

KENTUCKY HORSE RACING COMMISSION
MINUTES OF THE MEETING

Date: December 14, 2021 at 1:30 PM

Place: Via video conference from Kentucky Horse Racing Commission, Conference Room, 4063 Iron Works Parkway, Building B, Kentucky Horse Park, Lexington, Kentucky

Members Present: Vice-Chairman Frank Jones, Jr.; Commissioner Kerry T. Cauthen; Commissioner Naveed Chowhan, M.D.; Commissioner Michael F. Dudgeon; Commissioner James D. Gates, Jr.; Commissioner Gregory Harbut; Commissioner Douglas A. Hendrickson; Commissioner Kenneth A. Jackson; Commissioner William L.S. Landes; Commissioner Mark Simendinger; and Commissioner James Edwin Worley

Ex-officio Members Present: Secretary Mike Berry, Tourism, Arts & Heritage Cabinet

KHRC Staff Participating/Present: Marc A. Guilfoil, Executive Director; Jamie Eads, Deputy Executive Director and Director of Division of Incentives and Development; Jennifer Wolsing, General Counsel; Shan Dutta, Deputy General Counsel; Bruce Howard, DVM, Equine Medical Director; Nicholas Smith, DVM, Chief Racing Veterinarian; Barbara Borden, Chief State Steward; Waqas Ahmed, Director, Pari-mutuel Wagering and Compliance; Joanna Ricci, Executive Administrative Secretary

Others Participating: Richard Riedel, Executive Director, Kentucky Racing Health & Welfare Fund

<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	4 – 5 5	Vice-Chairman Jones called the meeting of the Kentucky Horse Racing Commission (KHRC or Commission) to order and performed the roll call. A quorum was recognized. Prior to addressing Tab 1, Vice-Chairman Jones asked for a moment of silence for those affected by the tornadoes in Western Kentucky and elsewhere.	No action taken.

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II. New Business Tab 1 Minutes from October 26, 2021	5 – 65 5 – 6	<p>Vice-Chairman Jones requested a motion from the Commission to address the request submitted by the KHRC staff to approve the proposed minutes of the KHRC meeting of October 26, 2021. Motion by Commissioner Simendinger. Second by Commissioner Chowhan.</p> <p>Ms. Eads presented the proposed minutes, as outlined in the agenda materials.</p> <p>Approval of the proposed minutes was recommended by KHRC staff.</p>	<p>Vice-Chairman Jones called for a vote to approve the proposed minutes of the October 26, 2021 KHRC meeting, as presented. Motion carried with no objections or abstentions.</p>
Tab 2 2022 Meeting Schedule and Calendar	6 – 7	<p>Vice-Chairman Jones requested a motion from the Commission to address approval the 2022 meeting schedule and calendar. Motion by Commissioner Cauthen. Second by Commissioner Landes.</p> <p>Ms. Ricci presented the proposed 2022 meeting schedule and calendar, as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Vice-Chairman Jones called for a vote to approve the 2022 meeting schedule and calendar, as presented. Motion carried with no objections or abstentions.</p>
Tab 3 Transfer of Funds to the Kentucky Racing Health & Welfare Fund	7– 14 7 – 13	<p>Vice-Chairman Jones requested a motion from the Commission to address approval of the transfer of funds to the Kentucky Racing Health & Welfare Fund (KRHWF). Motion by Commissioner Hendrickson. Second by Commissioner Simendinger.</p> <p>Prior to her presentation, Ms. Eads invited Executive Director of the KRHWF, Richard Riedel, to present a brief overview of the fund. Mr. Riedel addressed the Commission and answered questions from the Commissioners.</p>	<p>Vice-Chairman Jones called for a vote to approve the proposed transfer of funds from the unclaimed pari-mutuel tickets to the KRHWF, as presented. Motion carried with no objections or abstentions.</p>

