

MINUTES OF THE AUGUST 22, 2023 KENTUCKY HORSE RACING COMMISSION MEETING

Date: August 22, 2023 at 1:30 p.m.

Place: KTA/KTOB offices, 4079 Iron Works Parkway Lexington, Kentucky 40511

Commissioners Present: Chair Jonathan Rabinowitz; Commissioner Mike Berry, Commissioner Dr. Naveed Chowhan, Commissioner Dr. Tiffany Daniels, Commissioner Michael F. Dudgeon, Commissioner Greg Harbut, Commissioner Lesley Howard, Commissioner William L.S. Landes, Commissioner William H. May, Commissioner Charles O’Connor, Commissioner Catherine Parke, Commissioner C. Frank Shoop, Commissioner James E. Worley

Ex-officio Members Present: Secretary Ray Perry; Secretary Jeff Noel; Secretary Lindy Casebier

<i>AGENDA ITEM</i>	<i>TRANSCRIPT PAGE NUMBER(S)</i>	<i>DISCUSSION / CONCLUSIONS / RECOMMENDATIONS</i>	<i>ACTION TAKEN</i>
I. Call to Order and Roll Call	4	Chair Rabinowitz called the meeting of the Kentucky Horse Racing Commission (KHRC) to order and performed the roll call. A quorum was recognized.	No action taken.
	5 – 6	Chair Rabinowitz shared opening remarks about the passing of Commissioner Frank Jones, Jr.	
	6 - 7	Chair Rabinowitz shared an update on the Sports Wagering committee.	
II. New Business Tab 1: Approve minutes of the June 20, 2023, and July 10, 2023, Kentucky Horse Racing Commission Meetings	7 - 50 7 -8	Chair Rabinowitz requested a motion from the Commission to approve minutes of the June 20, 2023, and July 10, 2023, Kentucky Horse Racing Commission Meetings. Motion by Commissioner Landes. Second by Commissioner O’Connor.	Chair Rabinowitz called for a vote to approve minutes of the June 20, 2023, and July 10, 2023,

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		Executive Director, Jamie Eads, was assigned the floor and explained that behind tab number 1 were the minutes from the June 20 and July 10 meetings. KHRC staff recommended approval.	Kentucky Horse Racing Commission Meetings. Motion carried with no objections or abstentions.
Tab 2: Ratification of Executive Director's Approval of Ellis Park's Request to Amend Section R of its 2023 Application to Conduct Live Horse Racing, Simulcasting and Pari-Mutuel Wagering	8 - 10	<p>Chair Rabinowitz requested a motion from the Commission to ratify the Executive Director's Approval of Ellis Park's Request to Amend Section R of its 2023 Application to Conduct Live Horse Racing, Simulcasting and Pari-Mutuel Wagering. Motion by Commissioner Parke, second by Commissioner Berry.</p> <p>Deputy General Counsel, Travers Manley, was assigned the floor and explained that Ellis Park requested to amend Section R of its 2023 application. Churchill Downs' Executive Director of racing requested to cancel race dates of July 28 and 29 due to excessive heat in Henderson, Kentucky. The alternative date for July 28 would be July 31 and for July 29 it would be August 1st. Due to the time constraints on the requests Executive Director Jamie Eads granted conditional approval to Ellis Park to cancel racing on July 28 and 29 and reschedule for July 31 and August 1. KHRC staff recommended ratification of the Executive Director's approval.</p>	Chair Rabinowitz called for a vote to ratify the Executive Director's Approval of Ellis Park's Request to Amend Section R of its 2023 Application to Conduct Live Horse Racing, Simulcasting and Pari-Mutuel Wagering. Motion carried with no objections or abstentions.
Tab 3: Approval of Churchill Downs Racetrack, LLC's 2023	10 - 12	Chair Rabinowitz requested a motion from the Commission to approve of Churchill Downs Racetrack, LLC's 2023 September	Chair Rabinowitz called for a vote to approve Churchill

