

KENTUCKY HORSE RACING COMMISSION
MINUTES OF THE MEETING

Date: July 17, 2013 at 1:30 PM

Place: Capital Annex, Room 129, Frankfort, KY

Members Present: Chairman Robert M. Beck, Jr.; Commissioner Edward S. "Ned" Bonnie; Commissioner Burr Travis, Jr.; Commissioner Franklin S. Kling, Jr.; Commissioner Alan J. Leavitt; Commissioner Neil Howard; Commissioner Elizabeth Lavin; Commissioner Foster Northrop, DVM; Commissioner Frank Jones, Jr.; Commissioner John Phillips; and Commissioner Thomas Conway

Ex-officio Members Present: Mr. Robert D. Vance, representing the Public Protection Cabinet; and Mr. Larry Hayes, representing the Cabinet for Economic Development; and Mr. William Dexter, representing the Tourism, Arts and Heritage Cabinet

Kentucky Horse Racing Commission ("KHRC" or "Commission") Staff Participating: John T. Ward, Jr., Executive Director; Marc A. Guilfoil, Director of Racing; Susan B. Speckert, General Counsel; Mary Scollay, DVM, Equine Medical Director; Jamie Eads, Director of Breeders Incentives and Development; Greg Lamb, Supervisor of Pari-Mutuel Wagering; Barbara Borden, Acting Chief State Steward; Mr. Rich Williams, Chief State Judge; Will Farmer, DVM, Chief Racing Veterinarian; and Chris Clark, Director of Enforcement

Others Participating: None

Meeting called to order and roll call performed by Chairman Beck. A quorum was recognized.

AGENDA ITEM	TRANSCRIPT PAGE NUMBER(S)	DISCUSSION / CONCLUSIONS / RECOMMENDATIONS	ACTION TAKEN
Tab 1 Approve minutes of June 5, 2013 Commission Meeting	<p>4</p>	<p>Chairman Beck presented the minutes of the meeting of June 5, 2013 for approval.</p>	<p>Motion to approve the June 5, 2013 Minutes as presented by Commissioner Travis. Second by Commissioner Lavin. Motion carried with no objections or abstentions.</p>

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<p>Tab 2 Approve Racing Medication and Testing Consortium Membership</p>	<p>4 – 6</p>	<p>Dr. Scollay presented a proposal for approval of acceptance by the Equine Drug Research Council (“EDRC”) of a seat on the Racing Medication and Testing Consortium (“RMTC”) Board of Directors and the RMTC Board’s Finance Committee. She noted that the general Board position did not involve any financial requirement; however, annual dues of \$15,000 were required in association with membership on the Finance Committee.</p> <p>The EDRC’s participation on the RMTC’s general Board and Finance Committee is consistent with the EDRC’s statutory mandates as set out in KRS 230.265(2) and KRS 230.225(5). She noted that this would be the only seat held on the RMTC Board’s Finance Committee by a regulatory authority or a subsidiary of a regulatory authority.</p> <p>The EDRC voted to recommend acceptance of the seat on the RMTC Board and membership on the RMTC Board’s Finance Committee. The EDRC also voted to recommend that the KHRC Equine Medical Director serve as the EDRC representative on the general Board and the Finance Committee with the KHRC Executive Director to serve as an alternate representative in the event the Equine Medical Director was unable to attend a meeting.</p>	<p>Motion to approve the EDRC’s recommendations by Commissioner Bonnie. Second by Commissioner Northrop. Motion carried with no objections or abstentions.</p>
<p>Tab 3 Approve Rapid Response Substance Testing Program</p>	<p>6 – 8</p>	<p>Dr. Scollay presented the proposed Rapid Response Substance Testing Program (“Program”). She explained the reasons for the necessity of the proposed Program and presented an overview of its purpose and intent and how it would function and be implemented.</p> <p>The EDRC voted unanimously to recommend the Program for approval at its June 12, 2013 meeting.</p>	<p>Motion to approve the recommendation by Commissioner Travis. Second by Commissioner Lavin. Motion carried with no objections or abstentions.</p>
<p>Tab 4 Approve Research Request from Dr. John Timoney</p>	<p>9 – 11</p>	<p>Dr. Scollay presented a request for approval of the research proposal submitted by Dr. John Timoney. The project, entitled “<i>Potency and Efficacy of a Novel Leptospira Vaccine in Pregnant Mares,</i>” is an 18-</p>	<p>Motion to approve the recommendation by Commissioner Howard.</p>

