

**KENTUCKY HORSE RACING COMMISSION
MINUTES OF THE MEETING**

Date: October 23, 2012

Place: Rolex Hospitality Room, Kentucky Horse Park, Lexington, KY

Members Present: Chairman Robert M. Beck, Jr.; Vice-Chairman Tracy Farmer; Commissioner Edward S. "Ned" Bonnie; Commissioner Elizabeth Lavin; Commissioner Frank Jones, Jr.; Commissioner Franklin S. Kling, Jr.; Commissioner Alan J. Leavitt; Commissioner Burr Travis, Jr.; Commissioner Jerry Yon, M.D.; Commissioner Foster Northrop, D.V.M.; Commissioner John Phillips; Commissioner Neil Howard; and Commissioner Michael Pitino

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

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

Others Participating: Mr. Corey Johnsen, Kentucky Downs; Mr. Kevin Flanery, Churchill Downs; Mr. Brad Blackwell, Twin Spires; Mr. Chip Bach, Turfway Park; and Mr. Marty Maline and Mr. Rick Hiles, Kentucky Horsemen's Benevolent and Protective Association ("KyHBPA")

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>
Tab 1 Approve minutes of August 15, 2012	5 – 6	Chairman Beck presented the minutes of the meeting of September 18, 2012 for approval.	Motion to approve by Commissioner Travis. The motion was seconded and carried with no objections or abstentions.

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<p>Tab 2 Approve Turfway Park's Roster of Racing Officials for 2012 Holiday Meet</p>	<p>6 – 9</p>	<p>Mr. Guilfoil stated that by letter dated October 8, 2012, Turfway Park requested approval of its roster of race officials for its 2012 Holiday Meet. All stewards are ROAP accredited and all officials have previously performed the duties for which they are listed.</p> <p>Staff recommended approval.</p> <p>In response to an inquiry from Commissioner Bonnie, Mr. Guilfoil explained that the only difference between the current roster and the roster approved for the Fall 2012 meet was that Tia Murphy would be replacing Dwayne Criso as the paddock judge.</p>	<p>Motion to approve recommendation by Commissioner Lavin. Second by Commissioner Travis. Motion carried with no objections or abstentions.</p>
<p>Tab 3 Backside Improvement Reimbursement Request from Kentucky Downs</p>	<p>9 – 10</p>	<p>Ms. Eads stated that by letter dated October 15, 2012, Kentucky Downs requested reimbursement for three of the five backside improvement projects that were approved by the Commission on August 15, 2012. Reimbursement is requested in the amount of \$10,531.07 for the following three completed projects:</p> <ol style="list-style-type: none"> 1. Sand added to the stable walking ring; 2. Flashing and soffit repairs to stable area; and 3. Materials for tack room repairs. <p>The completed projects have been inspected by KHRC staff and all invoices, photographs and communications are on file at the KHRC office.</p> <p>Staff has confirmed that Kentucky Downs has \$10,531.07 in Backside Improvement Funds and the staff recommended approval.</p>	<p>Motion to approve recommendation by Commissioner Bonnie. Second by Commissioner Travis. Motion carried with no objections or abstentions.</p>

