

KENTUCKY HORSE RACING COMMISSION

August 17, 2011

1:30 PM

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

MINUTES OF MEETING

The meeting was called to order by Chairman Robert Beck. Chairman Beck then took the roll. Present were Mr. Burr Travis, Jr., Mr. Alan Leavitt, Ms. Elizabeth Lavin, Mr. Frank L. Jones, Jr., Mr. Franklin S. Kling, Jr., Dr. Foster Northrop and Dr. Jerry Yon, and Secretary Robert 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. The presence of a quorum was recognized.

The first item on the agenda was the approval of the minutes of the July 14, 2011 Kentucky Horse Racing Commission ("KRHC" or "Commission") meeting. Chairman Beck requested the correction of a typographical error. Mr. Travis made a motion to approve the minutes, as amended, and was seconded by Ms. Lavin. All present voted aye and the motion was carried.

Next, Mr. Marc Guilfoil, KHRC Deputy Executive Director, reported that by letter dated July 21, 2011, Kentucky Downs requested approval for its roster of race officials for its 2011 meet. Mr. Guilfoil advised that all the racing officials have been accredited and have previously performed the duties for which they were listed, and the staff recommended approval. Mr. Jones moved to approve the recommendation and was seconded by Ms. Lavin. All present voted aye and the motion was carried. A copy of the request was ordered to be attached to the minutes.

Next, Mr. Guilfoil reported that by letter dated August 4, 2011, The Red Mile requested permission to make a change in its previously approved roster of racing officials for 2011. The letter requested that April Neafus be replaced by Vita Yakin as the Charter/Program Coordinator/Clerk of Course. Mr. Guilfoil reported that Ms. Yakin was licensed and had previously worked for Rockingham Park and other tracks in the Northeast. Mr. Guilfoil also noted that Ms. Yakin was already working at The Red Mile and the Commission was being asked to ratify the personnel change. Dr. Yon offered a motion to ratify the personnel change and Mr. Travis seconded. All present voted aye and the motion was carried. A copy of the request was ordered to be attached to the minutes.

Next, Mr. Guilfoil reported that by letter dated August 1, 2011, The Red Mile requested approval to move the KY Fair Finals from Saturday, August 6, 2011, to Sunday, August 7, 2011. He stated that the KY Harness Horsemen's Association and the KY Colt Racing Association were in agreement with the change. Ms. Susan Speckert, KHRC General Counsel, explained that pursuant to KRS 230.230, the Executive Director had previously approved this request and the Commission was now being asked to ratify her action. Ms. Lavin offered a motion to ratify the action of the Executive Director and Mr. Travis seconded. All present voted aye and the motion was carried. A copy of the request was ordered to be attached to the minutes.

Next, Mr. Guilfoil reported that by letter dated July 21, 2011, Turfway Park requested approval of the following in connection with its 2011 Fall and Holiday meets: 1) to change post times on Saturday from 1:10 PM to 5:30 PM, with the exception of September 24, 2011; 2) to offer a "Pick 5" wager to replace their current "Pick 6" wager; and 3) its roster of racing officials for the 2011 Fall meet. In connection with the request, Mr. Guilfoil stated that: 1) the Commission stewards, veterinary staff and licensing staff were in agreement with the requested change to the post time; 2) Mr. Greg Lamb, KHRC Supervisor of Pari-Mutuel Wagering, had reviewed the Pick 5 wager and verified that it is the same Pick 5 wager approved for and used by Keeneland and Churchill Downs; and 3) two racing officials, Chuck Hurst and Aaron Spurlock, were added to the list, as they were inadvertently omitted, and advised that all the racing officials have been accredited and have previously performed the duties for which they were listed. Mr. Guilfoil further stated that the staff recommended approval of all three requests. Mr. Kling offered a motion to approve the recommendation on all three requests and Dr. Yon seconded. All present voted aye and the motion was carried. A copy of the request was ordered to be attached to the minutes.

Next, Jamie Eads, KHRC Director of Breeders' Incentives and Development, reported that by letter dated June 28, 2011, Turfway Park requested approval of its 2011 Fall meet Kentucky Thoroughbred Development Fund ("KTDF") purse structure. Ms. Eads confirmed that Turfway Park had a surplus of \$350,510. Ms. Eads also reported that Turfway Park requested permission to payout from first to last place and to apply KTDF funds to the Kentucky Cup series. Ms. Eads stated that the KTDF Advisory Committee recommended approval of Turfway Park's request. Mr. Jones offered a motion to approve the recommendation and was seconded by Mr. Travis. All present voted aye and the motion was carried. A copy of the request was ordered to be attached to the minutes.

Next, Ms. Eads reported that by letter dated July 15, 2011, Keeneland requested approval of its 2011 Fall meet KTDF purse structure. Ms. Eads stated that Keeneland requested to card KTDF purses in the amount of \$537,762. Ms. Eads confirmed that Keeneland had a surplus of \$63,668.93 going into the 2011 Fall meet. Ms. Eads also stated that Keeneland projected daily earnings to be down 5% from last year's Fall meet and anticipated an approximately 75% payout of the amount carded. Ms. Eads also reported that Keeneland requested permission to payout from first to last place. Ms. Eads noted that Keeneland had included in its request a table containing payout

percentages by field size through last place. Ms. Eads stated that the KTDF Advisory Committee recommended approval of Keeneland's request. Ms. Lavin moved to approve the recommendation and was seconded by Mr. Jones. All present voted aye and the motion was carried. A copy of the request was ordered to be attached to the minutes.

