

KENTUCKY HORSE RACING COMMISSION
MINUTES OF THE MEETING

Date: April 16, 2012

Place: U.S. Dressage Federation Building, Kentucky Horse Park, Lexington, KY

Members Present: Chairman Robert M. Beck, Jr.; Vice-Chairman Tracy Farmer; Commissioner Edward S. "Ned" Bonnie; Commissioner Allan Wade Houston, Sr.; Commissioner Frank Jones, Jr.; Commissioner Franklin S. Kling, Jr.; Commissioner Elizabeth S. Lavin; Commissioner Alan J. Leavitt; Commissioner Burr Travis, Jr.; Commissioner Jerry Yon, M.D.; and Commissioner Thomas Conway; Commissioner Foster Northrop, D.V.M.; Commissioner Tom Ludt; and Commissioner Michael Pitino

Ex-officio Members Present: Secretary Robert D. Vance representing the Public Protection Cabinet; Mr. William Dexter, representing the Tourism, Arts and Heritage Cabinet; and Mr. George Burgess, representing the Cabinet of Economic Development

KHRC Staff Present: John T. Ward, Jr., Executive Director; Marc A. Guilfoil, Deputy Executive Director; Susan B. Speckert, General Counsel; Mary Scollay, DVM, Equine Medical Director; Jamie Eads, Director of Breeders Incentives and Development; and Greg Lamb, Supervisor of Pari-Mutuel Wagering

Others Participating: Vince Gabbert, Keeneland Association; Bob Elliston, Turfway Park; Steve Rosenthal, Rock Ohio Ventures, LLC; Rick Hiles, Kentucky HBPA; David Switzer, Kentucky Thoroughbred Association/Kentucky Thoroughbred Owners and Breeders; Matt Iuliano, The Jockey Club; Craig Fravel, Breeders' Cup; Dan Metzger, Thoroughbred Owners and Breeders Association; Dale Romans, owner and trainer; Bill Casner, owner and trainer

Meeting called to order and roll call performed by Chairman Beck. A quorum was recognized.

<i>AGENDA ITEM</i>	<i>TRANSCRIPT PAGE NUMBER(S)</i>	<i>DISCUSSION / CONCLUSIONS / RECOMMENDATIONS</i>	<i>ACTION TAKEN</i>
Not applicable	4	Chairman Beck introduced the KHRC's new Executive Director, John T. Ward, Jr.	No action taken. Informational item only.
Tab 1 Approve Keeneland Association's amendments to legal description provided in 2012 licensing application	4 – 11	Ms. Speckert stated that by letters dated March 26 and April 3, 2012, Keeneland requested approval to amend its legal site description as provided in its 2012 licensing application to include The Thoroughbred Training Center (TTC), 3380 Paris Pike,	Motion to approve recommendation by Commissioner Houston. Second by

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		<p>Lexington, KY and a portion of the Kentucky Horse Park (KHP). Keeneland owns the TTC property and the KHP property will be leased. KRS 230.300(4) permits an association to amend its application.</p> <p>Approval is sought in order for Keeneland to offer drive-thru wagering on Kentucky Oaks and Kentucky Derby day. KRS 230.361(1) requires pari-mutuel wagering to be offered only on the "licensed premises" of a licensed association. Keeneland is a "licensed premises" as defined in KRS 230.210(21).</p> <p>Staff has confirmed Keeneland's request meets the requirements of the statutes, but some required documentation is still to be provided.</p> <p>Chairman Beck confirmed that wagers placed at the drive-thru facilities would be considered on-track handle.</p> <p>Staff recommended approval of the request contingent upon KHRC's receipt of: 1) a copy of the lease agreement between Keeneland and KHP; 2) an amended site description including the leased portion of KHP; and 3) a copy of the written agreement required from The Red Mile.</p> <p>In response to an inquiry from Commissioner Bonnie, Mr. Gabbert confirmed that Keeneland would incur all the costs of the drive-thru facility at the KHP and there would be no cost to the KHP. After payment of overhead costs, the KHP and Keeneland would split the net profits.</p>	<p>Commissioner Ludt. Motion carried with no objections or abstentions.</p>