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<p>Separate Binder Approve 2013 Conditions of Racing Associations and OTB Licensing</p>	<p>10 – 11</p>	<p>Ms. Speckert stated that the proposed 2013 Conditions of Racing Associations and OTB Licensing were substantially the same as the conditions imposed previously except that associations would be required to require owners to deposit monies into their horsemen’s bookkeeper accounts for the administration of race day supplies.</p> <p>The proposed 2013 Conditions of Racing Association and OTB Licensing were approved by the Race Date Committee on October 17, 2012 and are recommended.</p>	<p>Motion to approve recommendation by Commissioner Bonnie. Second by Vice Chairman Farmer. Motion carried with no objections or abstentions.</p>
<p>Separate Binder Approve 2013 License Applications of Racing Associations and OTBs</p>	<p>15 – 52</p>	<p>Mr. Ward explained a month-by-month slide show presentation of the race dates as approved by the Race Dates Committee on October 17, 2012 and are recommended.</p> <p><u>Thoroughbred</u> <u>Churchill Downs: 75 days (plus 4 optional)</u> April 27, 30 May 1, 2, 3, 4, 9, 10, 11, 12, 16, 17, 18, 19, 23, 24, 25, 26, 27, 31 June 1, 2, 6, 7, 8, 9, 13, 14, 15, 16, 20, 21, 22, 23, 27, 28, 29, 30 September 6, 7, 8, 13, 14, 15, 20, 21, 22, 27, 28, 29 (5, 12, 19, 26 optional) October 27, 30, 31 November 1, 2, 3, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 27, 28, 29, 30 Host Track: April 27-30; May 1-31; June 1-30; September 3-8, 12-15, 19-30; October 1-3, 27-31; November 1-30</p> <p><u>Ellis Park: 29 days</u> July 4, 5, 6, 7, 12, 13, 14, 19, 20, 21, 26, 27, 28 August 2, 3, 4, 9, 10, 11, 16, 17, 18, 23, 24, 25, 30, 31 September 1, 2 Host Track: July 1-31; August 1-31; September 1-2</p>	<p>1) A motion was made and seconded to approve the Race Dates Committee’s recommendation. Motion carried with no objections or abstentions.</p> <p>2) Commissioner Travis offered a motion to accept an amendment to Turfway Park’s application for two additional race dates. Second by Commissioner Bonnie. Motion carried with no objections or abstentions.</p> <p>3) Commissioner Jones offered a motion to approve the staff’s</p>

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		<p><u>Keeneland: 33 days</u> April 5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 24, 25, 26 October 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 24, 25, 26 Host Track: April 5-26; October 4-26</p> <p><u>Kentucky Downs: 5 days</u> September 7, 11, 14, 18, 25 Host Track: September 9-11, 16-18</p> <p><u>Turfway Park: 45 days (plus 4 optional)</u> January 1, 4, 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, 27 February 1, 2 March 1, 2, 8, 9, 15, 16, 21, 22, 23, 29, 30 (3, 10, 17, 24 optional) December 1, 5, 6, 7, 8, 12, 13, 14, 15, 19, 20, 21, 22, 26, 27, 28, 29, 30, 31 Host Track: January 1-31; February 1-28; March 1-31; April 1-4; December 1-31</p> <p>TOTAL RACE DAYS: 187 (plus 8 optional days)</p> <p><u>Standardbred</u></p> <p><u>Players Bluegrass Downs: 15 days</u> June 7, 8, 9, 14, 15, 16, 21, 22, 23, 28, 29, 30 July 5, 6, 7</p> <p><u>The Red Mile: 29 days</u> August 4, 8, 10, 11, 15, 17, 18, 22, 24, 25, 29, 31 September 1, 5, 7, 8, 12, 14, 15, 19, 21, 26, 27, 28, 29 October 3, 4, 5, 6</p> <p><u>Thunder Ridge: 21 days</u> April 10, 11, 12, 17, 18, 19, 24, 25, 26 May 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24</p> <p>TOTAL RACE DAYS: 65</p>	<p>recommendation for approval of the two OTB's applications. Second by Commissioner Kling. Motion carried with no objections or abstentions.</p> <p>4) Commissioner Travis offered a motion to amend the prior amended motion to change the race dates as it relates to Turfway Park and add optional days of February 15, 16, 22 and 23, 2013. Second by Commissioner Kling. Motion carried with no objections or abstentions.</p>

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	19	<p>Ms. Speckert noted the correction of two errors in the materials distributed: (1) on the comparison on race dates for 2011, 2012 and 2013, the number for Ellis Park for 2012 should be 29, not 34; and (2) on the 2013 race dates calendar June 30, 2012 should show Bluegrass Downs running live.</p> <p>1) Chairman Beck requested a motion to approve the proposed race dates as approved and recommended by the Race Dates Committee.</p> <p>Commissioner Bonnie expressed concern for the idea of optional race days.</p> <p>Mr. Ward explained that once race dates are awarded, a track cannot add race dates. The Race Dates Committee determined that in order to advance racing in Kentucky that the tracks should apply for optional dates and then decide whether to go ahead with those optional dates if the economic conditions for the track and the horsemen are good.</p> <p>In response to an inquiry from Commissioner Bonnie as to the KyHBPA's position, Mr. Hiles stated that, "... if the business warrants and the horse population is there and entries are there, we would applaud them to put on the extra date and try to race more."</p> <p>Mr. Hiles stated that the KyHBPA would like for Turfway Park to pick up six additional days in February. Mr. Bach responded that they had calculated that to add those six additional days they would lose about \$7,000 a day on daily average purses, but as a</p>	