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September Race Meet KTDF Allotment Request		<p>Race Meet KTDF Allotment Request. Motion by Commissioner Shoop and second by Commissioner Parke.</p> <p>Incentives and Development Director, Drew Conners, was assigned the floor and explained that the KTDF Advisory committee considered a request from Churchill Downs regarding the KTDF purse structure for the upcoming 2023 September race meet. The race meet will consist of 14 dates, which are September 14 - October 1. Churchill Downs is proposing KTDF purses in the range of \$2.8 to \$3.8 million. To encourage participation Churchill Downs will pay out through last place on all KTDF eligible horses. The KTDF Advisory Committee along with members of the Kentucky HBPA and the KTA/KTOB recommend approval at this time along with KHRC Staff.</p>	<p>Downs Racetrack, LLC's 2023 September Race Meet KTDF Allotment Request. Motion carried with no objections or abstentions.</p>
Tab 4: Churchill Downs Racetrack, LLC's 2023 Fall Race Meet KTDF Allotment Request	12 - 13	<p>Chair Rabinowitz requested a motion from the Commission to approve Churchill Downs Racetrack, LLC's 2023 Fall Race Meet KTDF Allotment Request. Motion by Commissioner May, Second by Commissioner Howard.</p> <p>Incentives and Development Director, Drew Conners, shared that at the KTDF Advisory committee meeting Churchill Downs submitted their purse structure for their upcoming 2023 fall race meet. They will race 21 days beginning October 29 and ending Sunday November 26. Proposed purses are in the range of \$5.1 to \$5.8 million. To encourage participation Churchill Downs will pay out KTDF purses though last place to all KTDF eligible horses.</p>	<p>Chair Rabinowitz called for a vote to approve Churchill Downs Racetrack, LLC's 2023 Fall Race Meet KTDF Allotment Request. Motion carried with no objections or abstentions.</p>

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		The Kentucky HBPA and the KTA/KTOB recommend approval along with KHRC Staff.	
Tab 5: KTDF Requests Pertaining to Keeneland Association, Inc.'s 2023 Fall Race Meet	13 - 16	<p>Chair Rabinowitz requested a motion from the Commission to approve KTDF Requests Pertaining to Keeneland Association, Inc.'s 2023 Fall Race Meet. Motion by Commissioner Landes, second by Commissioner Shoop.</p> <p>Incentives and Development Director, Drew Conners, was assigned the floor and explained that at the KTDF advisory committee meeting Keeneland Association, Inc. also submitted their 2023 fall race meet proposals. The dates are October 6 through 28 consisting of 17 racing days. Keeneland is proposing KTDF purses in the range of \$4.9 to \$5.1 million. To encourage participation Keeneland will pay out KTDF purses though last place to all KTDF eligible horses. To help Keeneland fund their KTDF purses while increasing the strength of the overall Kentucky racing circuit, WKY Development, LLC doing business as Oak Grove requested to transfer \$1.5 to \$1.65 million of KTDF earnings to Keeneland at the conclusion of Keeneland's race meet. Kentucky Downs, LLC requested to transfer \$1 million to Keeneland at the conclusion of Keeneland's race meet as well. In accordance with KRS 230.400, Keeneland is requesting to use \$79,800 in KTDF to promote, enhance, improve and encourage further and continued development of the thoroughbred breeding industry.</p> <p>The Kentucky HBPA and the KTA/KTOB recommend approval along with KHRC Staff.</p>	<p>Chair Rabinowitz called for a vote to approve KTDF Requests Pertaining to Keeneland Association, Inc.'s 2023 Fall Race Meet. Motion carried with no objections or abstentions.</p>

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Tab 6: Kentucky Downs, LLC's KTDF Advertising Amendment Request	16 - 17	<p>Chair Rabinowitz requested a motion from the Commission to approve Kentucky Downs, LLC's KTDF Advertising Amendment Request. Motion by Commissioner O'Connor, second by Commissioner Berry.</p> <p>Incentives and Development Director, Drew Conners, explained that at the KTDF Advisory meeting considered a request from Kentucky Downs, LLC to amend their initial KTDF advertising allotment request to include additional funding in support of a Breeders' Cup Package in accordance with KRS 230.400. The package would include 2 on-air interviews, 2 dedicated emails, 3 social media posts and one Breeders' Cup betting challenge seat for a total cost of \$40,000. The Kentucky HBPA and the KTA/KTOB recommend approval along with KHRC Staff.</p>	<p>Chair Rabinowitz called for a vote to approve Kentucky Downs, LLC's KTDF Advertising Amendment Request. Motion carried with no objections or abstentions.</p>
Tab 7: Ratification of Executive Director Eads' Approval of Kentucky Downs, LLC's Backside Improvement Fund Request	18 - 20	<p>Chair Rabinowitz requested a motion from the Commission to ratify Executive Director Eads' approval of Kentucky Downs, LLC's Backside Improvement Fund Request. Motion by Commissioner Berry, second by Commissioner O'Connor.</p> <p>Incentives and Development Director, Drew Conners, was assigned the floor and explained that Executive Director Jamie Eads received a request for backside improvements from Kentucky Downs, LLC. The request was to asphalt the gravel road along the backstretch with a cost of \$52,275. This project meets the statutory and regulatory requirements of KRS 230.3615 and 810 KAR 7:010. The funding is available and KHRC staff will inspect the installation once the project is complete. Executive</p>	<p>Chair Rabinowitz called for a vote to ratify Executive Director Eads' approval of Kentucky Downs, LLC's Backside Improvement Fund Request. Motion carried with no objections or abstentions.</p>

