

**MINUTES**  
**WV RACING COMMISSION**  
**Monday, December 19, 2011 10:00 A.M.**  
**Mountaineer Racetrack**

The WV Racing Commission met on December 19, 2011, at 10:00 AM to conduct business and consider administrative matters. Roll call was taken and present were Chairman Joe Smith and Commissioner Greg McDermott, and Commissioner Jack Rossi via conference call. Counsel was represented by Kelli Talbott and Anthony Eates.

**Approval of November 14, 2011 Minutes**

The Commissioners and both attorneys received the minutes from the November 14, 2011, meeting prior to this meeting. Mr. Rossi moved to accept the minutes, Chairman Smith seconded the motion. The Commissioners approved the November 14, 2011 minutes by unanimous consent.

**Acceptance of 2011 Annual Audit, Gibbons & Kawash**

Upon motion by Mr. Rossi, seconded by Mr. McDermott, the Commission agreed to accept the audit report as presented. Mr. Denyer noted the audit was completed two months faster than in the prior year, and improvements have been made since the last audit.

**Update, backstretch pension issue**

Mr. Amores is continuing to work with the HBPA and attorneys. They agreed on a draft, which will be ready in January. They are trying to avoid going before the Legislature. In the next few weeks, it will be ready for review by all the stakeholders.

**Approval of 2012 licensure application for pari-mutuel wagering, The Greenbrier**

Upon motion by Mr. Rossi, seconded by Mr. Mc Dermott, the Commission agreed to the renewal of the license, conditional after receiving signatures by the vendors contracting with The Greenbrier.

**Occupational permit reinstatement request: Todd Kilmer**

Upon motion by Mr. Mc Dermott, seconded by Mr. Rossi, the Commission is denied reinstatement of Mr. Kilmer's permit, for a period of one year, following rehabilitation. Chairman

Smith based his reluctance upon the safety and well being of others at the track. Chairman Smith advised Ms. Talbott to prepare an Order reflecting the Commission's decision.

### **Update, PNGI v. Reynolds**

Ms. Talbott stated the WV Supreme Court issued a decision upholding the statutes that permit holders ejected by the Association have the right to request a hearing. Anyone wanting to review the decision can access it on the WV Supreme Court website.

### **Reimbursement of capital improvement funds, Mardi Gras, \$42,142 for purchase of HVAC systems for five kennels.**

Upon motion by Mr. Rossi, seconded by Mr. McDermott, the Commission agreed to the reimbursement, following Ms. Carnefix's approval that the funds are available.

### **Reimbursement of capital improvement funds, Mardi Gras, \$66,300 for expansion of simulcast viewing deck**

Upon motion by Mr. Rossi, seconded by Mr. McDermott, the Commission approved the reimbursement, following Ms. Carnefix's approval that the funds are available. Mr. Staats explained that the deck will expand to the window.

### **Proposed amendments to 178 CSR 6, procedural rule regarding permit holder ejection appeal, with appeal and stay forms**

Upon motion by Mr. McDermott, seconded by Mr. Rossi, the Commission agreed to the proposed amended rules for public comment. Ms. Talbott stated that amendments need to be made, then filed after public comments.

### **Occupational permit Wheeling Island, Latonia Bryant**

Upon motion by Mr. McDermott, seconded by Chairman Smith, the Commission agreed to reinstate Ms. Bryant's permit. Mr. Amores had several supportive commendations showing completed rehabilitation for Ms. Bryant.

### **Approval of 2012 stakes schedule, Charles Town Races**

Upon motion by Mr. McDermott, seconded by Mr. Rossi, the Commission approved the schedule as submitted by Mr. Zimny.

### **Approval of 2012 preference list rules, Charles Town Races**

Upon motion by Mr. McDermott, seconded by Mr. Rossi, the Commission approved part one: to add that if the alternate is offered the opportunity to run and chooses not to, he keeps his date.

Part two: Rejected that if horse papers are withdrawn from the Racing Office for just cause, their original preference date is maintained.

Part three: Approved that when there are extenuating circumstances, such as cancellation of live racing and clerical errors, and as otherwise approved by the Board of Stewards, it does not adversely impact the horse.

### **Reminder: WVRC work policy for dark months**

Mountaineer Park is dark for January and February. The employees are still required to work 37.5 hours weekly for maintaining benefits. Time sheets are to be signed by the Chief Steward, Jim O'Brien, and audited by Ms. Carnefix.

### **Update on 2012 kennels, Wheeling Island**

Ms. Horvath updated that all the kennel owners have signed the contracts, all the conditions are the same.

### **Update, Wheeling Island renovations**

Ms. Horvath commented that the renovations are almost complete. The track has received positive comments and increased their handles since the updates.

### **Update from Office of Technology; Proceeding with and MOU Infrastructure and RFP / Research for WVRC Information System**

Upon motion by Mr. McDermott, seconded by Chairman Smith, Commission voted to defer any decision for more discussion between the Commissioners on the infrastructure and proposed quotes on the software, with quotes, and to review the MOU.

**Consideration / response to settlement offer, Hancock v. WVRC**  
**Consideration / response to settlement offer, Burdette v. Sidiropolis**

Upon motion by Mr. McDermott, seconded by Mr. Rossi, on both of the above considerations, the Commission has authorized the attorney has been authorized to prepare counter offers.

**Adjournment**

The next Racing Commission meeting is set for January 24, 2012, at 10 AM in the new Lottery Building.