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	43 – 50	<p>compromise would agree to add two additional days (February 8 and 9).</p> <p>Chairman Beck stated that Turfway Park’s addition of February 8 and 9, 2013 would be treated as an amendment to their application.</p> <p>Commissioner Travis commended Turfway Park and all the racetracks for their willingness to be creative and come up with a proposal the Commission felt was good for the entire Kentucky racing circuit. Commissioner Travis stated that he believed it was unfair for the KyHBPA to complain so late in the process about an issue the Commission and Turfway Park thought was resolved. Commissioner Travis stated that all the parties had “chipped in” to do the right thing for Kentucky racing, and the horsemen should chip in as well.</p> <p>A discussion followed regarding the KyHBPA’s position on the issue.</p> <p>2) Chairman Beck requested a motion to approve the recommendation of the Race Dates Committee, as amended by Turfway Park and approved unanimously by the Commission, to add the race dates of February 8 and 9, 2013 to their application.</p> <p>Ms. Speckert stated that the license applications of the two OTB’s operating in Kentucky were also on the agenda for consideration. She noted that there were no substantive changes to their applications and the staff recommended approval.</p>	

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	76 – 78	<p>3) Chairman Beck requested a motion to approve the staff's recommendation for approval of the two OTB's license applications.</p> <p>Mr. Bach stated that Turfway Park had a discussion with Mr. Hiles concerning the four other additional days in February (February 15, 16, 22 and 23, 2013). Mr. Bach asked if those four additional days in February could be optional days. Chairman Beck asked Mr. Maline if the KyHBPA would be in agreement to that. Mr. Maline stated that was the agreement that Mr. Hiles and Mr. Bach had come to and was acceptable.</p> <p>4) Chairman Beck requested a motion to amend the prior motion to amend Turfway Park's application to also include the four other additional days in February as optional race dates.</p>	
<p>Tab 4 Approve Research Requests from Dr. Thomas Chambers and Dr. Ernst Bailey</p>	53 – 10	<p>Mr. Davis presented the following University of Kentucky Research Foundation research proposals that were approved for recommendation for funding by the Equine Drug Research Council (EDRC) at its August 15, 2012 meeting:</p> <p>1. Study title and description: <i>Influenza, Secondary Bacterial Infection, and Interleukin-23</i>. Study to determine if the NS-1 protein of influenza virus affects Interleukin-23 (which up-regulates the inflammatory response). Primary Investigator: Dr. Thomas Chambers Amount Requested: \$49,234.00 Project duration: 12 months</p> <p>2. Study title and description: <i>Influence of Genetic Deficits in Aggrecan Structure (Cartilage) on Catastrophic Musculoskeletal Injuries in Thoroughbreds</i>. Study of the possible correlation</p>	<p>Motion to approve the EDRC's recommendation by Commissioner Bonnie. Second by Commissioner Travis. Motion carried with no objections or abstentions.</p>

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		<p>between a particular gene that is tied to orthopedic pathology and its correlation to catastrophic musculoskeletal injury.</p> <p>Primary Investigator: Dr. Ernest Baily Amount requested: \$15,218.00 Project duration: 12 months</p>	
Tab 5 Thoroughbred Rulings	53	Presentation of the thoroughbred ruling report was postponed until the next regularly scheduled meeting.	No action taken. Informational item only.
Tab 6 Standardbred Rulings	53	Presentation of the standardbred ruling report was postponed until the next regularly scheduled meeting.	No action taken. Informational item only.
Tab 7 Report from Veterinary Division	55 – 56	<p>Dr. Peckham presented the veterinary report for the Kentucky Downs summer meet and the Turfway Park September meet.</p> <p>56 – 57</p> <p>Dr. Scollay presented a report on the New York Task Force on Racehorse Health and Safety. She noted that the recommendation of the task force for a mortality review panel when a horse sustains a catastrophic injury would be implemented going forward beginning with the Churchill Downs' meet. The review panel would conduct interviews with the jockey, the trainer and medical care providers to determine if there were opportunities to prevent the injury or if opportunities for intervention were missed.</p> <p>58 – 59</p> <p>Dr. Scollay announced that Dr. Peckham would be leaving his position of Chief State Racing Veterinarian as of November 1, 2012. Dr. Scollay and Chairman Beck thanked Dr. Peckham for his service and contributions. Dr. Scollay also introduced Dr. Will Farmer as the new Chief State Racing Veterinarian.</p> <p>59</p> <p>Chairman Beck commended Dr. Scollay for her participation in and contributions at the New York task force meeting.</p>	No action taken. Informational item only.