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		<p>month project and the requested amount is \$52,043. The full proposal had undergone the internal and external review process. The external reviews were highly favorable and the Research Advisory Working Group of the EDRC ("RAWG") recommended the project for funding by the EDRC.</p> <p>The EDRC voted to approve recommendation of the project at its June 12, 2013 meeting.</p> <p>A discussion followed during which Dr. Scollay answered questions.</p>	<p>Second by Commissioner Phillips. Motion carried with no objections or abstentions.</p>
<p>Tab 5 Amendments to 811 KAR 1:215. Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders' Incentive Fund</p>	<p>11 – 12</p>	<p>Ms. Eads presented the proposed amendments to 811 KAR 1:215, Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders' Incentive Fund. There was participation from all major stakeholders in the industry during the amendment process and the Kentucky Harness Horsemen's Association ("KHHA") is in favor of the amendments. The amendments are proposed to help increase the stallions in Kentucky and, in return, the yearlings also.</p> <p>The Standardbred Advisory Panel reviewed and considered the proposed amendments at its May 23, 2013 meeting and approval is recommended.</p>	<p>Motion to approve the recommendation by Commissioner Leavitt. Second by Commissioner Bonnie. Motion carried with no objections or abstentions.</p>
<p>Tab 6 Amendments to 811 KAR 1:220. Harness racing at county fairs</p>	<p>12 – 14</p>	<p>Ms. Eads presented the proposed amendments to 811 KAR 1:220, Harness racing at county fairs. She explained that the regulation had been amended two years ago to require that a horse also be Kentucky Sire Stakes eligible in order to participate in harness races at county fairs, but that requirement had actually resulted in a decrease in entries. The proposed amendments will enable more horses to participate in the county fair races and increase entries and are supported by the Kentucky Colt Association and the KHHA.</p>	<p>Motion to approve the recommendation by Commissioner Leavitt. Second by Commissioner Jones. Motion carried with no objections or abstentions.</p>

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		The Standardbred Advisory Panel reviewed and considered the proposed amendments at its June 6, 2013 meeting and approval is recommended.	
Tab 7 Approve Churchill Downs Roster of Racing Officials for the 2013 Fall Meet	14 – 15	Mr. Guilfoil stated that by letter dated June 28, 2013, Churchill Downs requested approval of its roster of racing officials for the 2013 Fall meet and date preference system. All stewards are ROAP accredited and all officials have previously performed the duties for which they were listed and will be licensed by the start of the meet. The Kentucky Horsemen’s Benevolent and Protective Association (“KyHBPA”) has approved the requested date preference system. Staff recommended approval.	Motion to approve the recommendation by Commissioner Jones. Second by Commissioner Leavitt. Motion carried with no objections or abstentions.
Tab 8 Approve Kentucky Downs’ Roster of Racing Officials for the 2013 Meet	15 – 16	Mr. Guilfoil stated that by letter dated June 28, 2013, Kentucky Downs requested approval of its roster of racing officials for the September 2013 meet and date preference system. All stewards are ROAP accredited and all officials have previously performed the duties for which they were listed and will be licensed by the start of the meet. The KyHBPA has approved the requested date preference system. Staff recommended approval.	Motion to approve the recommendation by Commissioner Lavin. Second by Commissioner Bonnie. Motion carried with no objections or abstentions.
Tab 9 Approve The Red Mile’s Roster of Racing Officials for the 2013 Meet	16 – 17	Mr. Guilfoil stated by letter dated June 24, 2013, The Red Mile requested approval of its roster of racing officials for the 2013 Fall meet. All judges are ROAP accredited and all officials have previously performed the duties for which they are listed and will be licensed by the start of the meet. Staff recommended approval.	Motion to approve the recommendation by Commissioner Leavitt. Second by Commissioner Howard. Motion carried with no objections or abstention.
Tab 10 Approve The Red Mile’s request to approve wagering format	17 – 19	Mr. Guilfoil stated that by letter dated June 24, 2013, The Red Mile requested approval of the wagering format for the 2013 Fall meet as set out in the request. The requested wagering format includes changes in the wagering minimum for the Superfecta to a \$0.50	Motion to approve the recommendation by Commissioner Bonnie. Second by Commissioner

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		<p>minimum and the Super High Five to a \$0.10 minimum and complies with KHRC regulatory requirements.</p> <p>Staff recommended approval.</p>	Leavitt. Motion carried with no objections or abstentions.
<p>Tab 11 Approve The Red Mile's request to offer superfecta with carryover wager</p>	19 – 21	<p>Mr. Lamb stated that by letter dated June 24, 2013, The Red Mile requested approval a Superfecta with carryover wager. Mr. Lamb noted that the wager is not currently included in the KHRC's rules; however, the proposed wager is included in the Association of Racing Commissioner's International's ("ARCI") Model Rules. There will be a 100% day-to-day carryover should any particular Superfecta not be hit. United Tote has confirmed that their system has the capacity to handle the wager.</p> <p>Staff recommended approval.</p>	Motion to approve the recommendation by Commissioner Bonnie. Second by Commissioner Phillips. Motion carried with no objections or abstentions.
<p>Tab 12 Approve Churchill Downs' September meet KTDF allotments</p>	21 – 22	<p>Ms. Eads stated that by letter dated July 10, 2013, Churchill Downs requested approval of its KTDF purse structure for its 2013 September meet and the ability to payout KTDF purses on eligible horses first through last place. Churchill Downs requested to card KTDF purses in the \$200,000 - \$300,000 range with an expected KTDF payout percentage of 76% based on projected daily earnings of \$18,192. KHRC staff has confirmed that at the end of the 2013 spring meet, Churchill Downs had a surplus balance of \$57,243.</p> <p>The KTDF Advisory Committee approved recommendation of Churchill Downs' request at its July 15, 2013 meeting.</p>	Motion to approve the recommendation by Commissioner Jones. Second by Commissioner Lavin. Motion carried with no objections or abstentions.
<p>Tab 13 Reports a. Thoroughbred Rulings b. Standardbred Rulings</p>	22 – 27	<p>a. Ms. Borden presented the thoroughbred ruling report. She noted the following updates to the report as provided: 1) Ruling 13-0042 – payments are being received; 2) Ruling 13-0047 – due to his hospitalization, an extension of time to pay has been granted; and Ruling 13-0049 – paid. Ms. Borden answered questions from Commissioners.</p>	No action taken. Informational items only.

