

KENTUCKY HORSE RACING COMMISSION
MINUTES OF THE MEETING

Date: August 20, 2019 at 1:30 PM

Place: Central Kentucky Riding for Hope, Conference Room, 4185 Walt Robinson Drive, Kentucky Horse Park, Lexington, KY

Members Present: Chairman Franklin S. Kling, Jr.; Vice-Chairman Mark Simendinger; Commissioner James Gatewood Bell, Jr.; Commissioner Larry Bisig; Commissioner Stuart E. Brown, II, DVM; Commissioner Kerry T. Cauthen; Commissioner Kiki Courtelis; Commissioner Patrick A. Day; Commissioner Kenneth A. Jackson; Commissioner Brereton C. Jones, Jr.; and Commissioner Foster Northrop, DVM

Ex-officio Members Present: Leigh Powers, by proxy and on behalf of Secretary Don Parkinson, Tourism, Arts & Heritage Cabinet; Jessica Burke, by proxy and on behalf of Acting Secretary Vivek Sarin, Cabinet for Economic Development; and Duncan Bell, by proxy and on behalf of Secretary K. Gail Russell, Public Protection Cabinet

KHRC Staff Participating/Present: Marc A. Guilfoil, Executive Director; Jamie Eads, Deputy Executive Director and Director of Division of Incentives and Development; John L. Forgy, General Counsel; Shawn D. Chapman, Deputy General Counsel; Steve May, Director of Pari-Mutuel Wagering and Compliance; Bruce Howard, DVM, Acting Equine Medical Director and Chief Racing Veterinarian; and Barbara Borden, Chief State Steward

Others Participating: None.

<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	3 – 5	Meeting called to order and roll call performed by Chairman Kling. A quorum was recognized.	No action taken.
II. New Business Tab 1 Minutes from June 18, 2019	5 – 54 5 – 6	Chairman Kling requested a motion from the Commission to address the request submitted by KHRC staff to approve the proposed minutes of the June 18, 2019 Commission meeting. Motion by Commissioner Courtelis. Second by Commissioner Brown. Ms. Eads presented the proposed minutes of the June 18, 2019 Commission meeting as outlined in the agenda materials. Approval was recommended by KHRC staff.	Chairman Kling called for a vote to approve the proposed minutes as presented. Motion carried with no objections or abstentions.

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Tab 2 Keeneland's 2019 Fall Meet KTDF Purse Structure	6 – 9	<p>Chairman Kling requested a motion from the Commission to address a recommendation submitted by the Kentucky Thoroughbred Development Fund Advisory Committee (KTDF Advisory Committee) to approve the proposed KTDF purse structure for Keeneland's 2019 Fall meet. Motion by Commissioner Jackson. Second by Commissioner Northrop.</p> <p>Ms. Eads presented Keeneland's request dated July 31, 2019 as outlined in the agenda materials. Ms. Eads stated that at its August 6, 2019 meeting, the KTDF Advisory Committee approved recommendation of Keeneland's request.</p> <p>Approval of the KTDF Advisory Committee's recommendation was recommended by KHRC staff.</p>	Chairman Kling called for a vote to approve the request as presented. Motion carried with no objections or abstentions.
Tab 3 Churchill Downs' 2019 Fall Meet KTDF Purse Structure	9 – 13	<p>Chairman Kling requested a motion from the Commission to address the recommendation submitted by KTDF Advisory Committee to approve the proposed KTDF purse structure for Churchill Downs' 2019 September meet. Motion by Commissioner Jones. Second by Commissioner Day.</p> <p>Ms. Eads presented Churchill Downs' request dated July 31, 2019 as outlined in the agenda materials. Ms. Eads stated that at its August 6, 2019 meeting, the KTDF Advisory Committee approved recommendation of Churchill Downs' request.</p> <p>Approval of the KTDF Advisory Committee's recommendation was recommended by the KHRC staff.</p>	Chairman Kling called for a vote to approve the request as presented. Motion carried with no objections or abstentions.
Tab 4 Churchill Downs' Proposed Backside Improvement Request	13 – 15	Chairman Kling requested a motion from the Commission to address the request submitted by Churchill Downs to approve the proposed Backside Improvement Fund expenditure of \$60,000. Motion by Commissioner Day. Second by Commissioner Bisig.	Chairman Kling called for a vote to approve the request as presented. Motion carried with no