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Tab 8 Report from the Supervisor of Pari-Mutuel Wagering	59 – 61	Mr. Lamb presented the report for historical horse racing at Kentucky Downs and Ellis Park.	No action taken. Informational item only.
Tab 9 Status report on regulations and litigation	61	No discussion. Report is presented for informational purposes only.	No action taken. Informational item only.
Tab 10 Discussion of 810 KAR 1:015, Section 6; Claiming Rules and Penalties	62 – 69	<p>Mr. Davis noted that KHRC staff had been requested to clarify the current rule against entering a claimed horse in races outside of Kentucky and the penalties available to the Stewards and the Commission for violations of that rule. He noted that the subject provision of the rule provided that the Stewards may grant permission for a horse to be entered and start in an overlapping or conflicting meet inside Kentucky, but the horse shall not race outside Kentucky until the close of entries of the meeting at which the horse was claimed and that either the Stewards or the Commission in response to a violation of the rule may impose one or more penalties, which include in part a fine in an amount not to exceed \$50,000 and suspension or revocation of the violating licensee’s license for a period not to exceed five years.</p> <p>In response to an inquiry from Commissioner Lavin as to what circumstance might the stewards granted permission for a claimed horse to run at an overlapping meet in Kentucky, Mr. Davis stated that he was not aware of any particular circumstance, but would look into it.</p> <p>Concern was expressed the term “or” at the end of the sentence in 810 KAR 1:028(10)(3) and (11)(3) made it unclear as to whether a fine and a suspension could be assessed. Commissioner Travis suggested that striking the term “or” in those sections might make it clearer that both penalties could be assessed. Ms. Speckert stated that would be something to consider.</p>	No action taken. Informational item only.

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		<p style="text-align: center;">EXECUTIVE SESSION</p> <p>2) Chairman Beck requested a motion for the Commission to return to open session.</p> <p>3) Upon returning to open session, Chairman Beck requested a motion as discussed during the executive session on the matter of <i>March v. KHRC</i>.</p>	<p>with no objections or abstentions.</p> <p>2) Commissioner Travis offered a motion to return to open session. Second by Commissioner Kling. Motion carried with no objections or abstentions.</p> <p>3) Commissioner Travis offered a motion to approve the recommendation of the Hearing Officer as presented. Second by Commissioner Bonnie. Motion carried with no objections or abstentions.</p>
Other Business continued	73 – 76	<p>Mr. Johnsen addressed the Commission and stated that pursuant to an agreement between Kentucky Downs and the KYHBPA, the Kentucky Breeders Incentive Fund receives a percentage of the handle from wagering on historical horse racing. Mr. Johnsen expressed his appreciation to the Commission for their efforts in implementing wagering on historical racing and to the KyHBPA. He presented a check in the amount \$92,000 (January through September 2012) to the Breeders Incentive Fund. He also noted that business was continuing to grow and with Ellis Park's recent implementation of wagering on historical horse racing, he was confident that the amount would be much larger for 2013.</p>	<p>No action taken. Informational item only.</p>

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Adjournment	78	Chairman Beck requested a motion for adjournment.	Motion to adjourn by Commissioner Travis. Second by Commissioner Lavin. Motion carried with no objections or abstentions.

NOTE: A copy of all materials provided in the Agenda Book, and any amendments thereto, subject to any applicable exemptions are attached hereto and incorporated herein.