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c. Veterinary Division d. Pari-Mutuel Wagering Division e. Regulations and Litigation	27 – 28	b. Mr. Williams presented the standardbred ruling report as provided.	
	28 – 32	c. Dr. Farmer presented the veterinary report for the Spring 2013 meet at Churchill Downs as provided and answered questions from the Commissioners. Dr. Scollay presented the Race-related Fatal Injury Occurrence over time report. She noted for the period of January 1, 2013-July 14, 2013, Kentucky had .94 fatalities per 1,000 starts compared to 1.92 fatalities per 1,000 starts during 2012 in North America. In response to an inquiry by Commissioner Bonnie, Dr. Scollay stated that every fatally-injured horse receives a complete necropsy at the Veterinary Diagnostic Lab at the University of Kentucky, and blood samples are collected from all horses that are vanned off the racetrack for race-related injuries, whether catastrophic ultimately resulting in fatality or non-fatal injuries.	
	32 – 33	d. Mr. Lamb presented the reports for historical horse racing at Kentucky Downs and Ellis Park and live handle for Churchill Downs and Bluegrass Downs for June 2013. He noted a record average for the first week of July of over \$1 million a day for historical horse racing. He also noted that with the closure of Kentucky Off-Track Betting, now only one of Kentucky's off-tracking betting facilities remained open. In response to an inquiry Chairman Beck, Mr. Lamb stated that the total handle for Kentucky Downs tends to fluctuate depending on the time of the year and how the holidays fall and that at Ellis Park it has flat-lined somewhat. It appears that July will be up, but will not be a significant increase.	
	33	e. Status Report on Regulations and Litigation – For Informational Purposes Only.	

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	42	2) Chairman Beck requested a motion for the Commission to return to open session.	2) Motion to return to open session by Commissioner Lavin. Second by Commissioner Travis. Motion carried with no objections or abstentions.
	42 – 43	3) In the matter of <i>Joseph E. Carroll v. KHRC</i> , Administrative Action No. KHRC-13-SB-001, issuance of the Final Order as prepared by the staff adopting and incorporating the Findings of Fact, Conclusions of Law and Recommended Order (“Recommended Order”) of the Hearing Officer affirming the ruling of the judges was recommended.	
	44 – 45	4) In the matter of <i>Albert M. Stall, Jr. v. KHRC</i> , Administrative Action Nos. KHRC-13-TB-002 and KHRC-13-TB-005, issuance of the Agreed Final Order of Dismissal as prepared by the staff adopting and incorporating the agreement of the parties was recommended.	3) Motion to adopt the Hearing Officer’s Recommended Order and approve the Commission’s Final Order incorporating the Recommended Order by Commissioner Travis. Second by Commissioner Jones. Motion carried with no objections or abstentions.
	45 – 46	5) In the matter of <i>Brian Lynch v. KHRC</i> , Administrative Action No. KHRC-13-TB-004, issuance of the Agreed Final Order of Dismissal as prepared by the staff adopting and incorporation the parties was recommended. Commissioner Bonnie excused himself from the discussion of this matter during the Executive Session and abstained from the vote on the motion upon returning to Open Session.	4) Motion to approve the Agreed Final Order of Dismissal adopting and incorporating the agreement of the parties made by Commissioner Northrop. Second by

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			<p>Commissioner Leavitt. Motion carried with no objections or abstentions.</p> <p>5) Motion to approve the Agreed Final Order of Dismissal adopting and incorporating the agreement of the parties made by Commissioner Howard. Second by Commissioner Lavin. Motion carried with no objections and one abstention by Commissioner Bonnie.</p>
Adjournment	46 – 47	Chairman Beck requested a motion to adjourn.	Motion to adjourn by Commissioner Howard. Second by Commissioner Lavin. Motion carried with no objections or abstentions.

NOTE: The Agenda materials and any amendments thereto, subject to any applicable exemptions, and the official Transcript are incorporated herein.