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	13 – 14	<p>Ms. Eads presented the KRHWF’s request dated October 19, 2021 to transfer funds from the unclaimed pari-mutuel tickets to the KRHWF, as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	
<p>Tab 4 2022 Kentucky Sires Stakes, Commonwealth Series, Mini-Series and KSDF Bonus Purse Distributions</p>	<p>14 – 36</p> <p>15 – 16</p> <p>16 – 36</p>	<p>Vice-Chairman Jones requested a motion from the Commission to address approval of the purse distributions for the 2022 Kentucky Sire Stakes, Commonwealth Series, Mini-Series, and to approve the KSDF bonus contingent upon a statutory amendment of KRS 230.770(4). Motion by Commissioner Worley. Second by Commissioner Chowhan.</p> <p>Ms. Eads presented the proposals as recommended by the Kentucky Standardbred Development Fund/Kentucky Standardbred Breeders’ Incentive Fund Advisory Panel (KSDF/KSBIF Advisory Panel) at its September 24, 2021 meeting, as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff and the KSDF/KSBIF Advisory Committee.</p> <p>Following Ms. Eads presentation, Commissioners engaged in a lengthy discussion in connection with the new Development Fund Program: 50% KSDF Bonus.</p>	<p>Vice-Chairman Jones called for a vote to approve the proposed purse distributions for the 2022 Kentucky Sire Stakes, Commonwealth Series, and Mini-Series, as presented, and recommended by the KSDF/KSBIF Advisory Panel. Motion carried with no objections or abstentions.</p> <p>Vice-Chairman Jones called for a vote to approve the KSDF bonus contingent upon a statutory amendment of KRS 230.770(4), as presented. Following an undistinguishable vote, Vice-Chairman Jones performed a roll call vote. The roll call vote was as follows: Vice-Chairman Jones: Yes Commissioner Cauthen: No Commissioner Chowhan: No Commissioner Dudgeon: No</p>

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			<p>Commissioner Gates: Yes Commissioner Harbut: No Commissioner Hendrickson: No Commissioner Jackson: No Commissioner Landes: No Commissioner Simendinger: No Commissioner Worley: Yes</p> <p>Motion failed with an 8-3 vote. There were no abstentions.</p>
<p>Tab 5 Kentucky Proud Series (Harness Racing at County Fairs): Release of Uncashed Ticket Money</p>	<p>36 – 38</p>	<p>Vice-Chairman Jones requested a motion from the Commission to address approval of the release of uncashed ticket money for purse distributions at the Kentucky Proud Series. Motion by Commissioner Landes. Second by Commissioner Simendinger.</p> <p>Ms. Eads presented the proposed release of the uncashed ticket money for purse distributions at the Kentucky Proud Series, as outlined in the agenda materials. She noted a calculation error in the amount collected in 2020 uncashed tickets in the agenda materials and stated the correct amount was \$13,648.51, minus any advertising costs or claims.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Vice-Chairman Jones called for a vote to approve the release of uncashed ticket money for purse distributions of the Kentucky Proud Series, as presented and outlined in the agenda materials. Motion carried with no objections or abstentions.</p>
<p>Tab 6 Amendments to 810 KAR 7:050, Section 2(14)c</p>	<p>38 – 39</p>	<p>Vice-Chairman Jones requested a motion from the Commission to address approval of the proposed amendments to 810 KAR 7:050, Section 2(14)(c). Motion by Commissioner Hendrickson. Second by Commissioner Simendinger.</p>	<p>Vice-Chairman Jones called for a vote to approve the proposed amendments to 810 KAR 7:050, Section 2(14)(c), as presented. Motion carried with no objections or abstentions.</p>

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		<p>Ms. Wolsing presented the proposed amendments to 810 KAR 7:050, Section 2(14)(c), as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	
<p>Tab 7 Requested Approval of Totalizator Licenses for 2022</p>	<p>39 – 41</p>	<p>Vice-Chairman Jones requested a motion from the Commission to address approval of the totalizator licenses for 2022. Motion by Commissioner Simendinger. Second by Commissioner Landes.</p> <p>Mr. Ahmed presented the three (3) renewal applications for totalizator licenses for 2022, as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Vice-Chairman Jones called for a vote to approve the totalizator licenses for 2022, as presented. Motion carried with no objections or abstentions.</p>
<p>Tab 8 Requested Approval of Advance Deposit Account Wagering Licenses for 2022</p>	<p>41 – 45</p>	<p>Vice-Chairman Jones requested a motion from the Commission to address approval of the advance deposit account wagering licenses for 2022. Motion by Commissioner Gates. Second by Commissioner Simendinger.</p> <p>Mr. Ahmed presented the eight (8) applications for advance deposit account wagering licenses for 2022, as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Vice-Chairman Jones called for a vote to approve the advance deposit account wagering licenses for 2022, as presented. Motion carried with no objections or abstentions.</p>
<p>Tab 9 License for a Simulcast Facility</p>	<p>45 – 47</p>	<p>Vice-Chairman Jones requested a motion from the Commission to address approval of Churchill Downs Racetrack LLC's request for a renewal license for its simulcast facility located in Louisville, Kentucky, at the Louisville Thoroughbred Society. Motion by Commissioner Landes. Second by Commissioner Simendinger.</p>	<p>Vice-Chairman Jones called for a vote to approve Churchill Downs Racetrack LLC's renewal license for its simulcast facility, as presented. Motion carried</p>

