

UNAPPROVED

VIRGINIA RACING COMMISSION

MINUTES

OF

COMMISSION MEETING

JANUARY 25, 2005

STATE CORPORATION COMMISSION
TYLER BUILDING, COURTROOM B
1300 EAST MAIN STREET
RICHMOND, VIRGINIA

In Attendance

Commission Members:

Anne D.W. Poulson, Chairman
Peter C. Burnett, Vice Chairman
Mark T. Brown
James G. Davis
Dr. George W. Rimler

Commission Staff:

Stanley K. Bowker, Executive Secretary
Kimberly M. Carter, Office Administrator
David S. Lermond, Jr., Director of Pari-Mutuels
Lauren Messmer, Marketing
Joseph M. Roney, Director of Operations and Enforcement
Marvin A. Sniegon, Director of Financial Management and Planning

Attorney General's Office:

Teresa Griggs

At 9:45 a.m., Chairman Poulson called the meeting to order.

Chairman Poulson and Vice Chairman Burnett were re-elected for 2005.

The minutes of the November 12, 2004 meeting were approved with corrections.

The minutes of the December 15, 2004 meeting were approved with corrections.

In her Chairman's Report, Chairman Poulson said the Commission is looking forward to 2005 to build on the accomplishments of 2004 that included the opening of an additional satellite facility, the successful passage of three referenda for additional facilities, receipt of five licensing applications from advance deposit account wagering companies and the approval of PhoneBet plus significant increases in attendance and pari-mutuel handle at Colonial Downs and its satellite facilities.

She further stated it is the goal of this Commission to grow racing in the state and there are a number of great opportunities in front of the industry. She said the industry has put together a good legislative team and has a good relationship with the current administration, including Governor Warner and Secretary Schewel, along with the Departments of Tourism, Planning and Budget and Business Development.

Commissioner Brown, Chairman of the Standardbred Blue Ribbon Committee, reported the committee's January meeting was postponed due to weather conditions and the committee would be meeting in early February.

Acting on the recommendation of Mr. Bowker, the Commission approved Colonial Downs' February simulcasting schedules for the satellite wagering facilities.

Mr. Bowker reported on the final pari-mutuel handle for 2004. He said total handle for the state was \$145,394,480, not including account wagering, compared to \$130,382,875 in 2003, an increase of 11.5%. Thoroughbred handle was \$113,678,888 compared to \$103,518,131 in 2003, an increase of 9.8%. Harness handle was \$31,715,592 compared to \$26,864,744 in 2003, an increase of 18.1%.

Mr. Bowker said that the Commission, when it rejoined the Association of Racing Commissioners International last year, had committed to membership at least through 2005. He said Virginia's membership in the North American Pari-mutuel Regulators Association had expired on December 31, 2004. After considerable discussion the Commission voted to remain a member of NAPRA for 2005 contingent on a commitment from NAPRA to work toward unification of the two organizations this year.

Mr. Bowker reported that the Mid-Atlantic Executive Directors had completed a final review of the proposed uniform medication rules. He said Commissioner Burnett's Safety and Medication Committee would meet in February to review any changes that need to be made in the Virginia regulations with the goal of having the proposed new rules in place before the 2005 thoroughbred meet.

Mr. Bowker provided an update on the current legislation. The Commission's housekeeping bill, introduced by Sen. Norment, should be heard this week. Del. Parrish's HB1835 was withdrawn by the patron. HB 2593, introduced by Del. Weatherholtz, is identical to HB 1835 and would increase from three years to 10 years the time between elections for approval of satellite facilities or a racetrack. It is being opposed by the industry.

A gambling conspiracy indictment has been handed down in New York and Mr. Bowker reported staff is reviewing the individuals and companies named in the indictment.

Commissioner Burnett and Mr. Bowker reviewed a number of options being discussed with the horsemen, Colonial Downs and the state involving insurance coverage for jockeys and drivers competing in Virginia.

James Weinberg, counsel for Colonial Downs, reported that a liquor license is finally in place for the new Vinton satellite facility. He added that Colonial is hopeful that business at the facility will show improvement.

