Chairman Lowe commended Commissioner Akers for his comments. He asked Joe Moore to go over the agenda item for the meeting.

Joe Moore read the formal reason for the emergency meeting. The Racing Commission will conduct an emergency meeting today June 16th, 2021, at 8:30am to address an ongoing lack of 24-hour access to the barn area at Charles Town Racetrack causing equine health, safety, and welfare concerns. An emergency meeting is necessary to address the health, safety and welfare concerns impacting animal welfare and to address the substantial and imminent harm posed to animals. With that said the Commissioners have received a letter from the Charles Town Horsemen's Benevolent and Protective Association (HBPA) outlining concerns and issues regarding the lack of access to the backside, the timing for which the gates being closed and locked, and the potential harm that it creates to the horses and the horsemen not being able to get back there and water down their horses during the heated summer and things of that nature. So, with that he turns it back over to Chairman Lowe to see if he wants to take statements from anybody here online regarding the issue.

Chairman Lowe said before we do that, he will also state on Sunday evening after several calls he proceeded at approximately 6:20pm to the barn gate. The gate both sides enter, and exit were both closed, but were not locked. Talking to two horsemen about it that evening, one horsemen and Charles Town HBPA executive director, Maria Catignani, he was quickly told that even though it is unlocked if the horsemen go on the ground there could be consequences, possibly made to leave and lose their stalls. So even though it is unlocked it is not an open gate to a sense at that point, but that is important for us to know. He asked if anyone on the call would like to make a statement that is as reasonably as possible.

Charles Town HBPA President, Jim Miller, the issue they are trying to get addressed today is that they have been working with the racetrack regarding access to the backside for quite a while. They know it has been a difficult year coming out of the pandemic. It has been difficult for both them and us, but we have now gotten to the point where this has become a health and safety issue for the horse. We cannot allow the horse to be unattended from 6pm to 5am in the morning. Especially with the summer heat coming on and it is already hitting ninety degrees this weekend again. It will probably get warmer than that. Which only means we are setting ourselves up for a very bad situation. It is also very important that we be able to get access in order to just water off the horse. There is a big issue with horses and water in the summertime. The horses given nature the horses tend to colic where water is lacking. When it is very hot, they are going to drink a lot of water. We are going to have to find a way to get access to the backside. He knows that the racetrack has had great problems getting labor. That is an issue we all face, but it has gotten now to where we are really concerned about the safety and welfare of the horse. This is one of their biggest issues right now so we can get access to water them off and take care of them. We respectfully requested this meeting so that this issue could be addressed quickly and work out a solution that works for everyone.

Stephen Reggetts reported on Sunday he had a horse who got a case of colic. He had to treat it that morning. The gate is closing at six. Then at 5:30 we have got to treat the horse to be as comfortable as can be. If he got access, he would be with a horse every hour or so to walk the horse. More than once he has had to be there at 1am walking a horse that has an issue. He has to treat this horse but has to wait eleven hours to hope this horse is alright the next morning when he gets in there.

Naomi Long said Steve is not the only one who has had colic issues. We have other issues. The horses roll in their stalls. They are going to lay there all night long with canicide on the stalls. We need to have access. It is not just a summertime issue it is a wintertime issue too because the water buckets freeze. Then they are impacted by getting colic. We are being set up for a situation that is harmful to the horse and costly to the horsemen to have them treated and make them well again.

Stephen Reggetts agreed with Naomi that it is not just a summertime issue. Colic can occur more in the winter than in the summer.

Chairman Lowe shared he knows through experience from losing a mare to colic three years ago.

Mountaineer Park racetrack management, Jim Colvin, wants to share their stand from Mountaineer Park. They understand the concerns at Charles Town, but they have come to a compromise with the horsemen at Mountaineer Park. They have never locked their backside. They give access to the horsemen 24x7 to the gate. To make an emergency ruling is something not just concerning one track but actually is concerning both tracks. He just wants to make sure the Commissioners know Mountaineer Park is objecting to these rules. They have not denied access to their horsemen on their backside. If you make a ruling of some kind you are going to be involving both tracks. He thinks Charles Town racetrack and horsemen need to compromise between themselves and get this figured out before an actual ruling is made.

Chairman Lowe thanked Jim Colvin and said that will be taken into consideration. He asked if Joe Moore would like to comment about that.

Joe Moore said what Jim Colvin mentioned is the horsemen at Mountaineer Park have 24x7 access through a walkthrough gate over in the Mountaineer Park HBPA office. Charles Town is set up a little differently. While there is a gate at the 6 ½ next to the racing offices that could be accessed, putting a swipe card there would require having a shelter because it is outside in the elements. You would need to keep that swipe card system out of the elements he would think. Their only access point right now is through the drive through gate at Charles Town. So as Jim Colvin has said and Racing Commission legal counsel, Kelli Talbott, has advised us before when we talk about rules the Racing Commission doesn't make a rule for a specific track. Your thoroughbred rules cover both properties. So, if you were to consider the fact that Mountaineer

Park already has 24 hour access some mandate would read something to the effect of the Racing Commission mandates the racing association provides 24 hour access to the barn area, and then the association would be responsible for figuring whether that is through a drive through gate that has to be manned so that you keep ejected or unpermitted people off the backside or whether that is through a swipe type access point where the horsemen have to swipe to walkthrough to their barns take care of their horses. If you mandate that a drive through gate, be manned 24 hours a day for drive through access, then Jim is right you would not be affecting Charles Town but Mountaineer Park as well.