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		<p>Mr. Ahmed presented Churchill Downs Racetrack LLC's renewal license application filed on September 26, 2021, as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	with no objections or abstentions.
Tab 10 Ratification of Executive Director Approvals of Historical Horse Racing Requests	47 – 48	<p>Vice-Chairman Jones requested a motion from the Commission to address ratification of the Executive Director's conditional approval of certain historical horse racing requests. Motion by Commissioner Cauthen. Second by Commissioner Hendrickson.</p> <p>Mr. Ahmed presented the seven (7) historical horse racing requests submitted by Derby City Gaming, LLC dated July 2, 2021, August 6, 2021, August 11, 2021, September 18, 2021, and October 29, 2021, as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	Vice-Chairman Jones called for a vote to ratify the Executive Director's conditional approval of the seven (7) historical horse racing requests, as presented. Motion carried with no objections or abstentions.
Tab 11 Amendment Adding Two Optional Dates for Churchill Downs	48 – 50	<p>Vice-Chairman Jones requested a motion from the Commission to address the approval to add two (2) optional racing dates for Churchill Downs for the September 2022 meet. Motion by Commissioner Landes. Second by Commissioner Simendinger.</p> <p>Mr. Wolsing noted that in Churchill Downs' 2022 license application it requested two (2) optional race dates of September 21 and 28, 2022. Those optional race date requests were inadvertently omitted from the materials that were considered at the regular Commission meeting on October 19, 2021. KHRC staff seeks to amend that oversight and award Churchill Downs those optional race dates.</p>	Vice-Chairman Jones called for a vote to approve the award of the two (2) previously requested optional race dates of September 21 and 28, 2022, as presented. Motion carried with no objections or abstentions.

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Tab 12 Reports a. Thoroughbred Rulings b. Standardbred Rulings c. Veterinary Division Report d. Pari-Mutuel Wagering Division e. Confidential - Litigation	50– 65 51 51 – 52 52 – 58 61 – 62 56 – 61 62 - 65 56	a. Ms. Borden presented the thoroughbred rulings reports, as outlined in the agenda materials. b. Mr. Guilfoil presented the Standardbred rulings report, as outlined in the agenda materials. c. Dr. Smith presented the veterinary division reports, as outlined in the agenda materials. Dr. Howard addressed questions from Commissioners. Dr. Howard presented the fatality report and d. Mr. Ahmed responded to an inquiry from Commissioner Simendinger regarding why there have been no recent pari-mutuel reports. Mr. Ahmed presented the historical horse racing report and addressed questions from Commissioner. e. Litigation and Regulation report is for informational purposes only.	No action taken. Informational items only.
III. Executive Session Final Order Regarding King v. KHRC, KHRC-21-TB-002	65 – 68 66	Vice-Chairman Jones requested a motion from the Commission to convene in closed session to discuss proposed or pending litigation against or on behalf of the agency as permitted by KRS 61.810(1)(c). Motion by Commissioner Simendinger. Second by Commissioner Landes. <p style="text-align: center;"><u>EXECUTIVE SESSION</u></p>	Vice-Chairman Jones called for a vote to approve convening in closed session. Motion carried with no objections or abstentions.

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	66 – 68	<p style="text-align: center;"><u>RECONVENED TO OPEN SESSION</u></p> <p>Following the return to open session, Vice-Chairman Jones requested a motion from the Commission to address the KRS 13B appeal, <i>Barry King v. KHRC</i>, Administrative Action No. KHRC-21-TB-002. Motion by Commissioner Landes. Second by Commissioner Hendrickson</p> <p>Ms. Wolsing presented the Hearing Officer’s Recommended Order upholding the stewards’ ruling and the Commission’s Final Order, as outlined in the agenda materials.</p> <p>Approval is recommended by KHRC staff.</p>	Vice-Chairman Jones called for a vote to approve the proposed Final Order regarding <i>Barry King v. KHRC</i> ; Administrative Action No. KHRC-21-OR-002, as presented. Motion carried with no objections or abstentions.
IV. Adjournment	68	<p>Hearing no more business, Vice-Chairman Jones requested a motion to adjourn the December 14, 2021 meeting of the KHRC. Motion by Commissioner Cauthen. Second by Commissioner Simendinger.</p> <p>Meeting adjourned.</p>	Vice-Chairman Jones called for a vote to adjourn the December 14, 2021 meeting of the KHRC. 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.