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		<p>Director Jamie Eads granted conditional approval of this request because of the time constraint.</p> <p>KHRC staff recommends ratification of Executive Director Jamie Eads' approval.</p>	
<p>Tab 8: Turfway Park, LLC's Backside Improvement Fund Request</p>	<p>20 - 22</p>	<p>Chair Rabinowitz requested a motion from the Commission to approve Turfway Park, LLC's Backside Improvement Fund Request. Motion by Commissioner O'Connor, second by Commissioner Shoop.</p> <p>Incentives and Development Director, Drew Conners, was assigned the floor and explained that Executive Director, Jamie Eads, received an improvement fund request from Turfway Park for 3 muck bins totaling \$91,350.00. The KHRC confirmed that the project meets the requirements of KRS 230.3615 and 810 KAR 7:010. KHRC staff will inspect the installation once it is complete. The Kentucky HBPA and the KTA/KTOB recommend approval along with KHRC Staff.</p>	<p>Chair Rabinowitz called for a vote to approve Turfway Park, LLC's Backside Improvement Fund Request.</p> <p>Motion carried with no objections or abstentions.</p>
<p>Tab 9: Keeneland Association, Inc.'s Proposed 2023 Fall Race Meet Officials and Date Preference System</p>	<p>22 - 23</p>	<p>Chair Rabinowitz requested a motion from the Commission to approve Keeneland Association, Inc.'s proposed 2023 Fall Race Meet Officials and Date Preference System. Motion by Commissioner O'Connor, second by Commissioner Shoop.</p> <p>Chief State Steward, Barb Borden, was assigned the floor and explained that the director of racing administration at Keeneland submitted their list of racing officials for the</p>	<p>Chair Rabinowitz called for a vote to approve Keeneland Association, Inc.'s Proposed 2023 Fall Race Meet Officials</p>

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		<p>upcoming meet. Everyone on the list has previously held the position that they are going to occupy, everyone is currently licensed, and the stewards are ROAP accredited. The staff recommended approval.</p> <p>The date preference system is the same one that has been in use at Keeneland for many years and there are no changes to that. Staff also recommended approval.</p>	<p>and Date Preference System. Motion carried with no objections or abstentions.</p>
<p>Tab 10: Churchill Downs Racetrack, LLC's Proposed 2023 September Race Meet Officials and Date Preference System</p>	<p>23 - 25</p>	<p>Chair Rabinowitz requested a motion from the Commission to approve Churchill Downs Racetrack, LLC's Proposed 2023 September Race Meet Officials and Date Preference System. Motion by Commissioner O'Connor, second by Commissioner Dr. Daniels.</p> <p>Chief State Steward, Barb Borden, was assigned the floor and explained that the racing secretary for Churchill Downs submitted a list of racing officials for the upcoming September meet. All racing officials have performed these duties in the past. Everyone is currently licensed, and the Stewards are ROAP accredited.</p> <p>The date preference system was also submitted and is the same that has been used in the past years, no changes. Staff recommended approval.</p>	<p>Chair Rabinowitz called for a vote to approve Churchill Downs Racetrack, LLC's Proposed 2023 September Race Meet Officials and Date Preference System.</p> <p>Motion carried with no objections or abstentions.</p>
<p>Tab 11: ECL Corbin, LLC's Proposed 2023 Cumberland Run Race Meet Officials</p>	<p>25 - 26</p>	<p>Chair Rabinowitz requested a motion from the Commission to approve ECL Corbin, LLC's Proposed 2023 Cumberland Run Race</p>	<p>Chair Rabinowitz called for a vote to approve</p>