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At this time, Chairman Beck noted the arrival of Commissioner Jerry Yon, M.D.			
Tab 2 Ratify change in Keeneland Association's roster of racing officials for Spring 2012 meet	11 – 12	<p>Mr. Guilfoil stated that by letter dated April 6, 2012, Keeneland notified the KHRC that Tyler Pickelsimer would replace Rick Leigh as one of its association stewards beginning April 11, 2012. Mr. Pickelsimer is ROAP accredited and has served in this capacity.</p> <p>Pursuant to KRS 230.230, the Acting Executive Director approved this change in personnel and the staff recommended the action be ratified.</p>	<p>Motion to approve recommendation by Commissioner Lavin. Second by Commissioner Travis. Motion carried with no objections or abstentions.</p>
Tab 3 Approve Churchill Downs' 2012 roster of racing officials and date preference rules	12 – 13	<p>Mr. Guilfoil stated that by letter dated March 6, 2012, Churchill Downs requested approval of its roster of racing officials and date preference system for its Spring 2012 meet.</p> <p>All stewards are ROAP accredited and all officials will be licensed by the meet opening.</p> <p>Mr. Guilfoil stated that Ronnie Herbstreit is currently covering for Rick Leigh as one of the association stewards, and noted the possibility of a change in the roster if Mr. Leigh becomes able to return in that capacity.</p> <p>Staff recommended approval of the request.</p>	<p>Motion to approve recommendation by Commissioner Lavin. Second by Commissioner Kling. Motion carried with no objections or abstentions.</p>
Tab 4 Informational item – Additional wagers offered by Keeneland	13	<p>Mr. Lamb stated that by letter dated March 28, 2012, Keeneland notified the KHRC of its intent to offer fractional wagering.</p> <p>Such wagering would allow wagers to be placed in \$0.10 increments above the minimum wager established by KRS 230.3615(3).</p>	<p>No action taken. Informational item only.</p>

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<p>Tab 5 Turfway Park – Partial change in ownership</p>	<p>14 – 38</p>	<p>Ms. Speckert stated that by letter dated December 19, 2011, Rock Ohio Ventures, LLC (ROV) informed the KHRC that it had entered into an agreement to buy out 80% of Keeneland’s 50% interest in Turfway Park.</p> <p>ROV has submitted a Change of Control Application. KHRC staff and Commissioner Kling have reviewed the application and met with ROV representatives on numerous occasions during the application process. There were no issues found with the background checks performed on ROV principals.</p> <p>Staff recommended approval of the request.</p> <p>Because much of the information provided is considered confidential, only a redacted copy of the application without attachments was provided in the Agenda Book. A complete copy is available to Commissioners at the KHRC office.</p> <p>Mr. Rosenthal addressed the Commissioners and answered questions. During a lengthy discussion, Commissioners Jones, Bonnie and Travis expressed concerns as to how this acquisition might impact the level of racing in Kentucky.</p> <p>After the motion to approve the recommendation was passed, Chairman Beck recommended the representatives of ROV make themselves available to Commissioners to address the concerns expressed. Mr. Elliston stated that he would schedule a meeting with the Commissioner Bonnie and ROV principals at Commissioner Bonnie’s convenience.</p>	<p>The following motions were offered:</p> <p>1) Motion to approve recommendation by Commissioner Ludt. Second by Commissioner Travis.</p> <p>2) Motion to table the item for 30 days and establish a committee to review the details by Commissioner Bonnie. Second by Commissioner Jones.</p> <p>The motion to table was called first and failed to pass.</p> <p>The motion to approve the recommendation was then called. Motion carried with Commissioner Bonnie opposed.</p>

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<p>Tab 6 Approve Kentucky Downs' request to add additional terminals and wagers</p>	<p>38 – 41</p>	<p>Ms. Speckert stated that by letter dated April 2, 2012, Kentucky Downs requested approval of the addition of seventy-five (75) new terminals to an expanded area and four (4) new wagers.</p> <p>KHRC staff conducted an on-site review of the expansion plan, including plans for surveillance and security. John Walzak conducted review of wagers and opined they were 1) pari-mutuel and 2) on horse racing. Based on Mr. Walzak's expert opinion and KHRC staff review, the wagers comply with KRS Chapter 230 and 810 KAR Chapter 1.</p> <p>Prior to wagers being offered to the public KHRC staff will 1) oversee downloading of wagers; 2) examine the floor plan expansion and surveillance; and 3) be in receipt of a satisfactory functionality report from Gaming Laboratories, Inc. (GLI).</p> <p>KHRC staff recommended approval of the seventy-five (75) additional terminals contingent upon the staff's 1) review and approval of the floor layout; 2) review and approval of surveillance as it pertains to the new terminals; and 3) receipt of a satisfactory functionality report from GLI.</p> <p>KHRC staff recommended approval of the addition of the four (4) new wagers contingent on the receipt of a satisfactory functionality report from GLI.</p>	<p>Motion to approve recommendations by Commissioner Travis. Second by Commissioner Lavin. Motion carried with no objections or abstentions.</p>