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		<p>Ms. Eads presented Churchill Downs’s request dated July 31, 2019 as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>objections or abstentions.</p>
<p>Tab 5 Derby City Gaming’s Request for Additional Ainsworth Game Technology Historical Horse Racing Pari-Mutuel Wagering Pools and Entertainment Game Themes</p>	<p>15 – 18</p>	<p>Chairman Kling requested a motion from the Commission to address the request submitted by Churchill Downs Racetrack, LLC by and through its wholly-owned subsidiary, Derby City Gaming, LLC to approve two additional historical horse racing pari-mutuel wagering pools and four associated entertainment game themes. Motion by Commissioner Courtelis. Second by Commissioner Brown.</p> <p>Mr. May presented Churchill Downs’ request dated August 1, 2019 as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Chairman Kling called for a vote to approve the request as presented contingent upon the conditions set out in the meeting materials. Motion carried with no objections or abstentions.</p>
<p>Tab 6 Kentucky Downs’ Request for Additional Exakta Systems Historical Horse Racing Pari-Mutuel Wagering Pools and Entertainment Game Themes</p>	<p>18 – 20</p>	<p>Chairman Kling requested a motion from the Commission to address the request submitted by Kentucky Downs, LLC to approve seven new entertainment game themes based on two new Exakta Systems pari-mutuel wagering pools and four new entertaining game themes based on previously approved Exakta Systems pari-mutuel wagering pools. Motion by Commissioner Day. Second by Commissioner Northrop.</p> <p>Mr. May presented Kentucky Downs’ request dated June 25, 2019 as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Chairman Kling called for a vote to approve the request as presented contingent upon completion of the conditions set out in the meeting materials. Motion carried with no objections or abstentions.</p>
<p>Tab 7 Keeneland Red Mile Request for PariMAX Version 3.16</p>	<p>20 – 23</p>	<p>Chairman Kling requested a motion from the Commission to address the request submitted by Keeneland Red Mile Wagering, LLC (KRM) to approve: a) PariMAX version 3.16 of the PariMAX wagering</p>	<p>Chairman Kling called for a vote to approve the request as presented</p>

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		<p>system; b) the addition of the Aztec Super Storm game theme, which will utilize a previously-approved wager profile; and c) a new wager profile, P6.P3P5_Plus.P2P5_Plus, along with addition of a new game theme, "Let's Get Spinning," utilizing the new wagering profile. Motion by Commissioner Jackson. Second by Commissioner Jones.</p> <p>Mr. May presented the request submitted by KRM dated July 25, 2019 as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>contingent upon the conditions set out in the meeting materials. Motion carried with no objections or abstentions.</p>
<p>Tab 8 Churchill Downs, Keeneland, and Kentucky Downs' Request to Amend Payout Format for Pick-3 Wager</p>	<p>23 – 30</p>	<p>Chairman Kling requested a motion from the Commission to address the request submitted by Keeneland, Kentucky Downs and Churchill Downs to approve a change in the format of Pick 3 wagering payouts involving late scratches. Motion by Commissioner Bisig. Second by Commissioner Brown.</p> <p>Mr. May presented the request submitted by Keeneland dated August 8, 2019, Kentucky Downs dated August 8, 2019, and Churchill Downs dated August 9, 2019 as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Chairman Kling called for a vote to approve the request as presented. Motion carried with no objections or abstentions.</p>
<p>Tab 9 Ratification of the Executive Director Approval of Added Race Date for Ellis Park</p>	<p>30 – 34</p>	<p>Chairman Kling requested a motion from the Commission to address ratification of the KHRC's Executive Director's conditional approval of the request submitted by Ellis Entertainment, LLC d/b/a Ellis Park Race Course to add Monday, July 29, 2019 as an additional race date. Motion by Commissioner Bell. Second by Commissioner Northrop.</p> <p>Mr. Forgy presented Ellis Park's request dated July 23, 2019 as outlined in the agenda materials. He explained that the date would</p>	<p>Chairman Kling called for a vote to approve the request as presented. Motion carried with no objections or abstentions.</p>

