

MINUTES
WV RACING COMMISSION
Tuesday, November 12, 2019
WV Racing Commission Conference Room

The WV Racing Commission met on November 12, 2019 to conduct business and consider administrative matters. Roll call was taken, and present were Chairman Jack Rossi, and Commissioner Ken Lowe, Jr. Counsel was represented by Kelli Talbott.

Executive Director's Report

Executive Director, Joe Moore, provided the following overview from the Executive Director's Report. The racing injury incidents per start for Charles Town is 1.24 through October 2019. The racing injury incidents per start for Mountaineer Park is 2.47 through September 2019. Joe Moore advised he did receive this morning prior to the meeting the racing injury incidents per start data through October 2019. It is 1.8 at that point in time which is looking better for Mountaineer Park. The mid-Atlantic group West Virginia (WV) is part of has undergone an effort to establish a strategic plan to reduce racehorse fatalities. As part of that plan the racing commission will be establishing a medical review board to meet and review each fatality at our horse racetracks. This board will be localized at each horse racetrack. It will consist of who will be the equine medical director, a steward, a safety compliance officer, an investigator, a horsemen's representative, and a track superintendent. Joe Moore anticipates each board will be established by January 2020 and ready for Mountaineer Park's opening 2020 meet.

The racing commission is finalizing its plan for implementing its necropsy program. This should be ready also by January 2020. The racing commission will soon be hiring an equine medical director to help implement best practices related to pre-race inspections, race card activities, and test barn procedures. The information was made available for the status on upgrading/refreshing the racing commission's technology needs lead by Jon Cain as well as the current list of vacancies. Lastly, Commissioner Lowe, Joe Moore, Kelli Talbott, and industry representatives will be meeting with Senator Craig Blair today at 1:30pm as a follow up meeting to the Advanced Deposit Wagering Bill.

Accountant's Report

Joe Moore provided an overview of the following from the Accountant's Report. The wagering summary report for September and year to date shows live handle down slightly from Fiscal Year (FY) 2019. Export handle is up about ten percent. Total in-state handle is down a little over five percent compared to FY2019. The FY2020 expenditure report, account status report for the administrative fund, and the medical expense fund from 7300 has been provided for review. The medical expenses fund 7300 will be used to pay for the necropsy program being implemented. As far as the audit goes it is now finalized. All financial statements have been submitted by the required deadlines.

Legal Update

Legal Counsel, Kelli Talbott, reported and advised on the following needs. There is a need to develop the procedural rule for the thoroughbred aftercare program. The thoroughbred

aftercare program will give funds to those qualified to help with horses being placed. The procedural rule will identify what the criteria for the grants will be and how the grants will be implemented. The thoroughbred racing rule amendments are pending in the legislature. It is anticipated the amendments will likely be taken up at interims in December in advance of the upcoming legislative session. Joe Moore and Kelli Talbott attended the last mid-Atlantic regional meeting in Delaware this past October where they discussed the strategic plan. One of the key initiatives discussed during the mid-Atlantic regional meeting was regarding the medication rules. The latest proposed amendments model rules for medication are likely to be adopted when taken up at this December's model rules committee meeting. This would mean due to timing the Racing Commission would look at taking up the new rules in 2021. There also two objection appeals pending. One for Mountaineer Park and one for Charles Town. It is anticipated a recommendation for the Commissioners consideration at the December Racing Commission meeting.

Commissioners Lowe and Rossi expressed their gratitude and support for Kelli Talbott and Joe Moore. The commissioners encouraged post haste on getting the aftercare program put in place.

Kelli Talbott informed the Commissioners there is an alliance for aftercare programs with established criteria for accreditation. It could be beneficial to look at the alliance for how best to implement WV's aftercare program.

