

# **Virginia Racing Commission**

## **MINUTES**

### **OF THE**

#### **COMMISSION MEETING**

**May 20, 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 T. Brown  
William H. (Trip) Ferguson  
David C. Reynolds

##### **Commission Staff:**

Victor I. Harrison, Executive Secretary  
David S. Lermond, Jr., Deputy Executive Secretary  
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  
Frank S. Ferguson

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At 11:52 a.m., the regular monthly meeting of the Commission was called to order by Chairman Burnett.

The minutes of the April 15, 2009 meeting were approved unanimously.

During Commissioners Comments, Chairman Burnett mentioned the excitement generated by the Preakness Stakes and expressed optimism for the upcoming Colonial

Downs meet. He sent expressions of sympathy and enormous respect to the family of William Passmore for Mr. Passmore's contribution to racing. Chairman Burnett stated that Mr. Passmore will be greatly missed in the stewards' stand - up to last year, Mr. Passmore was a steward at every Colonial Downs thoroughbred meets from the very first day of Virginia racing and that he was a joy to have around, a wonderful man who gave his life to racing. Commissioner Ferguson proposed that a tree be planted in Mr. Passmore's honor. Mr. Petramalo offered to make it so.

Acting on the recommendation of Mr. Harrison, the Commission approved Stuart P. Slagle as a racing official for Colonial Downs for the 2009 Thoroughbred race meet.

Acting on the recommendation of Mr. Harrison, the Commission approved the 2009 Wagering Format for Colonial Downs for the 2009 Thoroughbred race meet. The wagering menu includes \$.50 trifecta's, Pick 3's and 4's. Executive Secretary Harrison stated his opinion that the \$.50 wagers border on fractional wagering, a concept he fully supports.

After a recommendation by Mr. Harrison, Chairman Burnett made a motion that the Executive Secretary, at his discretion, may approve additional guest sites that prior to the next monthly Commission meeting satisfy the VRC's requirements. This was seconded by Vice-Chairman Miller and carried unanimously. Vice-Chairman Miller also made a motion to approve the thoroughbred meet's guest sites as submitted by Colonial Downs with the exception of Global Wagering System's Link-To-Bet. This was seconded by Chairman Burnett and carried unanimously. Mr. Petramalo made the point that the VHBPA does not consent to the export of the Colonial Downs signal to Rosecroft raceway due to Rosecroft's disregard of the revenue-sharing agreement with the MD Jockey Club.

During the discussion of the Racing Summit, Mr. Harrison explained that he had put together an outline of some Virginia specific and national issues. Mr. Harrison placed emphasis on page 3 of the document, which is a request for priorities and comments to be faxed, emailed, scanned or handed to him in order to set an agenda for the first meeting of the Racing Summit Working Group sometime in early June, preferably a Saturday morning in New Kent on a racing day. Chairman Burnett and Mr. Weinberg said that the group should focus on a couple primary global issues as they relate to Virginia horse racing.

During the discussion of Gray Slot Machines, Amy Dilworth, counsel for the Racing Commission stated, "there are a number of jurisdictions around the State in which these gray slot machines are being offered to public consumers. Places like truck stops and so-called Internet cafés, where customers can play various games being run by programs on these computers. One or more of these games may constitute illegal gambling under the Virginia code. There is at least one jurisdiction that I understand is going forward with the prosecution of one of these locations, and doing so under the authority of the local Commonwealth's Attorney's Office, which is the proper vehicle for addressing this situation in that the local Commonwealth's Attorneys possess the

exclusive jurisdiction to investigate and prosecute what they deem to be illegal gambling in the State.”

Frank Petramalo, Executive Director of the Virginia HBPA, requested approval of the benevolence fund budget including some new projects for 2009. A lengthy discussion ensued relating to the VHBPA Benevolence Fund Budget He added that this resulted in part from discussions with harness representatives Charlie Dunavant and Iain Woolnough. Chairman Burnett questioned the inclusion of the jockey insurance money and training ambulance as coming out of the benevolence budget. He also raised the issue of kitchen and bathroom cleanliness and stated that he is troubled about viewing jockey insurance as benevolent and that he is reluctant to support the budget – he has never received more communication than he did on this subject and it was 100% of favor of giving more of the benevolence funds to the folks that live and work on the backstretch. Mr. Petramalo explained that the structure of this 2009 benevolence budget harkens back to the \$115,000 paid to Colonial Downs for the additional 5 days of racing this thoroughbred meet. Mr. Harrison asked if harness driver’s are afforded similar insurance to that of the jockey’s. Mr. Stewart responded affirmatively and said the driver insurance is paid for by the track. Catherine Smith, representing the Standardbreds, voiced her group’s support for the 2009 benevolence budget and made it clear that this iteration is “a one-year deal”.

Commissioner Reynolds made a motion to approve the benevolence budget. This was seconded by Commissioner Brown. Chairman Burnett voted nay. It passed four to one - the budget was approved.

Frank Petramalo led a discussion on purse gap funding specifically with respect to the commitment letter for \$2,500,000 from the Virginia Commerce Bank and guaranteed by Randy Rouse and David Ross. Jim Weinberg pointed out risks associated with the Commitment letter as perceived by Colonial Downs especially in this economic environment. Chairman Burnett had questions on the payment of interest and the guarantee by Rouse and Ross. Mr. Weinberg made the distinction that Rouse and Ross’s obligation is to the bank and not the purse account. Commissioner Ferguson spoke up for Randy Rouse. Vice-Chairman Miller finally acknowledged that Colonial Downs has “adequately covered themselves’ on this issue.

James Weinberg, counsel for Colonial Downs stated that Colonial Downs EZ Horseplay would like to change its vendor from Racing Channel to Ebet to provide services effective June 1, 2009. Vice-Chairman Miller made a motion to approve their request to change their ADW vendor to Ebet subject to the conditions set forth by Mr. Lermond with respect to condition number 3 of his report:

- License Ebet as a vendor rather than an ADW provider with the condition that the background check on Ebet’s office, Mr. Gregory is completed to the satisfaction of staff.

This was seconded by Chairman Burnett and carried unanimously.

Mr. Weinberg asked some clarifying questions as to the Commission's decision re the TwinSpires fact finding hearing. Frank Ferguson stated that the decision on the matter won't be made until the order is signed, probably sometime the following week, and that the Commission was acting in a judicial capacity.

Vice-Chair Miller drew the meeting's attention to the 15% drop in wagering handle.

There being no further business, June 17<sup>th</sup> 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 May, 2009 monthly meeting of the Commission.

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Prior to the regular monthly meeting, a formal fact-finding hearing on the matter of TwinSpires ADW License was scheduled. Oral arguments were heard from Brad Blackwell, counsel for TwinSpires and James Weinberg, counsel for Colonial Downs. After considerable discussion, Chairman Burnett adopted the closed-meeting resolution in accordance with the provisions of Section 2.2-3711 (A) (7) of the Code of Virginia for the purpose of consultation with legal counsel, regarding, in this instance, the application for renewal of the temporary advance deposit account wagering licenses of TwinSpires.

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.

Chairman Burnett stated the Commission made substantial progress during its deliberations. Counsel was asked to draft an order and opinion for the Commission's review and, after due inquiry into a couple of matters, was hopeful the order and opinion would be distributed within a week.