Next, Ms. Eads reported that by letter dated August 1, 2011, Churchill Downs requested permission to approve electrical work in connection with the reconstruction of Barn 23 that was destroyed by the recent tornado. Ms. Eads confirmed that Churchill had a balance of \$11,260.09 in the Backside Improvement Fund from fiscal year 2009. Ms. Eads stated that the total cost of the project exceeded Churchill's available balance; therefore, Churchill would only be reimbursed an amount equal to the amount available. She also stated that all reimbursement requests would be reviewed and submitted to the Commission for approval prior to releasing any funds and that all invoices and photographs would be kept on file at the Commission office. Ms. Eads further stated that the staff recommended approval of the request. Mr. Jones moved to approve the recommendation and was seconded by Mr. Leavitt. All present voted aye and the motion was carried. A copy of the request was ordered to be attached to the minutes.

Next, Mr. Tim West, KHRC Assistant General Counsel, presented a draft of the proposed amendments to 810 KAR 1:090 (Kentucky Thoroughbred Development Fund) ("KTDF Regulation"). Mr. West explained that the KTDF Advisory Committee reviewed the KTDF Regulation over a number of meetings and recommended the following amendments: 1) to specifically state that registration to the KTDF acts as consent to investigate and verify information submitted in support of the application; 2) to make it a violation to provide incorrect, false or misleading information to the official registrar of the KTDF, the KTDF Advisory Committee or the KHRC concerning the registration of a foal or horse; 3) to punish first-time violations of the regulation by allowing the KTDF Advisory Committee to recommend the denial or revocation of the registration of the foal or horse in question and/or that the applicant be barred from registering foals or horses with the KTDF for a period of one to five years; and 4) to punish second-time violations by allowing the KTDF Advisory Committee to recommend a lifetime bar of the applicant from receiving KTDF awards. Mr. West stated that the proposed amendments had been approved by the KTDF Advisory Committee and the Rules Committee and the staff recommended approval. Following a discussion, Mr. Kling offered a motion to approve the amendments as drafted and Ms. Lavin seconded. All present voted aye and the motion was carried. A copy of the draft of the proposed amended regulation and accompanying memorandum were ordered to be attached to the minutes.

Next, Mr. West presented a proposal to approve Amtote International ("Amtote") to provide totalizator services in Kentucky. Mr. West explained that in order for Kentucky Downs to offer wagering on historical horse races, as previously approved by the Commission, they must engage a totalizator company that can support such wagering. Mr. West noted the regulations for licensing of totalizator companies in Kentucky were currently in the legislative process, but were not yet effective. Mr. West stated that until the regulations became effective, the KHRC could not issue, and

Amtote was not required to apply for, such a license. However, Mr. West further explained that Amtote had agreed to complete the license application and provide the documentation required in the application. Mr. West stated that Amtote's application and accompanying documentation had been reviewed by KHRC staff and Mr. Kling, and that the staff recommended its approval. Mr. West noted that due to size of the application, it was not included in the agenda books, but was available for review at the KHRC offices. Following a discussion, Dr. Yon offered a motion to approve the recommendation and Mr. Leavitt seconded. All present voted aye and the motion was carried. A copy of Mr. West's August 8, 2011 memorandum was ordered to be attached to the minutes.

Next, Mr. West presented the contract with Gaming Laboratories International ("GLI") for ratification by the Commission. Mr. West explained that 810 KAR 1:120, 811 KAR 1:250 and 811 KAR 2:160 (Exotic Wagering) required that the terminals and tote system that support exotic wagering on historical horse races be tested by an independent testing laboratory selected by the Commission. Mr. West noted that the KHRC staff solicited proposals from the three independent testing laboratories recognized as the industry leaders. KHRC staff and Mr. Kling reviewed each proposal and performed the appropriate due diligence. Mr. West stated that GLI was unanimously selected based on the work to be performed and the price to be charged for those services. Mr. West noted that in order to begin testing as soon as possible, the Commission granted the Executive Director the authority execute the contract, and the Commission was now being asked to ratify her action. The cost of the services to be provided by GLI will be borne by the track offering historical horse racing. He stated that the KHRC staff recommended approval.

Mr. Corey Johnsen, President of Kentucky Downs, presented an update on Kentucky Downs' progress on offering wagering on historical horse races and answered questions.

Ms. Lavin offered a motion to approve the recommendation to ratify the action of the Executive Director and Mr. Leavitt seconded. All present voted aye and the motion was carried. A copy of the contract and Mr. West's August 9, 2011 memorandum were ordered to be attached to the minutes.