Commissioner Lowe Remarks

Commissioner Lowe asked to speak because of an article that was written by the WV Gazette by Phil Kabler on October 30, 2019. In the article it described the Racing Commission not having enough industry experience with their commissioners. Commissioner Lowe takes exception to that considering his extensive background in the horse racing industry. Commissioner Lowe provided an overview as a lifelong WV resident of his horse racing experience. His experience with horse racing began as a child helping his grandfather with a horse named Just Great. He started working when growing up in Shepherdstown as a change maker at the Charles Town racetrack. Through the years he continued to work at the Charles Town horse racetrack selling tickets. He was determined to make the Charles Town half mile horse racetrack one of the finest in the country. From there he went on to graduate college from Shepherdstown College then on to completing school at the New York Jockey's Club for racing officials. This led him to his appointment by the WV Virginia Racing Commission as the state racing patrol official at the Waterford Park now Mountaineer Park.

Commissioner Lowe continued building his work experience within the horse racing industry in almost all levels as a racing official. His hard work ethic and passion resulted in seeing success in his insurance company, but as well as with his love and respect for horses to become a horse breeder licensed to race in WV, Pennsylvania, New York, and Maryland. Along the way he was elected to become the president of the WV Charles Town Horsemen's Benevolent & Protective Association. As the interest of live racing decreased at Charles Town and for other reasons, he elected to move his thoroughbreds to Maryland for breeding and racing.

This eventually led to his appointment by Governor Justice to serve as a racing commissioner. Since being appointed he has not missed a meeting or conference call. Anyone that prints or speaks of him as a "businessman with little or no experience in the thoroughbred

racing” could be subject to defamation. The article printed is not Commissioner Lowe’s story and it is not the truth.

In Commissioner Lowe’s opinion, he sees racing as a triangle. The triangle is not an equilateral triangle, but an isosceles triangle. He sees it this way not just in WV, but as a whole. He pictures the triangle where one of the sides is racing; jockeys, trainers, and vets where they are directly involved in racing. The second side is management; racing officials and stewards which are making important day to day big decisions on racing. The third angle of the triangle is the legislature and the Racing Commission because they are regulating and promoting the industry. In order for this to all work all sides must work in concert to keep from losing the thousands of jobs and the millions of dollars brought into the industry while increasing tourism and safely protecting our equine and k9 athletes.

Commissioner Lowe then queried the meeting attendees on phone first then onsite at the meeting about their experience within any of the three sides of the triangle. Commissioner Lowe is proud to be one of the few persons who have worked in all three sides of the triangle. He was informed by several people in the racing industry they were excited to have him as a racing commissioner because of his background in the racing industry. He tries to do everything the same and as he would expect to be treated. He stated if you checked the record for his voting as commissioner, he does not always vote in favor of one side over the other and is pleased by that.

There is no significance in his intentions today other than to clarify to pay particular attention as to what’s been put in the paper today is the future of racing is under attack. He stated we need to be united and we need to be together. Commissioner Lowe said when there is human behavior at fault you have to let the chips fall. Be it on a humane issue or careless acts. That includes illegal drugs on racehorses and race dogs. This has to be corrected. He also says that Lasix is not considered an illegal drug and should not be considered an illegal drug. He believes we need to signal out the guilty parties and punish or banish them from the industry. Commissioner Lowe wants trainers and owners to solve the problem. Do not be a part of it. Figure out how to make it work without doing it illegally. He stated if you get caught you will get no sympathy from Ken Lowe.

He believes we need seventy-two-hour security around the horses for stakes races. He stated its been proven success story to work around stake races. He knows we do this somewhat here but more needs to be done. Racing surfaces can be safer. There are racing surfaces out there several that are good. We should use them. If it is not made mandatory, then it should be recommended. Commissioner Lowe asked why put a horse on an unsafe surface? That’s inexcusable to him. And management in the casino. Horse and racing have to work cooperatively to fulfill the promises we made to voters in the counties on the referendum. Every once in a while, someone sneaks the word recall which is not a good word, but we need to work together all the time. He knows that’s tough for some people for folks who get paid by certain entities because that’s where their paycheck comes from. Well, he is not that way, and he wish everyone else was not that way. We have to figure out a way to do it because what are we doing? We’re providing the jobs and properly fulfilling the promises we made to the voters in the counties.