Charles Town Racetrack management, Charlie McIntosh reports the track has an update to share on progress being made. Lee Monaco can provide this if the Commissioners would like.

Chairman Lowe asked for Lee Monaco to go ahead.

Charles Town Racetrack security manager, Lee Monaco, appreciates and understands everyone's concerns that they possess as well. As everyone knows hiring has been tough. Not only in West Virginia, but everywhere surrounding. With COVID, we are offering a \$1,500 sign on bonus. They have raised their starting pay. They are finally starting to get applicants come through the door which is obviously a semi-slow process. Typically, it takes them 2-4 weeks to get someone from an offer to get in the door. We will have further staffing coming on weekly at this point which helps alleviate part of this situation. Within the next 24-48 hours they are going to go to a swipe access system on the 6 ½ gate. He did reach out to Mountaineer to talk to their security just to see exactly what they did. He does understand as well they have a much different setup than what they have, but they are going to adapt something much similar to what they have. So, within 24-48 hours we should be able to give access 24x7 on the foot gate. Then within ten days to two weeks they are going to assemble their system on the drive through gate. What that will solve on both of these gates is that at any point in time they are at a point of non-staffing they could go to the electronic system. Their plan is to put cameras around all of this. So that way when someone comes up, they can swipe they can show the badge to the camera quickly their dispatch center can then buzz people in and out while still maintaining security of the ejected people not making entry or for more than one person trying to make entry at a time per swipe.

Chairman Lowe asked Lee Monaco if he is telling them their camera system that is not being used or is faulty will be corrected or be in good use in this 24-hour period.

Lee Monaco said they are actually adding equipment. Right now, at the 6 ½ gate there is currently no equipment. The gate is physically locked with a master lock, but they are putting a mag lock system that works. They do expect that system to be up and running in 24-48 hours

as everyone knows COVID has present staffing challenges. They are continuing to make progress on staffing, but in meantime will provide in 24-48hours card scanning on 6 ½ gate with cameras to view ID shown to camera then to allow security to buzz in.

Jim Miller, if we have walk-through access in 24-48hours for ADA would someone be able to buzz in at the drive through gate.

Lee Monaco, they met with a vendor to provide push button access to assist with this. Within a week or two being a much better staffing position than they were. Marketing can create signs to assist with how someone can access ADA accommodations.

Chairman Lowe asked Lee Monaco if their dispatch center is available open 24 hours a day with personnel that will respond to anyone that calls.

Lee Monaco confirmed that is correct. It is open 24x7. They never shut that down. The only thing they would add to that is they would be dispatching someone from the inside to out. It wouldn't be an immediate response, but they are typically within ten to twenty minutes going anywhere on property.

Chairman Lowe asked if the gates would remain unlocked as they are now.

Lee Monaco stated yes, and that chose not to physically lock them. Mainly due to emergency situations that could occur.

Joe Moore asked Lee Monaco if the solution could then be for someone who pulls up to that gate who calls your dispatch if someone is able to open that gate could they notify they are making access to the backside and not wait twenty minutes for security to come and open it for them.

Lee Monaco said that is something they obviously could entertain and do. The only concern with that is we currently don't have which again they are adding into what we are going to add is their dispatch center will have cameras so they can physically look at the person coming up to the gate to make sure an unauthorized entry is not occurring. Obviously as a temporary solution we can allow that, but at the same he cannot guarantee somebody unauthorized could not make entry at that point.

Joe Moore said we are just talking between now and the next two weeks when you have that gate manned.

Lee Monaco agrees that is a good solution.

Chairman Lowe asked the Charles Town HBPA hearing what was said to offer or suggest how that fit with their thoughts as far as the welfare of the horses.

Jim Miller said overall the plan could be workable. The only issue he really is they do have to provide access so that people that are physically handicapped can have access to get to the back barn. Second, the issue is really in the short term how are we going to handle it if it is 24 to 48 hours ok. If it gets to be 96 hours, then we are starting to head back into pretty warm areas. More importantly we need to make sure we have access and how do we get through it until everything is up and running. He guesses the devils in the details. We have been talking about this issue now for months. He is glad we are finally getting to solutions at least that is what he is hearing, but access to the barn area is very critical to them. They appreciate Penn Gaming racetrack is making progress, and hopefully will have the labor on board. His only concern is really what takes place over the next couple days.

Lee Monaco said they did provide a schedule where they guarantee staffing can be able to keep it open, but one of the things he would further state is that in full transparency with everyone their roughest day right now is Sunday. They have opened up overtime to every employee on their property trying to close those gaps. He does have staffing from now to until they get to next Sunday. He is not saying the gate will be open 24x7 over the next 24 to 48 hours, but they are not far from it. With that being said he thinks that loosely addresses the concerns we have until the walking gates are completely up if we run into some weird electrical issue or something. They should be ok on that.

