

Virginia Racing Commission

MINUTES

OF THE

COMMISSION MEETING

January 21, 2009

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

In Attendance

Commission Members

Peter C. Burnett, Chairman
Mark Brown, Vice Chairman
William H. (Trip) Ferguson
I. Clinton Miller
David C. Reynolds

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 Operations & Enforcement
Dennis E. West, Director of Operations

Attorney General's Office:

Amy K. Dilworth

At 9:40 a.m., Chairman Burnett called the regular monthly meeting of the Commission to order.

Commissioner Burnett said the floor was open for nominations for Commission Chairman for 2009. Commissioner Brown nominated Commissioner Burnett for Chairman and Commissioner Miller for Vice Chairman. There being no further

nominations, Commissioner Burnett was unanimously re-elected Chairman and Commissioner Miller was unanimously elected Vice Chairman.

The minutes of the December 17, 2008 meeting were deferred until the February meeting.

During Commissioners comments, Chairman Burnett commented that we should not feel too lonely with down numbers in Virginia. Virginia has been holding its own in a sense given what's been going on nationally.

Commissioner Reynolds reported that the Marketing and Promotion Committee has \$30,000 left to spend for the rest of this fiscal year, which is June 30, and nothing beyond that. The Ambassador's project will be kept underway and the school booklets can be distributed for some period of time. Other than that, there won't be anymore marketing and promotions in the foreseeable future.

During the Executive Secretary's report, Mr. Harrison submitted to the Commissioners for consideration a rule change to 11 VAC 10-70-20, the change would give Mr. Harrison the freedom, if necessary, under budget restraints over the coming months to go within for a steward rather than going outside and paying the additional funds for a third steward.

TwinSpires mediation is scheduled for Monday, February 2, 2009.

James Weinberg, counsel for Colonial Downs, reported there is a request for 25 days for thoroughbred racing. Colonial Downs continues to believe that a 25-day meet in 2009 represents the best opportunity for the promotion, sustenance, and growth of the industry in the face of the economic conditions that we face in 2009.

After considerable discussion of the thoroughbred racing days, Chairman Burnett made a motion that the Commission go into closed session.

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 employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel.

After returning from closed session, Chairman Burnett adopted 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 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 was seconded by Commissioner Ferguson and the vote was as follows: Miller, aye; Reynolds, aye; Brown, aye; Ferguson, aye; and Chairman Burnett, aye.

Chairman Burnett reported that it would be the Commissions instinct to assign 35 days of racing with Colonial Downs being responsible for the gap funding. The parties are asked to discuss the assignment of 40 racing days with the horsemen being responsible for an additional \$115,000 worth of incremental increases in costs payable to the racetrack.

Chairman Burnett gave four points on the following motion. One is to move that we assign today 35 racing days with the contingency that if before our next meeting the horsemen agree to put up \$115,000 and pay for gap funding, it will increase that number of days to 40 days; that we reserve the right to reconsider that award of days for any reason or no reason as long as it's legal until our next meeting: that we will revisit this issue if we think it appropriate at our next meeting. Lastly, we are unhappy that there is no horsemen's contact and that we will explore taking some steps to remedy that problem if we don't see a contact by the next meeting. It's unacceptable that their not be one, and we expect the parties to make their best efforts between now and the next meeting to come up with a contract to present to us. The motion was unanimously approved.

The Commission unanimously approved the standardbred dates for 2009.

There being no further business, the monthly meeting of the Commission was adjourned.