The WV Racing Commission also needs additional funding to succeed. Commissioner Lowe expressed how much appreciation he has for Joe Moore, Kelli Talbot and all the staff at the racing commission for how well they work with the various stakeholders across the four racetracks with the resources they have. Commissioner Lowe does not think the answer is to

put the racing commission within the Lottery Commission. He feels doing this would only hurt the racing industry by diluting the expertise the Racing Commission holds now. He believes its evident across other states its more valuable to exist as two separate entities. Commissioner wanted to remind people about what the legislature passed allowing slot machines and table games to be used. He read from the legislative articles related to both slots and table games where the legislature finds and declares the existing licensed pari-mutuel facilities by the state racing commission provides valuable tourism resource for this state and significant economic development to the citizens. Because of the decline in the racing industry and increased competition in neighboring states the survival of WV pari-mutuel racing industry is in jeopardy unless modern lottery games are authorized at the track. No racing. No Slots. That's the way it is written. That's premise on what supported it on and that was the understanding of the people of Charles Town when they vote on it. We cannot let that change. He will not let that change. That was on the slots. Basically, the same thing was said on the table games that he also supported. Basically, the same thing. The racetrack lottery finds reasonable to do this, and why? Because that the horse racing and dog racing and breeding play a critical role in the economy of this state. They enhance the revenue collected at the racetracks. Provide revenues to the counties and municipalities. Provide for significant employment and protect our greenspace. Furthermore, finds integral part of WV's agriculture and that agriculture is critical ingredient to the WV economy. Protect, preserve, and promote horse and dog breeding and racing industries. Will protect, preserve, and promote the tourism industry of this state and the general fiscal wellbeing of the state. That my friends is what was written. What we were told when we voted for it. I stuck my neck out supporting it.

To this day I have people in my hometown who don't like me because of that. I wasn't involved in horse racing then. I had gotten out of it. I was doing something else just fine, but I met with the head guy at Penn National, Carlino. He came to see me for about thirty minutes. Nice guy. He assured me this would protect racing at the casinos. I believed him. I still believe it. That's the bill of goods we were sold. Now to think anyone would change that is an insult to me. It's an insult to a lot of people. We have to work together. He said all that because he wants what's best for WV's future, values, and beliefs. By the way what did I tell you my grandfather's horse's name is? Just Great. Because if we do that it will be just great. Thank you, Mr. Chairman.

Chairman Rossi stated Commissioner Lowe's input and experience without no doubt is invaluable. Commissioner Rossi said he's been on the commission for ten years and believes Commissioner Lowe a lot more experience than anybody involved.

Request for Permit Reinstatement – Alexis Rios-Conde

Joe Moore reported Alexis Rios-Conde is present today at the meeting if the Commissioners would have any questions for him. Alexis Rios-Conde is seeking re-instatement with an occupational permit as a jockey at Charles Town. He has a felony conviction. He has met with the stewards at Charles Town regularly for quite some time. He was released from his parole this year without any restrictions. Letters of recommendation have been provided for review along with the input from the stewards and investigator at Charles Town. The board of stewards at Charles Town are recommending approval. Commissioners deferred to Alexis Rios-Conde for any comments or questions. Alexis Rios-Conde expressed his remorse for his actions

He admits making bad decisions in the past including the people he chose to hang around with. He promises to do better in making decisions. He brought his son with him to the meeting. Alexis Rios-Conde stated he has held three jobs with no issues since being released. He said he would like another opportunity to ride horses again.

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

Wheeling Island Requests Approval of 2020 Live Race Calendar

Joe Moore presented the request for Wheeling Island's approval for the 2020 live race calendar. Wheeling Island's request is very similar to the 2019 live race calendar. They are all matinee race times starting at 1pm on Wednesdays through Sundays. They have also included their holiday/special performances. Joe Moore recommends for approval.