Joe Moore asked during those times in which the gate is not manned would there be a dispatch number they can call to get someone to let them in.

Lee Monaco confirmed yes. He thinks that is a good solution down the middle until they get the foot gate a hundred percent operational.

Jim Miller, Important to have ADA. devil in details. Been talking about these issues for months. They appreciate that the racetrack is making progress. We are rolling the dice in hopes of avoiding a humane issue.

Chairman Lowe asked Lee Monaco if there would be signage placed on the current main entrance gate that is unlocked but manned then after hours saying to please call the following number to get access.

Lee Monaco said that is correct. He will have his marketing department work on that today. He will make sure that sign gets up no later than tomorrow.

Chairman Lowe wants to get a date they can all agree on. Can we say by Friday the 18th this will be in place?

Lee Monaco said yes, he thinks that's reasonable.

Charles Town Steward, Denver Beckner, in order for this to work the racetrack badging office access needs to improve.

Chairman Lowe asked Lee Monaco what can be done about that.

Lee Monaco stated they need more printer capacity which racetrack Information Technology (IT) is working diligently on. The printer should be taken care of once they figure out the printer that is more robust and fitting. Currently due to the staffing situation they are in they cannot change hours right now. They can push the information out about the hour's office being open with the Charles Town HBPA's help as well. One of the backups is they can call the number on the gate if someone cannot get their badge they can call the number to let them in. They would also have access using a process previously mentioned in the event they do not have a badge to try to prevent unauthorized access.

Chairman Lowe asked Lee Monaco to provide a timeline for when the printer issue would resolve.

Lee Monaco said he will need to talk with IT, so he does not give him a bad date on that. He will call IT today to check on the status and report back.

Chairman Lowe asked Denver Beckner his thoughts about Lee Monaco's response.

Denver Beckner said the issue does appear to be with the equipment. If they get that addressed, it should help.

Stephen Reggetts asked what keeps people off the streets from opening the gate that could potentially harm their horses. What would keep someone from burning their barn down?

Lee Monaco said the gates are monitored by security cameras. If it is an emergency situation, they would obviously drop everything to get out there. They would also activate law enforcement.

Maria Catignani said the issue here is the animals are not secure if the gate is unlocked. For example, the gate is unlocked, and somebody walks through there and neglects to shut the gate, then the gate is wide open, and a horse gets loose with the gate not closed.

Lee Monaco just wants to remind everyone six months before this there were no gates. They were manned. Even during the shutdown, they were pulling gates across to close at 6pm every night. This was an improvement they did by adding these gates.

Chairman Lowe asked Lee Monaco if there is a security vehicle on the grounds at all times that makes rounds every ten or twenty minutes.

Lee Monaco said yes under full staffing, but with the current staffing matrix that is one of the services we cannot always provide. When they do have that available they do check the barn areas, hotels, and surrounding grounds. The service is provided sporadically and not 24x7. Once they are fully staffed that is something they can provide. At this point if he had to put an estimate on it he happens about sixty percent of the time.

Joe Moore thinks we have heard possible solutions for Charles Town. We have been told within 24-48 hours there would be a swipe through the walking gate at the 6 ½ gate. He believes he heard Lee Monaco state in approximately two weeks he plans to put 24 hour access manned in the driving gate. Until such time though he is going to put up notification as to how to gain access to the driving gate for someone who should reasonably cannot go through the walking gate when they need access to the backside. Joe asked if they want to follow back up in five days with a regularly scheduled commission meeting to get a follow up on both the walk through and the drive through gates.

Chairman Lowe concurred and also asked for Lee Monaco to let the Racing Commission through Joe Moore know what action has been taken by the deadlines or prior to them.

Lee Monaco confirmed that would not be a problem.

Chairman Lowe asked if Commissioner JB Akers agreed with this course of action.

Commissioner JB Akers agreed.

Joe Moore stated we would then reconvene for a regularly scheduled commission meeting on Thursday June 24th. Lee Monaco is going to notify him by Friday noon if the walk-up gate is in place or what the timeline is on it. Until that point everyone will be notified and signs in place stating they have 24-hour access to the drive up gate. They just have to call the dispatch to gain access.

Chairman Lowe wants to remind the horsemen they have a responsibility to act properly and cooperate, and at the same time security and the security employees will be polite and correctly identify folks. Everybody needs to get along. Chairman Lowe asked if Commissioner JB Aker would like to say anything.

Commissioner JB Akers said this is the second emergency meeting where the parties frankly seem reasonable once the meeting starts seems like there is a solution close to being final. he encourages the parties if they cannot seem to make head way in the future they can certainly reach out to the executive director or individual commissioners, but they cannot make decisions without a quorum. They are happy to try to help mediate where they can. This can sometimes help alleviate a need to go through all of the necessary things to hold an emergency meeting. He is sure the parties may know this, but in the future, it may be helpful to reach out on an individual basis

Public Comments

Adjournment

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