

KENTUCKY HORSE RACING COMMISSION
MINUTES OF THE MEETING

Date: April 2, 2014

Place: Rolex Hospitality Room, 4089 Iron Works Parkway, Kentucky Horse Park, Lexington, KY

Members Present: Chairman Robert M. Beck, Jr.; Vice-Chairman Tracy Farmer; Commissioner Tom Conway, Jr.; Commissioner Edward S. “Ned” Bonnie; Commissioner Frank Jones, Jr.; Commissioner Elizabeth S. Lavin; Commissioner Alan J. Leavitt; Commissioner J. David Richardson; Commissioner Jerry Yon, M.D.; Commissioner Foster Northrop; Commissioner Burr Travis, Jr.; and Commissioner Neil Howard

Ex-officio Members Present: Mr. Robert D. Vance, representing the Public Protection Cabinet; Mr. William Dexter, representing the Tourism, Arts and Heritage Cabinet; and Ms. Hollie Spade, representing the Cabinet of Economic Development

KHRC 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 Incentives and Development; Greg Lamb, Supervisor of Pari-Mutuel Wagering; Barbara Borden, Chief State Steward; Will Farmer, DVM, Chief Racing Veterinarian

Others Participating/Present: Mr. Vince Gabbert, Keeneland Association; Ms. Shannon Arvin, counsel for Keeneland Association; Mr. Joe Costa, The Red Mile; Ms. Lisa Underwood, counsel for The Red Mile; Mr. Denis Kelly, Racing 2 Day; Ms. Laura D’Angelo, counsel for Racing 2 Day

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 September 23, 2013, October 22, 2013 and December 11, 2013 Commission Meetings	5 – 6	Chairman Beck requested a correction to the spelling of Commissioner D. Wayne Lukas’ name from L-U-C-A-S to L-U-K-A-S in the September 23, 2013 minutes.	Motion to approve the September 23, 2013 minutes as amended and the October 22, 2013 and December 11, 2013 minutes as presented by Commissioner Yon. Second by Commissioner Lavin. Motion carried with no objections or abstentions.

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N/A	5	Chairman Beck noted the arrival of Ms. Spade.	No action taken.
Tab 2 Ratify Keeneland's 2014 Spring Meet Racing Officials	6 – 7	<p>Mr. Guilfoil stated that by letter dated February 13, 2014, Keeneland requested approval of its roster of racing officials for the 2014 Spring meet and for its date preference system. All stewards are ROAP accredited and all officials have previously performed the duties for which they were listed and were licensed at the start of the meet.</p> <p>Due to cancellation of the February 26, 2014 Commission meeting, the Executive Director granted approval of the request pursuant to KRS 230.230</p> <p>Staff recommended ratification of the Executive Director's action.</p>	Motion to approve the recommendation to ratify the action taken by the Executive Director by Commissioner Travis. Second by Commissioner Howard. Motion carried with no objections or abstentions.
N/A	7	Chairman Beck noted the arrival of Commissioner Richardson.	No action taken.
Tab 3 Ratify Thunder Ridge's Racing Officials for their upcoming meet beginning April 23, 2014	7 – 8	<p>Mr. Guilfoil stated that by letter dated February 13, 2014, Thunder Ridge requested approval of its roster of racing officials for the 2014 meet. All judges are ROAP accredited and all officials have previously performed the duties for which they were listed and were licensed at the start of the meet.</p> <p>Due to cancellation of the February 26, 2014 Commission meeting, the Executive Director granted approval of the request pursuant to KRS 230.230.</p> <p>Staff recommended ratification of the Executive Director's action.</p>	Motion to approve the recommendation to ratify the action taken by the Executive Director by Vice Chairman Farmer. Second by Commissioner Yon. Motion carried with no objections or abstentions.