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<p>Tab 7 New 810 KAR 1:040, 811 KAR 1:093 and 811 KAR 2:093. Drug, Medication and Substance Classification Schedule and Withdrawal Guidelines</p>	<p>41 – 48</p>	<p>Ms. Speckert stated the KHRC Uniform Drug, Medication, and Substance Classification Schedule (Schedule) and Withdrawal Guidelines (Guidelines) were currently incorporated by reference into the medication and penalty regulations.</p> <p>The purpose of the proposed new regulations would be to relocate the Schedule and Guidelines into new, separate regulations in order to facilitate updating of the documents as threshold and withdrawal guideline recommendations become available.</p> <p>The EDRC considered the proposed amendments to the Schedule and Guidelines at three (3) public meetings held on August 2, September 7, and October 10, 2011. The proposed amendments were approved by the EDRC on October 10, 2011 for recommendation to the Commission. Dr. Scollay explained the proposed amendments approved by the EDRC as outlined in the cover memorandum provided in the Agenda Book.</p>	<p>Approval of the EDRC's recommendations carried with no objections or abstentions.</p>
<p>Tab 8 Prohibition of Furosemide on Race Day</p>	<p>48 – 106</p>	<p>Chairman Beck stated that the proposed draft of these new regulations provided in the Agenda Book had been amended at the meeting of the Race Day Medication Committee held earlier in the day. A copy of the amended proposed draft approved by the Committee for recommendation to the Commission was being distributed. The amended language is contained in Section 4.</p> <p>The language was amended to address the concerns expressed at the Committee meeting about the impact on racing in Kentucky if the other racing jurisdictions failed to enact rules to prohibit the use of furosemide on race day.</p>	<p>Motion by Commissioner Ludt to amend the proposed regulation failed to pass by a vote of 11-3.</p> <p>Motion by Commissioner Lavin to accept and adopt the proposed new regulations failed to pass by a tie vote of 7 to 7. Chairman Beck,</p>

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	<p>52 – 56</p> <p>56 – 57</p> <p>57 – 59</p> <p>59 – 60</p> <p>60 – 62</p> <p>62 – 67</p> <p>68 – 71</p> <p>71 – 72</p>	<p>Due to time constraints, Chairman Beck noted that it would not be possible during this meeting to take comments from everyone present. He assured everyone that they that would be afforded the opportunity to make their comments at the public hearing that would be held as a part of the legislative process.</p> <p>A representative of each industry group present was allotted 5 minutes to present their organization’s position on the issue and each Commissioner was allotted 4 minutes to present their position.</p> <p>The following industry representatives addressed the Commission:</p> <ol style="list-style-type: none"> 1) Mr. Hiles (President, KyHBPA); 2) Mr. Switzer (Executive Director, KTA); 3) Mr. Iuliano (The Jockey Club); 4) Mr. Fravel (President and CEO, Breeders’ Cup); 5) Mr. Metzger (President, TOBA); 6) Mr. Romans (trainer and owner); and 7) Mr. Casner (trainer and owner). <p>Commissioner Lavin offered the following motion: <i>“I move to accept and adopt the proposed new regulation entitled Prohibition of Furosemide on Race Day as presented today for all horses, all races in Kentucky, including thoroughbred, standardbred, quarter horse, appaloosa and arabian horse races. I further move that the new regulation be filed as an ordinary regulation with the Legislative Research Commission as soon as practical.”</i></p> <p>Second by Commissioner Houston.</p>	<p>Vice-Chairman Farmer, Commissioners Bonnie, Houston, Lavin, Leavitt and Yon in favor; and Commissioners Conway, Jones, Kling, Northrop, Pitino, Travis and Ludt opposed.</p> <p>Motion by Commissioner Jones to table Commissioner Ludt’s reoffering of his previous motion for thirty (30) days passed by a vote of 8-6.</p>

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	<p>72 – 74 74 – 76 77 – 79 79 – 80 80 80 – 81 81 81 – 85 85 – 89 89 – 91 91 – 92 93 93 – 94 94 – 98</p> <p>108 – 114</p>	<p>The following Commissioners made remarks:</p> <ol style="list-style-type: none"> 1) Commissioner Lavin; 2) Commissioner Travis; 3) Commissioner Ludt; 4) Commissioner Kling; 5) Commissioner Bonnie (passed); 6) Commissioner Yon; 7) Commissioner Pitino (passed); 8) Commissioner Conway; 9) Commissioner Jones; 10) Commissioner Northrop; 11) Commissioner Leavitt; 12) Commissioner Houston; 13) Vice-Chairman Farmer; and 14) Chairman Beck. <p>Commissioner Ludt offered a motion to amend the proposed regulation to prohibit the administration of furosemide less than 24 hours prior to post time for the race in which the horse is entered to: 1) two-year old graded stakes for 2013; 2) two-year and three-year old graded stakes for 2014; and 3) all horses for 2015 for graded stakes races. Second by Commissioner Pitino.</p> <p>Following the passing vote on the medication regulations, Chairman Beck asked Commissioner Ludt if he would like to reintroduce his previous motion to see if there was support for it at this point. Commissioner Ludt reoffered his previous motion. Second by Commissioner Pitino. Following a discussion, Commissioner Jones offered a motion to table Commissioner</p>	