Next, Mr. West reported that by letter dated August 5, 2011, Kentucky Downs requested approval to supplement its historical horse racing application to include: 1) a request for an additional wager; 2) an updated breakdown regarding the denominations and types of wagers to be offered; and 3) updated information regarding the surveillance equipment to be used in the designated area. Mr. West noted that the updated breakdown of the types of denominations of wagers was contingent upon the Commission's approval of the additional wager requested. He stated that Mr. Lamb had reviewed the new wager and the staff recommended approval. Mr. West also stated that the KHRC staff had reviewed the updated information regarding the surveillance equipment and the staff recommended approval. Mr. Travis offered a motion to approve the recommendations and Ms. Lavin seconded. All present voted aye and the

motion was carried. A copy of Kentucky Downs' request and application supplement were ordered to be attached to the minutes.

Next, Ms. Eads reported that by letter dated August 2, 2011, Turfway Park requested permission from the Commission to approve pavement repair work throughout the barn area. Ms. Eads stated that Turfway Park received three bids and accepted the bid from Len Riegler Blacktop at a total cost of \$8,000. Ms. Eads confirmed that Turfway Park had a surplus balance of \$68,226.80 in its Backside Improvement Fund and had submitted \$46,303 for fiscal year 2011. Ms. Eads stated that all invoices and photographs would be kept on file at the Commission and that the staff recommended approval of the request. Mr. Kling moved to approve the recommendation and was seconded by Mr. Leavitt. All present voted aye, and the motion was carried. A copy of the request and bids were ordered to be attached to the minutes.

Next, Mr. West presented two contracts for research projects recommended for approval by the Equine Drug Research Council ("EDRC"). The first contract was for Dr. Thomas Tobin. Dr. Tobin's project titled, *Deuterated Internal Standards for Equine Therapeutic Medication Regulation*, a one-year project with \$49,422 in funding requested. Mr. West noted that Dr. Tobin's contract had been reviewed and approved by the KHRC staff and the University of Kentucky Research Foundation, and the staff recommended approval. The second contract was for Dr. John Timoney. Dr. Timoney's project titled, *Evaluation of novel immunoreactive proteins of Streptococcus zooepidemicus for potential vaccine components*, a one-year project with \$48,171 in funding requested. Mr. West noted that Dr. Timoney's contract had been reviewed by the KHRC staff and the staff recommended approval. Dr. Yon noted that the EDRC had voted unanimously in favor of both contracts. Following a discussion, Dr. Yon offered a motion to approve both contracts and Mr. Leavitt seconded. All present voted aye and the motion was carried. A copy of the contracts and Mr. West's August 8, 2011 memorandum were ordered to be attached to the minutes.

Next, Ms. Lisa Underwood, KHRC Executive Director, presented for informational purposes a draft summary of the KHRC staff's highlights for July, 2011. Ms. Underwood noted that the highlights did not include day-to-day activities. Among the highlights were: 1) a meeting was conducted with Ms. Underwood; Mr. Guilfoil; Dr. Mary Scollay, KHRC Equine Medical Director; Mr. Chris Clark, KHRC Director of Enforcement; and Breeders' Cup personnel, and a security firm was hired to assist with Breeders' Cup security; 2) several members of the Commission, Ms. Underwood and Dr. Scollay attended the Jockey Club Roundtable; 3) worked on historical horse racing for Kentucky Downs; 4) Dr. Scollay prepared a drug testing cost comparison analysis; 5) racetracks will now be providing information for training injuries; 6) first-ever compliance audits of OTBs were conducted; 7) EDRC approved an RFP for Betamethosone research; and 8) the August 1 deadline for making nominations to the Kentucky Breeders' Incentive Fund has passed. A copy of the draft July 2011 Highlights was ordered to be attached to the minutes.

Next, Mr. John Veitch, the Chief Steward, gave his report for thoroughbred racing. A copy of the report was ordered to be attached to the minutes.

Next, Mr. Rich Williams, Chief Judge, gave his report for standardbred racing. A copy of the report was ordered to be attached to the minutes.

Next, Dr. Bryce Peckham gave the veterinarian report for thoroughbred racing and addressed questions asked by the Commissioners. A copy of the veterinarian report was ordered to be attached to the minutes. Dr. Scollay also presented a report on the second quarter drug testing summary and second quarter reports of findings. A copy of each report was ordered to be attached to the minutes.

Next, Mr. Lamb presented his report and answered questions. Mr. Lamb noted that due to a glitch between the totalizator company and CHRIMS the wagering on out of state report contained incorrect data, and a corrected report had been provided. A copy of the report was ordered to be attached to the minutes.

Next, Chairman Beck noted that the Administrative Regulations and Litigation Status Report and Priority Schedule was included for informational purposes. A copy of the report was ordered to be attached to the minutes.

Next, Chairman Beck requested a motion to go into executive session, as permitted by KRS 61.810(1)(c), to deliberate on proposed litigation matters. Mr. Jones offered the motion, and was seconded by Mr. Travis. All present voted aye, and the motion was approved.

At the conclusion of the executive session, Chairman Beck recognized the loss of a quorum and the meeting ended. No further action was taken.