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Tab 4 Approve Payment to Kentucky Colt Association	8 – 9	Ms. Eads stated that by letter dated February 12, 2014, the Kentucky Colt Association (KCA) requested payment of the 2013 standardbred un-cashed ticket money (\$76,887.45) and the KCA's allocated portion of the tax taken in by the Kentucky Off Track Betting parlors (\$6,768.41) in the amount of \$83,655.86. Staff has confirmed the amount requested and approval is recommended.	Motion to approve the recommendation by Commissioner Bonnie. Second by Commissioner Lavin. Motion carried with no objections or abstentions.
Tab 5 Approve KTDF Purse Structure/Keeneland	9 – 10	<p>Ms. Eads stated that by letter dated February 17, 2014, Keeneland requested approval of its KTDF purse structure for its 2014 Spring meet and the ability to payout KTDF purses on eligible horses first through last place. Keeneland proposed KTDF purses in the amount of \$468,200 and projections are based on a payout of approximately 72.5% and KTDF purses representing 10% of the purses. KHRC staff has confirmed that at the end of the 2013 Fall meet, Keeneland had a deficit of \$22,817.</p> <p>The KTDF Advisory Committee approved recommendation of Keeneland's request at its March 10, 2014 meeting. Approval is recommended.</p>	Motion to approve the recommendation by Commissioner Bonnie. Second by Commissioner Lavin. Motion carried with no objections or abstentions.
Tab 6 Approve KTDF Purse Structure/Churchill Downs	10 – 11	Ms. Eads stated that by letter dated January 29, 2014, Churchill Downs requested approval of its KTDF purse structure for its 2014 Spring meet and the ability to payout KTDF purses on eligible horses first through last place. Churchill Downs proposed KTDF purses in the range of \$1,375,000 - \$1,475,000 and projections are based on projected daily earnings of \$29,896 and an expected KTDF payout percentage of 77%. KHRC staff has confirmed that at the end of the 2013 Fall meet, Churchill Downs had a deficit of \$19,975.	Motion to approve the recommendation by Commissioner Howard. Second by Commissioner Richardson. Motion carried with no objections or abstentions.

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		The KTDF Advisory Committee approved recommendation of Churchill Downs' request at its March 10, 2014 meeting. Approval is recommended.	
Tab 7 Approve Red Mile's Race Date change	11	Chairman Beck noted that The Red Mile had withdrawn its request to amend race dates (Agenda Item Tab No. 7).	Request withdrawn. No action taken.
Tab 8 Ratify moving IRM Terminals to Kentucky Downs and Kentucky Downs' request to swap out three terminals	11 – 12	<p>Mr. Lamb stated that by letter dated February 10, 2014 from Ellis Park and letter dated February 11, 2014 from Kentucky Downs, approval was requested to move 50 Nitro model historical horse racing terminals from Ellis Park to Kentucky Downs. Older model terminals at Kentucky Downs will be replaced with the updated Nitro terminals transferred from Ellis Park and will not result in any additional terminals at Kentucky Downs. Kentucky Downs' floor plan will not be changed and no new wagers will be offered as a result of swapping the terminals.</p> <p>Due to cancellation of the February 26, 2014 Commission meeting, the Executive Director granted approval of the request pursuant to KRS 230.230.</p>	Motion to approve the recommendation to ratify the action taken by the Executive Director by Commissioner Jones. Second by Commissioner Yon. Motion carried with no objections or abstentions.

