

Virginia Racing Commission

MINUTES

OF THE

COMMISSION MEETING

December 16, 2015

**James Monroe Building
Conference Room B
101 N. 14th Street
Richmond, VA 23219**

In Attendance

Commission Members:

J. Sargeant Reynolds, Jr., Chairman
D.G. Van Clief, Jr., Vice Chairman
Carol G. Dawson
I. Clinton Miller
Charles Steger, PhD

Commission Staff:

Bernard J. Hettel, Executive Secretary
C. Richard Harden, DVM, Equine Medical Director
David S. Lermond, Jr., Deputy Executive Secretary
Kimberly C. Mackey, Office Administrator

Office of Agriculture and Forestry

Sam Towell, Deputy Secretary of Agriculture and Forestry

Attorney General's Office:

J. Duncan Pitchford, Esquire

At 10:00 a.m., the regular monthly meeting of the Virginia Racing Commission (VRC) was called to order by Chairman Reynolds.

The next Commission meeting is set for Wednesday, January 6, 2016 at 10:00 a.m.

During the appeal hearing in the matter of Mark Gray, the Commission unanimously upheld the stewards' decision on the ruling.

Following the hearing, there was a recess from 11:23 a.m. until 11:49 a.m.

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A discussion ensued regarding the administrative process hearing regarding Twinspires. Following the discussion, at 1:04 p.m., the Commission went into closed session with counsel reading the following motion at the request of the Chairman. “In accordance with the provisions of §2.2-3711(a)(7) of the code of Virginia, I move that the Commission go into closed meeting for the purposes of consultation with legal counsel and briefing by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating of litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel concerning agenda item number three, the administrative process hearing concerning Twinspires.com. The Commission will only ask counsel questions and will not engage in deliberations or any other activity”. The motion for approval was made by Vice Chairman Van Clief and seconded by Commissioner Dawson. All were in favor. The motion carried unanimously.

Returning from closed session, at 1:22 p.m., counsel read the following motion, “Section 2.2-3712 of the code of Virginia requires a certification by this Commission that the closed meeting was conducted in conformity with Virginia law. Now, therefore, be it resolved that the Virginia Racing Commission certifies that to the best of each member’s knowledge, (i) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Commission in the closed meeting”. The motion for approval was made by Chairman Reynolds and seconded by Vice Chairman Van Clief. All were in favor. The motion carried unanimously.

Counsel then read the following motion at the request of the Chairman, “Pursuant to Virginia code §59.1-385, the Commission shall effectively at five p.m. on Friday, December 18, 2015, suspend the ADW license currently held by Twinspires, unless prior to that date, Twinspires is able to demonstrate full compliance with the terms of its license, including but not limited to payment of all funds currently owed to the Virginia Equine Alliance, Virginia Horsemen’s Benevolent Protective Association, and the Breeders Fund, as documented on the spreadsheet presented to the Commission”. Commissioner Dawson moved on the motion and it was seconded by Commissioner Steger. All were in favor. The motion carried unanimously.

Minutes of the regular meeting held on November 17, 2015 were unanimously approved. The motion for approval was made by Vice Chairman Van Clief and seconded by Commissioner Miller. All were in favor. The motion carried unanimously.

Xpressbet submitted a license renewal for 2016. The motion for approval was made by Commissioner Miller and seconded by Commissioner Steger. All were in favor. The motion carried unanimously.

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TVG submitted a license renewal for 2016. The motion for approval was made by Commissioner Miller and seconded by Commissioner Dawson. All were in favor. The motion carried unanimously.

The Commission unanimously approved the authorization of the Chairman and the executive secretary to have the authority to issue a license renewal to Twinspires for 2016, should they meet all the conditions and requirements for a normal license renewal for ADW and show themselves to be in compliance with the previous license suspension order. The motion for approval was made by Commissioner Miller and seconded by Commissioner Dawson. All were in favor.

The Virginia Gold Cup submitted the limited license renewal application for the 2016 race days. The motion for approval was made by Commissioner Miller and seconded by Commissioner Steger. All were in favor. The motion carried unanimously.

The Virginia Equine Alliance submitted the limited license renewal application for the 2016 race days. The motion for approval was made by Commissioner Miller and seconded by Vice Chairman Van Clief. All were in favor. The motion carried unanimously.

Mr. Hettel recommended approval of the proposed breeders fund budgets for 2016 for the Virginia Thoroughbred Association. The motion for approval was made by Commissioner Miller and seconded by Commissioner Dawson. All were in favor. The motion carried unanimously.

Mr. Hettel recommended approval of the proposed breeders fund budgets for 2016 for the Virginia Harness Horse Association. The motion for approval was made by Commissioner Miller and seconded by Commissioner Dawson. All were in favor. The motion carried unanimously.

During Commissioners' comments, Vice Chairman Van Clief stated, "the most important thing obviously by far we dealt with here today is the future of the ADW market here in the Commonwealth. Mr. Blackwell and other parties as well, the VEA, HBPA, please make an effort with the brief time that we have. I have had the pleasure over a long time of dealing with Churchill Downs and their affiliates in a number of capacities. I believe that it is one of the very best operated and run organizations in the business of racing. I do hope that they will be able to remain in the marketplace, so I would ask that Mr. Blackwell and your team make every effort and that the VEA please do the same. I hope you can come to a place to work something out".

Chairman Reynolds stated, "My whole family is from Kentucky. We grew up at Churchill Downs. The president of Twinspires is a good person; you're a good person. I just hope we can work out our differences, and I really hope you all can do that".

Commissioner Dawson stated, "I want to thank and congratulate really all of you, especially the chairman, and the other commissioners who worked so hard all year, and

especially the staff of the VRC, who we couldn't do without. Thank you to you all and have a happy holiday”.

Commissioner Miller stated, “I am hopeful that Twinspires ADW Company, doing business in Virginia for a long time, will come into compliance and continue to do business. I don't think it's wrong for someone to hope for someone who has been a good corporate citizen in the past to continue to operate. I know that each ADW company probably has some considerable concern about racing in Virginia. That was expressed by Mr. Blackwell, the extent to which our racing has lessened in Virginia as a product, but Virginia is working. Our horsemen and the VEA, all of them, harness horsemen and Thoroughbred Association, all of them, are working to try to build Virginia racing back up to be a first-class product. Part of building that back up is the importance of receiving the funds from the ADW companies. That's a very important and vital part of building racing back up in Virginia. It is sort of, as Debbie indicated before, as Debbie Easter indicated before, it's a partnership. While the quality of racing in Virginia now may look at a lower level to those ADW companies, they're going to help build it back up to a first-class racing program in Virginia. It's with their help we're going to do that, and hopefully with the help of the satellite wagering facilities to get some of them back up. The Virginia legislature, in their effort to build Virginia racing, they put a cost on wagering in Virginia. The Virginia legislature was willing to allow extensive wagering, gambling in Virginia, but at a cost, because the Virginia legislature in allowing pari-mutuel wagering and allowing the racing programs to go forward in Virginia, they expect those people participating in wagering to make a contribution to internal interests in Virginia to build Virginia's economy. That's why we're able to operate at all. So we can't begrudge the fact that whether it's eleven and a half percent, nine percent, eight percent, 15 percent, whatever it is, the legislature has said that's the cost of doing business in Virginia. We're allowing you to exercise your business in Virginia at that cost, and if you want to wager in Virginia, if you want to operate in Virginia in whatever capacity, you have to pay whatever the legislature says you have to pay, and that's why we had to do what we did here today”.

With no further business set forth on the agenda, the meeting was adjourned at 1:46 p.m.