

Virginia Racing Commission

MINUTES

OF THE

COMMISSION MEETING

December 16, 2009

**HORSEMEN'S BUILDING
COLONIAL DOWNS
10700 HORSEMEN'S ROAD
NEW KENT, VA**

In Attendance

Commission Members:

Peter C. Burnett, Chairman
Clinton Miller, Vice Chairman
Mark Brown
David C. Reynolds
Stuart Siegel

Commission Staff:

Victor I. Harrison, Executive Secretary
David S. Lermond, Jr., Deputy Executive Secretary
Kimberly M. Carter, Office Administrator
C. Richard Harden, DVM, Commission Veterinarian
Joseph M. Roney, Director of Security & Enforcement
Dennis E. West, Director of Operations

Attorney General's Office:

Amy K. Dilworth

At 10:06 a.m., the monthly meeting of the Commission was called to order by Chairman Burnett.

Chairman Burnett informed the Commission that due to the illness of the appellant, the hearing on the matter of Driver Mark Gray will be moved to the January meeting.

Prior to the regular monthly meeting, presentations were made by representatives of Colonial Downs, L.P., ODS Technologies, L.P., d/b/a TVG, XpressBet, Inc. and Churchill Downs Technology Initiatives Company, d/b/a TwinSpires, Inc., and YouBet on their applications for the renewal of their advance deposit account wagering licenses

for 2010. Deputy Secretary Lermond stated that he had performed the required reviews of these ADW applicants. Each ADW representative stated their case for approval.

Chairman Burnett questioned each ADW provider on the issue of continuing to post a bond to adequately cover their customer's accounts vs. the Oregon method of providing equivalent protection. All of the ADW providers had no issue with providing a bond if so required as a condition of receiving their licenses.

With respect to of the provisions of HB-2604, Mr. Weinberg made the point that the VRC meeting is not the proper forum to address the issue of constitutionality – it would occur in the judicial branch not the executive. Mr. Petramalo opined that as a state regulatory agency (the VRC) would operate under the presumption that the state law under which the VRC is working under is constitutional.

Commissioner Miller made the point that, upon notice that an ADW provider hasn't made their statutorily required payment on or around February 10th 2010, that, "we'll be duty bound to start a proceeding to revoke the license."

Following the discussion of the request for renewal of ADW licenses, Chairman Burnett made the motion to go into closed session. "In accordance with the provisions of Section 2.2-3711 (A) (7), I move the Commission convene a closed meeting for the following purpose: Consultation of legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, in this case, any legal advice that we may seek or need with the respect to the granting of ADW licenses or renewals thereof." Seconded by Commissioner Brown. All were in favor by saying, "Aye."

Coming out of closed meeting, "in accordance with Section 2.2-3712 that to the best of each members knowledge, one, only public business matters lawfully exempted from open meeting requirements under this chapter, and two, only such business matters as were identified in the motion by which the closed meeting were convened were heard, discussed, or considered in the meeting by the public body." Certified by the Commission, the vote was: Brown, aye; Siegel, aye; Reynolds, aye; Miller, aye; and Chairman Burnett, aye.

Chairman Burnett moved the approval of all five licenses subject to the seven conditions recommended by staff and with the additional condition of the reservation of the Commissions right to impose a bond with appropriate notice and opportunity to be heard in the event we find that the so-called Oregon separate account protection of account holders funds is insufficient. The motion was seconded by Commissioner Brown and passed unanimously by the Commissioners.

Following the discussion of applications for renewal of Advanced Deposit Account Wagering Licenses for 2010, Chairman Burnett moved to the regular monthly meeting.

The minutes of the November 17, 2009 meeting were approved.

During Commissioners Comments, Chairman Burnett informed the Commission that RCI endorsed, approved, resolved efforts to sponsor legislation to broaden the National Racing Compact so that it isn't limited to only licensing. It would have broader coverage and authority from participating states in terms of the subject area it covers.

Executive Secretary Vic Harrison commented on the decline of attendance at the U of AZ Race Track Industry Program Racing Symposium and that other industry steering groups cluster their meetings around those of the Symposium to save participants on the cost of travel.

Executive Secretary Harrison reviewed the final report of the 2009 Standardbred meeting. The report was written and compiled by Jean Chalk, the Senior Commonwealth Judge. Secretary Harrison pointed out the Judge's comments on the need for a fifth on track camera and that the new whip rule requirements made for a better presentation of harness racing.

The Equine Medical Director, Dr. Richard Harden reviewed his report of the 2009 Harness Meet. From his perspective, 2008 had been one of the best harness meets but that 2009 was a great disappointment. Ms. Katherine Smith, Vice President of the VHHA, stated that, "a lot of the behavior that we saw, the quality of racing that we saw, and certainly the quality of the driver colony that Mr. (Commissioner) Brown has mentioned were more than likely a stout reflection of the purse monies. We are not able to draw some of the larger stables where you can count on a better quality horse, better quality personnel tending the horses, and better support for the racing itself."

The 2010 Standardbred Race Days request was deferred to January 2010.

Commissioner Brown moved to approve the adoption of the final exemption to 10-60-15, fee schedule for permit holders. The motion was seconded by Commissioner Reynolds. After some discussion, the motion was passed unanimously by the Commissioners.

Commissioner Brown made the motion to approve the list of Host tracks upon which Colonial Downs bettors can wager in 2010. This was seconded by Commissioner Reynolds and passed unanimously by the Commission.

After the track and the horsemen acknowledged that the parties were very close to an agreement on the particulars of the 2010 thoroughbred race meet, Chairman Burnett recommended to the Commission that the 2010 Thoroughbred Race Days request be deferred until the January 2010 VRC meeting.

"There being no further business," Wednesday, January 20th was set as the date of the next meeting to be held at the Horsemen's Building, Colonial Downs, 10700

Horsemen's Road, New Kent, VA. It was moved, seconded, and carried to adjourn this December, 2009 monthly meeting of the Commission.