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		Staff recommended ratification of the Executive Director's action.	
Tab 9 Approve Kentucky Downs' request to add three games as a supplement to their application to offer wagering on historical horse races	12 – 14	<p>Ms. Speckert stated that by letter dated March 5, 2014, Kentucky Downs requested approval to add three (3) new historical horse racing wagers. The staff has reviewed the wagers and confirmed their compliance with the rules and regulations. The wagers will not be offered to the public until a satisfactory functionality report is received from Gaming Laboratories International (GLI).</p> <p>Staff recommends approval contingent upon receipt of satisfactory functionality report from GLI.</p>	Motion to approve recommendation by Vice Chairman Farmer. Second by Commissioner Yon. Motion carried with no objections or abstentions.
N/A	14	Chairman Beck noted the arrival of Commissioner Northrop.	No action taken.
Tab 10 Ratify Churchill Downs Backside Improvement Projects	14 – 15	<p>Mr. Guilfoil stated that by letter dated February 16, 2014, Churchill Downs requested approval for the following backside improvement projects:</p> <ol style="list-style-type: none"> 1. Barn roof repairs at Churchill Downs; and 2. Barn roof repairs at Churchill Downs Trackside. <p>Staff has confirmed that Churchill Downs has \$350,643.51 in available backside improvement funds for fiscal year 2013. The total cost will exceed Churchill Downs' available backside improvement funds and reimbursement will only be for an amount equal to the amount available. Upon completion of the projects, KHRC staff will inspect the repair work and confirm completion. Written documentation of the completed projects, final photographs and copies of invoices will be maintained on file at the KHRC office. Reimbursement</p>	Motion to approve the recommendation to ratify the action taken by the Executive Director by Commissioner Yon. Second by Commissioner Travis. Motion carried with no objections and one (1) abstention by Commissioner Leavitt.

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		<p>requests will be presented to the Commission for approval prior to the release of any fund money.</p> <p>Due to cancellation of the February 26, 2014 Commission meeting, the Executive Director granted approval of the request pursuant to KRS 230.230. Ratification of the Executive Director's action is recommended.</p>	
<p>Tab 11 Ratify Reimbursement to Turfway Park for Backside Improvement Projects</p>	<p>15 – 16</p>	<p>Mr. Guilfoil stated that by letter received on February 17, 2014 (dated December 20, 2013), Turfway Park requested reimbursement for completed backside improvement projects that were approved by the Commission on September 23, 2013. Reimbursement is requested in the amount of \$59,385 for the following completed projects:</p> <ol style="list-style-type: none"> 1. New horse path to barn area; and 2. Paving of barn area. <p>KHRC staff has confirmed the projects have been completed.</p> <p>Due to cancellation of the February 26, 2014 Commission meeting, the Executive Director granted approval of the request pursuant to KRS 230.230. Ratification of the Executive Director's action is recommended.</p>	<p>Motion to approve the recommendation to ratify the action taken by the Executive Director by Commissioner Richardson. Second by Commissioner Howard. Motion carried with no objections or abstentions.</p>
<p>Tab 12 Approve Contracts with HFL for corticosteroid analysis in samples from clinical administrations to racehorses</p>	<p>16 – 20</p>	<p>On behalf of Dr. Scollay, Dr. Farmer presented the proposed contract with HFL Sport Science, Inc. (HFL) to perform analysis of serum samples collected from racehorses that have been administered corticosteroid injections by KHRC licensed veterinarians. The data compiled would aid veterinarians and trainers in understanding how to use the medications therapeutically while avoiding inadvertent overages and remaining compliant with the thresholds in the amended</p>	<p>Motion to approve the recommendation by Commissioner Yon. Second by Commissioner Lavin. Motion carried with no objections or abstentions.</p>

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		<p>regulation.</p> <p>\$50,000.00 would be allocated over a 12-month period and the cost per sample would be \$50.00. The Equine Drug Research Council (EDRC) voted to recommend EDRC funding of the project at its December 3, 2013 meeting. Because the project will cross the biennium, two separate contracts will need to be executed. One expiring at the end of the current biennium (June 30, 2014) and the other expiring at the end of the project (March 31, 2015). With the exception of the termination dates, the contracts are identical.</p> <p>In response to an inquiry from Commissioner Jones, Dr. Farmer noted that as the results of the analysis become available they will be presented on the website as well as in a spreadsheet fort in the test barn.</p> <p>Approval is recommended.</p>	
<p>Tab 13 Approve Keeneland’s amendments to legal site description to offer drive-through betting on Oaks and Derby days at the Horse Park and the Training Center</p>	<p>20 – 23</p>	<p>Ms. Speckert presented Keeneland’s request for approval by letters dated March 26, 2013 to amend the legal site description provided in its 2014 license application to include the premises known as the Thoroughbred Training Center and to include a portion of the Kentucky Horse Park (KHP) to be leased in order to facilitate offering drive-through betting at these locations on Oaks and Derby days, May 2-3, 2014. Similar requests from Keeneland have been approved in 2012 and 2013.</p> <p>The staff has confirmed that Keeneland has met the requirements of the statute, with the exception of</p>	<p>Motion to approve the recommendation by Commissioner Yon. Second by Commissioner Bonnie. Motion carried with no objections or abstentions.</p>