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

Wheeling Island Requests Approval 2020 Wagering Formats

Joe Moore presented the request for Wheeling Island's approval of the 2020 wagering format. This was included in their live 2020 race calendar proposal. Joe Moore does not see any variances in this request compared to their 2019 approval. He recommends for approval.

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

Wheeling Island Requests Approval of 2020 Kennel Contracts

Joe Moore presented the request for Wheeling Island's approval of the 2020 kennel contracts. A copy of one of thirteen 2020 kennel contracts is provided for review. All thirteen are the same as the one provided for the commissioner's review. All of the thirteen kennel contracts are like the ones approved in 2019. He recommends for approval.

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

Mountaineer Requests Approval of 2020 Live Race Calendar

Joe Moore presented the request for Mountaineer Park's approval for the 2020 live race calendar. Per statutory requirement they are required to have 210 live race days. They are requesting 209 evening performances and one day for the WV derby to total 210 live race days. Mountaineer Park's request is very similar to the 2019 live race calendar. Joe Moore recommends for approval.

Commissioner Lowe asked Mountaineer Park management why the WV Derby runs on a Saturday.

Mountaineer Park Manager of Operations, Jim Colvin, stated the position always handed down is the first Saturday in August.

Commissioner Lowe asked Mountaineer Park management why daytime versus nighttime, is it because of the competition.

Jim Colvin stated because of some of the things they have planned for the day of the events. Previously, the year before last they had a concert after the race. So, they have daily events they have to schedule around the racing.

Commissioner Lowe asked if there has been any thought about if the event would be much greater if it were run nighttime instead of daytime since the WV Derby runs the same time the Saratoga Whitney Handicap stakes race.

Jim Colvin state that is something going to be something approached with new ownership soon for them to decide on.

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

Mountaineer Park Requests Reduction in Live Race Days for 2020

Joe Moore presented the request for Mountaineer Park's approval for the reduction of 210 live race days in 2020 to 130 live race days. Traditionally an approval to start a process to notify the industry representatives that Mountaineer Park is requesting to modify the number of live race days. This allows those parties ten days to make any objection to such request. If objection were received, then the racing commission would go to Hancock county to hold a public hearing. However, Mountaineer Park has included with their request to reduce the number of live race days a letter that is signed by the president of the Mountaineer Horsemen's Benevolent & Protective Association (MHBPA) and the representatives of the Tellers Union at Mountaineer Park approving the reduction of the number of live race days to 130. These two organizations would be the entities the racing commission would have to notify. If the Racing Commission legal counsel sees no reason to not accept then the Racing Commission could use the letter in support of the reduction to approve the request or the Racing Commission could continue with the process traditionally done.

Chairman Rossi requested for Kelli Talbott opinion on the matter.

Kelli Talbott advised the Racing Commission sees the statute is not fit for purpose now. She believes the statue should be rewritten. She believes the letter of support from the representatives shows they have been notified and they have indicated they have no objection. She believes this is sufficient for meeting the intent of the statute.

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

Nelson Robinson suggested further discussion about revising the statute may be worthwhile.

Chairman Rossi concurred, and stated the Racing Commission will look to add the discussion to a future Racing Commission agenda.

Mountaineer Park Requests Approval of 2020 Import/Export Sites

Joe Moore presented the request for Mountaineer Park's approval of the 2020 Import/Export sites. Mountaineer Park's request come with the approval as required by the president of the MHBA. Joe Moore recommends for approval.

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

Charles Town Requests Approval of 2020 Live Race Calendar

Joe Moore presented the request for Charles Town's approval for the 2020 220 live race days calendar. Joe Moore recommends for approval.

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

Public Comments

Commissioner Lowe thanked Phil Kabler for being in attendance and welcomes him anytime to attend meetings. Chairman Rossi thanked everyone for attending. Especially Alexis Rios-Conde. Chairman Rossi also thanked Commissioner Lowe for his candid comments.

Adjournment

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