Mr. Weinberg stated that Colonial has signed a letter of intent for a location for a new facility in Scott County and that negotiations are underway to finalize a location in Chesapeake. A hearing is scheduled tomorrow (January 26) in Henry County and there are four potential sites under review in Westmoreland.

Commissioner Rimler asked if state-of-the-art equipment would be installed at the new locations. Mr. Weinberg stated that Colonial has negotiated a new three-year contract with AmTote that includes updating the equipment and software.

In response to a question from Commissioner Rimler about the handling of complaints, John Mooney, President of the Maryland-Virginia Racing Circuit, said a statement that pari-mutuel wagering is under the jurisdiction of the Virginia Racing Commission and how to contact the Commission about complaints has been added to an information page in the daily program. He added that customer complaint forms also are available at each facility.

Chairman Poulson called to order a public hearing on Colonial Downs' request for 2005 live racing days.

Mr. Weinberg stated that Colonial Downs would like to discuss the harness days first. He advised that Colonial would like to orally amend its request to include 36 racing days beginning Friday, September 16 and continuing through Monday, November 14. He added Colonial would provide \$150,000 to market the meet and that it is to be matched by the harness horsemen.

Gerald Canaan, counsel to the Virginia Harness Horse Association (VHHA), said the VHHA was in agreement with Colonial's 36-day proposal.

It was moved, seconded and unanimously approved for the 2005 harness meet to be 36 days starting Friday, September 16 and ending on Monday, November 14.

Turning to the thoroughbred meet, Mr. Weinberg said a number of the issues involving the 2005 meet and beyond were still being discussed. He asked the Commission for a 30-minute recess to see if the final few details could be worked out.

The Commission went into recess at 12:02 p.m. The Commission returned at 12:45 p.m. and when the representatives of Colonial Downs and the thoroughbred horsemen had not returned, Chairman Poulson offered the following motion:

“In accordance with the provisions of Section 2.2-3711 (A)(7) of the Code of Virginia, I move that the Commission go into closed meeting for the purpose of consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Commission, and consultation with legal counsel employed or retained by the Commission regarding specific legal matters requiring the provision of legal advice by such counsel regarding advance deposit account wagering.”

The motion was unanimously approved.

Returning from closed meeting, Chairman Poulson stated, “I move the adoption of the following resolution:

“Whereas, the Virginia Racing Commission has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

“Whereas, Section 2.2-3712 of the Code of Virginia requires a certification by this Commission that such 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 by Virginia law were discussed in the closed meeting to which this certification resolution applies, 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.”

The motion was approved with Vice Chairman Burnett, Commissioner Brown, Commissioner Davis, Commissioner Rimler and Chairman Poulson voting in favor of the motion.

Chairman Poulson reconvened the public hearing on the Colonial Downs live race day request.

Mr. Weinberg reported that Colonial and the horsemen have agreed on a number of the outstanding issues involving 2005 race days and beyond but that both parties needed to take the issues back to their respective organizations. He asked that the hearing be continued until next week.

After considerable discussion, the Commission voted to continue the hearing until Tuesday, February 1 and that an amended request be filed with the Commission's Executive Secretary by noon on Monday, January 31, 2005.

The informal fact-finding conference scheduled on the application of ODA Technologies, L.P., d/b/a TVG for an advance deposition account wagering license was postponed as all of the required information was not on file with the Commission.

Mr. Weinberg also reported that an agreement in principal has been reached with XpressBet as part of an amended management agreement with the Maryland-Virginias Racing Circuit. He added the XpressBet application should be ready for Commission consideration at the February meeting.

John Hindman, Vice President and General Counsel for TVG, provided an overview of TVG and its television and account wagering operation. He added that the outstanding information should be on file with the Commission in a few days.

The Commission will hold a Special Session on Tuesday, February 1 at 10:00 a.m. to discuss the Race Days for the 2005 Thoroughbred Race Meet .

The next regularly scheduled Commission meeting is scheduled for February 16, 2005 at the Tyler Building.

There being no further business before the Commission, the meeting adjourned at 2:00 p.m.