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		providing a copy of the lease agreement between Keeneland and the KHP and a copy of the required approval from the Red Mile. Staff recommends approval of Keeneland's request contingent upon receipt of those items.	
Tab 14 Reports a. Thoroughbred Rulings b. Standardbred Rulings c. Veterinary Division d. Pari-Mutuel Wagering Division e. Regulations and Litigation	<p>23</p> <p>23 – 24</p> <p>24 – 27</p> <p>27 – 28</p>	<p>a. Ms. Borden presented the thoroughbred ruling report. She noted updates of payment of the following Ruling Nos.: 14-0001; 14-0008; 14-0011 and 14-0012. She also noted a correction of the infraction date of Ruling No. 14-0010 from October 19, 2012 to January 26, 2013 and that additional time to pay had been requested and granted.</p> <p>b. Mr. Guilfoil presented the standardbred ruling report. He noted that no standardbred racing had yet taken place during 2014. There were no updates to the report as provided and all individuals with unpaid fines had been suspended.</p> <p>c. Dr. Farmer presented the 4th quarter (10/1-12/31/2013) drug testing summary and veterinary report for the 2013 Turfway Holiday meet and responded to questions from the Commissioners.</p> <p>d. Mr. Lamb presented the reports for historical horse racing at Kentucky Downs and Ellis Park for December 2013; January 2014; and February 2014. Also included was live handle at Turfway Park for January and February 2014. He noted that, although Turfway Park lost several days and Kentucky Downs lost a day and a half due to severe weather that affected both live and</p>	<p>No action taken. Informational items only.</p>

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	28	<p>historic racing, the daily combined handle for historical horse racing in February and March 2014 was \$1 million a day and almost \$2.5 million on Valentine's Day.</p> <p>e. Status Report on Regulations and Litigation – For Informational Purposes Only.</p>	
<p>Tab 15 Approve revised Conditions to Conduct Historical Horse Races for Thoroughbred and Standardbred Tracks</p>	31 – 33	<p>Ms. Speckert presented proposed amendments to the Thoroughbred and Standardbred Conditions to Conduct Historical Horse Races (HHR Conditions). She noted that the proposed HHR Conditions were identical except for cites to the applicable bred specific regulations.</p> <p>She explained that the amendments were minor and outlined some examples of the changes. In response to an inquiry from Commissioner Richardson, she confirmed that all employees of a facility licensed to conduct wagering on historical races were required to be licensed by the KHRC.</p> <p>She confirmed that the tracks currently licensed and the tracks that have applied for licensure to conduct wagering on historical horse races had had the opportunity to review and comment on the proposed amendments.</p>	<p>Motion to approve by Commissioner Richardson. Second by Commissioner Travis. Motion carried with no objections or abstentions.</p>
<p>Tab 16 Keeneland's & Red Mile's requests to offer wagering on Historical Horse Races</p>	33 – 54 34 – 41	<p>Ms. Underwood and Mr. Costa presented on behalf of the Red Mile's application. Ms. Underwood noted that the wagers requested to be offered by the Red Mile were the same wagers previously approved for Kentucky Downs and Ellis Park and included a request for approval</p>	<p>1) Motion offered by Commissioner Leavitt. Second by Commissioner Conway. Motion carried with no objections or abstentions.</p>

