

KENTUCKY HORSE RACING COMMISSION

December 14, 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 Vice-Chairman Tracy Farmer, Mr. Edward "Ned" Bonnie, Mr. Tom Conway, Mr. Alan Leavitt, Ms. Elizabeth Lavin, Mr. Frank L. Jones, Jr., Dr. Foster Northrop, Mr. John Ward, Mr. Wade Houston, Jr., Mr. Franklin S. Kling, Jr., 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. Industry representatives also present were Mr. Robert Elliston, Turfway Park ("Turfway"); Mr. Jeff Johnston, The Jockey's Guild (the "Guild"); and Mr. Rick Hiles and Mr. Marty Maline, Kentucky Horsemen's Benevolent and Protective Association, Inc. ("KyHBPA").

The first item on the agenda was the approval of the minutes of the October 24, 2011 Kentucky Horse Racing Commission ("KRHC" or "Commission") meeting. Chairman Beck noted the correction of a typographical error. Mr. Kling made a motion to approve the minutes, as amended, and was seconded by Dr. Yon. All present voted aye and the motion was carried.

Next, Ms. Jamie Eads, KHRC Director of Breeders' Incentives and Development, presented the proposed 2012 Kentucky Sire Stakes Program race dates and purse structure. Ms. Eads noted a typographical error in the November 22, 2011 cover memorandum provided in the agenda books and stated that the dates requested were all for 2012, and not 2011. Ms. Eads stated that all races were scheduled to be held at The Red Mile with: 1) the first leg of the two-year old races to be held on August 21 and the second leg on September 1; 2) the first leg of the three-year old races to be held on August 21 and the second leg on September 1; and 3) the Finals to be held on September 11. She stated the purses would be \$30,000 legs, \$15,000 splits and the finals would be \$250,000. She also stated that the Committee recommended \$140,000 be transferred to the Kentucky County Fairs to be used for purse allocations on fairs in Kentucky and that only horses nominated to the Kentucky Standardbred Development Fund would be eligible to run for the purse money at the Kentucky Fairs. Ms. Eads stated that the Committee recommended approval of the race dates and the purse allocation. Mr. Leavitt moved to approve the Committee's recommendations and Mr.

Bonnie seconded. All present voted aye, and the motion was carried. A copy of the November 22, 2011 cover memorandum was ordered to be attached to the minutes.

Next, Ms. Eads reported that by letter dated December 2, 2011, the Kentucky Colt Association ("KCA") requested approval of the 2012 County Fair Race Dates. Ms. Eads stated that the requested dates were the usual and customary county fair dates and that the staff recommended approval of the request. Mr. Leavitt 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, Ms. Eads reported that by letter dated October 10, 2011, the Kentucky Racing Health and Welfare Fund ("KRHWF") submitted a request for payment of \$2,221,080.00 to KRHWF for unclaimed pari-mutuel tickets pursuant to KRS 230.362 and 230.374. Ms. Eads stated that KRHWF's request included copies of the approval of release of funds from the Kentucky State Auditor and the KRHWF's independent audit report for 2010 prepared by Monroe Shine. Ms. Eads explained that the requested payment amount would decrease after claims were made, advertising expenses were deducted and pari-mutuel facilities submitted their final reports to the Commission. Mr. Jones offered the motion to approve the request subject to the stated deductions from the requested payment amount and was seconded by Mr. Conway. All present voted aye, and the motion was carried. A copy of the request with the attached audit reports was ordered to be attached to the minutes.

Next, Ms. Susan Speckert, KHRC General Counsel, presented an amendment to the jockey weight regulation (810 KAR 1:014). Ms. Speckert stated that the amendment approved by the Commission on May 18, 2011 to raise the minimum jockey weight, with the exception of apprentices, to 118 pounds had since proved to be unworkable for the racing secretaries. Ms. Speckert reported that she, Mr. Marc Guilfoil, KHRC Deputy Executive Director; and Mr. John Veitch, Chief State Steward, had met and discussed the issues with the racing secretaries and representatives from the Guild, the KyHBPA and Keeneland on October 14 and 21, 2011. She explained that the proposed draft amendment provided in the agenda book reflected the collaborative compromise reached at those meetings. She explained that the Safety and Welfare Committee ("SWC") had considered the proposed amendment and that the SWC and the staff recommended approval. Ms. Speckert also noted that the Guild had presented the language of the amendment to the Association of Racing Commissioners International ("ARCI") and ARCI adopted the language into its model rule.

Additionally, Ms. Speckert noted that an additional amendment to the regulation was to strike Section 1(11). Mr. Hiles stated that for the record that because this section provided a 3 pound weight allowance for horses that had never won at a distance of one mile or more, the KyHBPA was opposed to its removal. Ms. Lavin, Chairman of the SWC, stated that the KyHBPA's position was considered, but the SWC voted to strike the section.