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		<p>be added as a replacement race date for a race date that was cancelled due to excessive heat.</p> <p>Approval was recommended by KHRC staff.</p>	
N/A	30	Mr. May introduced new employee, Waqas Ahmed.	Informational item only. No action taken.
Tab 10 Penalty Classification for Ethamsylate	34 – 37	<p>Chairman Kling requested a motion from the Commission to address the recommendation submitted by the Equine Drug Research Council (EDRC) to assign a Class B penalty classification for ethamsylate. Motion by Vice-Chairman Simendinger. Second by Commissioner Courtelis.</p> <p>Dr. Howard presented the EDRC's recommendation as outlined in the agenda materials.</p> <p>Approval of the EDRC's recommendation was recommended by KHRC staff.</p>	Chairman Kling called for a vote to approve the EDRC's recommendation as presented. Motion carried with no objections or abstentions.
Tab 11 Keeneland's Proposed 2019 Fall Race Meet Officials & Date Preference System	37 – 39	<p>Chairman Kling requested a motion from the Commission to address the request submitted by Keeneland to approve its proposed 2019 Fall meet racing officials and date preference system. Motion by Commissioner Brown. Second by Commissioner Northrop.</p> <p>Ms. Borden presented Keeneland's request dated August 3, 2019 as outlined in the agenda materials. All listed stewards are ROAP accredited and all officials have previously performed the duties for which they are listed and will be licensed before the meet opening.</p> <p>Approval was recommended by KHRC staff.</p>	Chairman Kling called for a vote to approve the request as presented. Motion carried with no objections or abstentions.
Tab 12 Churchill Downs' Proposed 2019 Fall Race Meet	39 – 40	Chairman Kling requested a motion from the Commission to address the request submitted by Churchill Downs to approve the proposed	Chairman Kling called for a vote to approve the request as presented.

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Officials and Date Preference System		<p>2019 Fall meet racing officials and date preference system. Motion by Commissioner Day. Second by Commissioner Brown.</p> <p>Ms. Borden presented Churchill Downs' request dated May 30, 2019 as outlined in the agenda materials. All listed stewards are ROAP accredited and all officials have previously performed the duties for which they are listed and will be licensed before the meet opening.</p> <p>Approval was recommended by KHRC staff.</p>	Motion carried with no objections or abstentions.
<p>Tab 13 Reports</p> <p>a. Thoroughbred Rulings</p> <p>b. Standardbred Rulings</p> <p>c. Veterinary Division</p> <p>d. Pari-Mutuel Wagering Division</p> <p>e. Confidential – Litigation</p>	<p>40 – 54</p> <p>40 – 46</p> <p>46</p> <p>46 – 50</p> <p>50 – 54</p> <p>54</p>	<p>a. Ms. Borden presented the thoroughbred rulings report as outlined in the agenda materials. Ms. Borden addressed questions from Commissioners regarding the voided claim rule.</p> <p>b. Chairman Kling noted that the Standardbred ruling activity report was informational only and asked if there were any questions, to which he received no response.</p> <p>c. Dr. Howard presented the veterinary division report as outlined in the agenda materials.</p> <p>d. Mr. May presented the pari-mutuel wagering division report as outlined in the agenda materials.</p> <p>e. Litigation and Regulation report is for informational purposes only.</p>	No action taken. Informational items only.
<p>III. Executive Session</p> <p>During the meeting on August 20, 2019 the Commission will go into closed session pursuant to KRS</p>	<p>54 – 57</p> <p>54 – 55</p>	Chairman Kling requested a motion from the Commission to go into closed session to deliberate, in its role as a judicial or quasi-judicial body, proposed or pending litigation against or on behalf of the	Chairman Kling called for a vote for the Commission to go into closed session. Motion

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61.810(1)(C) to discuss pending litigation	55 55 – 56 56 56 – 57	<p>agency as permitted by KRS Chapter 61.810(1)(c) . Motion by Commissioner Brown. Second by Commissioner Northrop.</p> <p style="text-align: center;"><u>EXECUTIVE SESSION</u></p> <p>Chairman Kling requested a motion from the Commission to return from closed session to open session. Motion by Commissioner Day. Second by Commissioner Courtelis.</p> <p style="text-align: center;"><u>RETURN TO PUBLIC SESSION</u></p> <p>Upon returning to public session, Chairman Kling requested a motion from the Commission regarding the administrative matter of <u>Mark Hubley and Lawrence Doyle v. Kentucky Horse Racing Commission</u>, Administrative Action No. KHRC-18-TB-005, to approve the Agreed Order of Disposition as the Commission’s Final Order in the matter. Motion by Commissioner Jackson. Second by Commissioner Northrop.</p>	<p>carried with no objections or abstentions.</p> <p>Chairman Kling called for a vote for the Commission to return from closed session to open session. Motion carried with no objections or abstentions.</p> <p>Chairman Kling called for a vote to approve the Agreed Order of Disposition as the Commission’s Final Order regarding <u>Mark Hubley, et al. v. KHRC</u> as presented. Motion carried with no objections or abstentions.</p>
IV. Adjournment	57 – 58	Chairman Kling requested a motion to adjourn. Motion by Commissioner Cauthen. Second by Commissioner Jackson. Meeting adjourned.	Chairman Kling called for a vote to adjourn. Motion carried with no objections or abstentions.

NOTE: The Agenda 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.