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		<p>Ludt's motion for thirty (30) days. Second by Commissioner Travis.</p> <p>Chairman Beck requested that a proposed draft of the amended language contained in Commissioner Ludt's motion be distributed to the Commissioners.</p>	
<p>Tab 9 Amendments to 810 KAR 1:018, 811 KAR 1:090 and 811 KAR 2:096. Medication; testing procedures; prohibited practices</p>	<p>106 – 108</p>	<p>Ms. Speckert presented the proposed amendments to the medication regulations. Redlined copies of the amended regulations and a summary cover memorandum were provided in the Agenda Book.</p> <p>The EDRC conducted five (5) public meetings on August 2, August 19, September 7, October 10, and December 14, 2011 to consider the proposed amendments. KHRC staff conducted three (3) public "town hall" meetings with affected parties at Keeneland on October 10; Churchill Downs on October 11; and Turfway Park on October 17, 2011. Meetings were attended by veterinarians, horseman and the KyHBPA.</p> <p>The proposed amendments were considered and approved by the Rules Committee and by the EDRC at their respective meetings on December 14, 2011 for recommendation to the Commission.</p> <p>The primary and significant changes in the regulations, including the differences between the thoroughbred and standardbred, are outlined in the cover summary memorandum provided in the Agenda Book. Because quarter horse, appaloosa and arabian racing follow the identical rules as thoroughbred racing, the staff recommended the quarter horse, appaloosa and arabian racing regulation (811 KAR 2:096), be deleted in its</p>	<p>Motion to approve the amended regulations as presented, with the language relating to the prohibition of furosemide on race day stricken, by Commissioner Yon. Second by Commissioner Bonnie. Motion carried with no objections or abstentions.</p>

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		<p>entirety and replaced with language identical to the thoroughbred regulation (810 KAR 1:018).</p> <p>Since the proposed new regulations for the prohibition of furosemide on race day were not passed by the Commission, the new language added to the medication regulations relating to the prohibition of furosemide on race day will be stricken.</p>	
<p>Tab 10 Amendments to 810 KAR 1:028, 811 KAR 1:095 and 811 KAR 2:100. Disciplinary measures and penalties</p>	<p>114 – 116</p>	<p>Ms. Speckert presented the proposed amendments to the penalty regulations. Redlined copies of the amended regulations and a summary cover memorandum were provided in the Agenda Book.</p> <p>The Rules Committee conducted five (5) public meetings on August 2, August 19, September 7, October 10, and December 14, 2011 to consider the proposed amendments. The EDRC conducted two (2) public meetings on December 14, 2011 and January 18, 2012 to consider the proposed amendments. KHRC staff conducted three (3) public “town hall” meetings with affected parties at Keeneland on October 10; Churchill Downs on October 11; and Turfway Park on October 17, 2011. Meetings were attended by veterinarians, horseman and the KyHBPA.</p> <p>The proposed amendments were approved at a joint meeting on January 18, 2012 by the EDRC and by the Rules Committee for recommendation to the Commission.</p>	<p>Motion offered by Commissioner Yon. Second by Commissioner Travis. Motion carried with no objections or abstentions.</p>
<p>N/A</p>	<p>116</p>	<p>Chairman Beck thanked Deputy Executive Director, Marc Guilfoil, for serving as Acting Executive Director and welcomed Barbara Borden as a new Steward.</p>	<p>No action taken. Informational item only.</p>

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Tab 11 Thoroughbred Rulings Tab 12 Reports from Veterinary Division Tab 13 Report from the Supervisor of Pari-Mutuel Wagering Tab 14 Regulation and litigation status report	116	Due to time constraints, Chairman Beck requested a motion to defer the remaining items on the agenda that had not been discussed to the next monthly meeting.	Motion offered by Commissioner Lavin. Second by Commissioner Yon. Motion carried with no objections or abstentions.
Adjournment	116		Meeting was adjourned.

NOTE: A copy of all materials provided in the Agenda Book are attached hereto and incorporated herein.