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	41 – 47	<p>of 500 terminals. Mr. Costa presented an overview with illustrations of the Red Mile’s new facility that would include 500 terminals, a sports bar, food and beverage and retail. He explained that the rezoning application for a mixed-use development project of the front 65 acres had been approved by the Mayor and City Council. In response to an inquiry by Commissioner Leavitt, he stated that they are optimistic about reaching an agreement with the horsemen and breeders on the percentage of total win that would go into purses.</p> <p>In response to an inquiry by Commissioner Howard, Ms. Speckert explained that the KHRC’s regulations have a provision that provides that wagering on historical horse races can be on any breed regardless of the primary breed of live racing.</p> <p>Ms. Arvin and Mr. Gabbert presented on behalf of Keeneland Association. Ms. Arvin stated that Keeneland’s request only included games that have previously been approved by the Commission and that the plan is for Keeneland’s facility to be a year-round product. Traditional simulcasting will be in the facility. Mr. Gabbert presented an overview of Keeneland’s proposed new facility. Current plans is for the new facility to be approximately 40,000 square feet with 600 terminals. The facility will serve as Keeneland’s event center and will have, in addition to wagering on historical horse races, simulcasting, food and beverage. In response to an inquiry by Commissioner Travis, he stated that the target start date is July 1, 2015. They anticipate</p>	2) Motion offered by Commissioner Lavin. Second by Commissioner Travis. Motion carried with no objections or abstentions.

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	48 – 54	<p>being on the agenda of the Board of Adjustment’s May meeting for their conditional use permit.</p> <p>Ms. Speckert noted that the requests submitted by Keeneland and the Red Mile contained all of the information that the regulations required. All wagers requested to be offered have previously been approved by the Commission; the terminals requested to be used have previously been approved by the Commission; and both have indicated that they are in good faith negotiations with the applicable horsemen’s groups. After thorough review by the staff, approval is recommended contingent upon: 1) receipt of a satisfactory functionality report from Gaming Laboratories International; 2) approval of the designated area including approval of all the security equipment and procedures; 3) approval as the build-out takes place that all applicable statutes, regulations and conditions are complied with; 4) receipt of the terms of the agreement of the applicable horsemen’s organization; 5) notification and approval of any changes to the materials submitted in the prospective applications; receipt of terminal information; and 6) final written approval of the staff to open the designated area and beginning offering wagering on historical horse races.</p> <p>1) Chairman Beck requested a motion to approve subject to the conditions as set out by Ms. Speckert, the application for offering wagering on historical horse races by the Red Mile.</p>	

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	<p>55 – 56</p> <p>56 – 57</p> <p>57 – 58</p> <p>58</p>	<p>Upon returning to open session, Chairman Beck requested:</p> <p>1. Motion to approve the 2014 ADW license application of Racing 2 Day.</p> <p>2. Motion to adopt the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer to affirm the Stewards’ ruling and the KHRC’s Exceptions in the matter of <i>Werre v. KHRC</i>, Administrative Action No. KHRC-13-TB-003.</p> <p>3. Motion to adopt the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer to affirm the Stewards’ ruling and the KHRC’s Exceptions in the matter of <i>Gonzalez v. KHRC</i>, Administrative Action No. KHRC-TB-12-015.</p> <p>4. Motion to approve renewal for an additional 2 years the contract for Dr. Mary Scollay as equine medical director.</p>	<p>objections to abstentions.</p> <p>1. Motion to approve Racing 2 Day’s 2014 ADW license application by Commissioner Travis. Second by Commissioner Richardson. Motion carried with no objections or abstentions.</p> <p>2. Motion to adopt the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer and KHRC’s Exceptions as presented by Commissioner Bonnie. Second by Commissioner Jones. Motion carried with no objections or abstentions.</p> <p>3. Motion to adopt the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer and KHRC’s Exceptions as presented by Commissioner Bonnie. Second by Commissioner</p>

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			<p>Yon. Motion carried with no objections or abstentions.</p> <p>4. Motion to approve renewal of the contract for equine medical director by Commissioner Yon. Second by Commissioner Lavin. Motion carried with no objections or abstentions.</p>
Adjournment	58 – 59	Chairman Beck requested a motion for adjournment.	<p>Motion to adjourn by Commissioner Travis. Second by Commissioner Yon. Motion carried with no objections or abstentions.</p>

NOTE: The Agenda materials and any amendments thereto, subject to any applicable exemptions, and the official Transcript are incorporated by reference as if set forth fully herein.