Mr. Hiles stated that it was his understanding, that as part of the KyHBPA's agreement to the 118 pound minimum, the Guild had agreed to a decrease in weight for older claiming horses from 125 pounds to 122 pounds. Following discussion, Chairman Beck recommended contacting the racing secretaries to obtain some information as to whether these horses were carrying 125 or 122 pounds.

Next, Mr. Guilfoil presented the proposed 2012 Commission meeting dates. Vice-Chairman Farmer moved to approve the proposed dates and Mr. Kling seconded. All present voted aye and the motion was carried. A copy of the proposed dates was ordered to be attached to the minutes.

Next, Ms. Eads reported that by letter dated November 29, 2011 Ellis Park requested reimbursement in the amount of \$29,714.89 from Backside Improvement Fund for completed backside capital project previously approved by the Commission. Ms. Eads confirmed prior approval of the projects and that Ellis Park was current on all payments to the Backside Improvement Fund for fiscal year 2011 participation. She stated that for fiscal year 2011, Ellis Park's handle for live races was \$5,942,977.80. She further reported that all documentation remained on file at the KHRC offices and that the staff recommended approval. Mr. Bonnie offered a motion to approve the recommendation and Ms. Lavin seconded. All present voted aye and the motion was carried. A copy of the request was ordered to be attached to the minutes.

Next, Ms. Amber Hobbs, Auditor II, on behalf of Mr. Greg Lamb, Supervisor of Pari-Mutuel Wagering, reported that by letter dated November 29, 2011, Turfway Park requested approval to offer Pick 4 wagers at a 14% takeout rate effective January 1, 2012. Mr. Elliston explained that the intention was to try something different to draw attention to and increase wagering on Turfway's entire racing card. He also stated that they intended to track the results and would be happy to provide that information to the Commission. Chairman Beck stated that he would be interested to see that information when it was available. Mr. Jones offered a motion to approve the recommendation and Ms. Lavin 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. Tim West presented the license application of Amtote International ("Amtote") to provide totalizator services in Kentucky. Mr. West explained that the Commission approved Amtote to conduct business in the Commonwealth at its August meeting. Subsequently, on October 4, 2011, the administrative regulation governing the licensure of totalizator companies became effective. With that regulation now effective, it was appropriate for the Commission to consider whether to grant Amtote a license. Based on the due diligence performed prior to and after the August meeting, the staff recommended approval of Amote's application and licensure. Mr. Bonnie offered a motion to approve the recommendation and Mr. Houston seconded. All present voted aye and the motion was carried. Due to the size of the application, a copy will not be attached to the minutes, but will be on file at the KHRC office.

Next, Mr. Rick Williams, Acting Chief Steward, gave his report for thoroughbred racing and addressed questions asked by the Commissioners. A copy of the report was ordered to be attached to the minutes.

Next, 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. Will Farmer on behalf of Dr. Bryce Peckham gave the veterinary report for thoroughbred racing and addressed questions asked by the Commissioners. A copy of the veterinary report was ordered to be attached to the minutes. A copy of each report was ordered to be attached to the minutes.

Next, Dr. Mary Scollay, Equine Medical Director, presented a report for drug testing for thoroughbreds for the third quarter 2011 and for all of 2011 for standardbreds. Dr. Scollay stated that the total cost for thoroughbred racing during the third quarter was \$133,942, which reflected a 14% cost savings to the racetracks due to the implementation of the McKenzie recommendations. The total cost for standardbred racing for 2011 was \$122,037.50. Dr. Scollay's report also included reports of findings, testing performed in association with Breeder's Cup 2011 and race related fatal injury occurrences at Kentucky tracks.

Next, Ms. Hobbs presented a report on pari-mutuel wagering. A copy of the report was ordered to be attached to the minutes.

Following Ms. Hobb's report, Mr. Hiles presented an update on the status of historical horse race wagering and answered questions from the Commissioners. He expressed that the KyHBPA was pleased with the impact wagering on historical horse races has had on purses and noted that Kentucky Downs' simulcast handle was up as well. In response to a discussion related to the distribution of the funds received from historical horse race wagering, Chairman Beck requested that a breakdown of the funds distributed to purse accounts and breeders' funds be provided for the next Commission meeting.

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 or pending litigation matters. Mr. Kling offered the motion and was seconded by Mr. Leavitt. All present voted aye and the motion was approved.

At the conclusion of the executive session, Chairman Beck requested a motion to return to public session. Ms. Lavin offered the motion and was seconded by Mr. Bonnie. All present voted aye and the motion was carried. The Commission returned to public session.

Next, Mr. Jones offered a motion to approve the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Order, subject to the Exceptions filed by the KHRC, in the matter of *Paul's Mill Farm v. KHRC*, Administrative Action No. KHRC-TB-10-008, and Mr. Conway seconded. All present voted aye and the motion was carried. A copy of the materials provided in the agenda books was ordered to be attached to the minutes.

Mr. Conway offered a motion to adjourn the meeting and Ms. Lavin seconded. All present voted aye and the motion was carried.