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		<p>Meet Officials. Motion by Commissioner Worley, second by Commissioner O'Connor.</p> <p>Chief State Steward, Barb Borden, was assigned the floor and explained that the vice president at Cumberland Run provided a roster of racing officials that will work the meet. All racing officials are ROAP accredited and will be licensed by the beginning of the meet. KHRC Staff recommended approval.</p>	<p>ECL Corbin, LLC's Proposed 2023 Cumberland Run Race Meet Officials.</p> <p>Motion carried with no objections or abstentions.</p>
<p>Tab 12: Temporary Licenses for Sports Wagering Operators for 2023</p>	<p>26 - 35</p>	<p>Chair Rabinowitz requested a motion from the Commission to approve temporary Licenses for Sports Wagering Operators for 2023. Motion by Commissioner Shoop, second by Commissioner Worley.</p> <p>Deputy Executive Director, Waqas Ahmed, was assigned the floor and explained that as stipulated by KRS 230.811, any individual or entity seeking to obtain an operator license for sports wagering must first acquire a track license from the KHRC. This track license serves as a pre-requisite providing the foundation for further licensure within the sports wagering realm. There are 7 tracks that have filed an application. The KHRC recommended granting temporary operator licenses to those applicants.</p> <p>To ensure the integrity of the process, the KHRC has identified conditions that each operator must adhere to, which are: to be in compliance with the KHRC suitability requirements within the statutes and regulations; to timely and thoroughly respond to any request by the KHRC; and lastly, for Lexington Trots Breeders</p>	<p>Chair Rabinowitz called for a vote to approve temporary Licenses for Sports Wagering Operators for 2023. Motion carried with no objections or abstentions.</p>

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		<p>Association, LLC to finalize the agreement with a service provider.</p> <p>Chair Rabinowitz inquired if the temporary licenses are approved if betting can start September 7th and if they can convert to an annual license, which are both correct.</p> <p>Discussion regarding a catalog for sports betting ensued and can be found in the transcript for this meeting.</p>	
<p>Tab 13: Temporary Licenses for Sports Wagering Service Providers for 2023</p>	<p>35 - 46</p>	<p>Chair Rabinowitz requested a motion from the Commission to approve temporary Licenses for Sports Wagering Service Providers for 2023. Motion by Commissioner May, second by Commissioner Shoop.</p> <p>Sports Wagering Director, Hans Stokke, was assigned the floor and explained that pursuant to KRS 230.814, a person seeking a sports wagering service provider license must submit a complete application with the required documentation. The set guidelines are under 809 KAR 1:002E for the application process and associated forms.</p> <p>The KHRC has reviewed applications (the discussed list can be found in the meeting materials) and required documents and partnership agreements with tracks.</p> <p>KHRC staff recommended approval of the temporary licenses under the stipulation that each applicant adheres to the licensure requirements through the licensure’s duration.</p>	<p>Chair Rabinowitz called for a vote to approve temporary Licenses for Sports Wagering Service Providers for 2023. Motion carried with no objections or abstentions.</p>

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		included in the report. The year-end wagers show a significant increase of 22% to \$116 million from last year's fiscal year end.	
III. Executive Session During the meeting on June 20, 2023, Commissioners convened under closed session pursuant to KRS 61.810(1)(c) to discuss pending litigation (CONFIDENTIAL)	50 - 51	<p>Chair Rabinowitz requested a motion from the Commission to convene in closed session to discuss proposed or pending litigation against or on behalf of the agency, as permitted by KRS Chapter 61.810(1)(c). Motion by Commissioner Shoop, second by Commissioner Landes.</p> <p style="text-align: center;">EXECUTIVE SESSION</p> <p>Chair Rabinowitz requested a motion from the Commission to reconvene in open session. Motion by Commissioner Berry, second by Commissioner Worley.</p> <p style="text-align: center;">RECONVENED TO OPEN SESSION</p>	<p>Chair Rabinowitz called for a vote for the Commission to convene in closed session. Motion carried with no objections or abstentions.</p> <p>Chair Rabinowitz called for a vote for the Commission to reconvene in open session. Motion carried with no objections or abstentions.</p>
IV. Other Business Kentucky Horse Racing Commission's Final Order in Robert A. Baffert et al. v. KHRC, Administrative Action	51 - 53	Chair Rabinowitz requested a motion from the Commission to approve the final order in the matter of Robert A. Baffert et al. v. KHRC, Administrative Action Nos. KHRC-22-TB-003 and KHRC-22-TB-004. Motion by Commissioner Shoop, second by Commissioner Worley.	Chair Rabinowitz called for a vote to approve the final order in the matter of Robert A. Baffert et al. v. KHRC,

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Nos. KHRC-22-TB-003 and KHRC-22-TB-004		Commissioners O'Connor, Howard, Parke and Dudgeon abstained due to an actual or perceived conflict of interest.	Administrative Action Nos. KHRC-22-TB-003 and KHRC-22-TB-004. Motion carried with no objections or abstentions.
V. Adjournment	53	With no other business, Chairman Rabinowitz requested a motion to adjourn the August 22, 2023 meeting. Motion by Commissioner Worley, second by Commissioner May. Meeting adjourned.	Chairman Rabinowitz called for a vote to adjourn. Motion carried with no objections or abstentions.

NOTE: The meeting materials and any amendments and/or supplements thereto, subject to any applicable exemptions, and the official Transcript are incorporated by reference as if set forth fully herein.