

Arizona Racing Commission

634th Regular Meeting

Thursday, March 12, 2015

MINUTES OF REGULAR MEETING

A public meeting of the Arizona Racing Commission was convened on Thursday, March 12, 2015 beginning at 10:01 a.m. in the Building Conference Room, Suite 250, at 1110 West Washington Street, Phoenix, Arizona 85007.

PRESENT: **Chair** **Jay McClintock**
 Vice Chair **Rory S. Goreé**
 Commissioner **Bill Feldmeier**
 Commissioner **Tom Lawless**
 Commissioner **Erin Owens – seated at 10:05 a.m.**

Also Present: Interim Director Rudy Casillas and Assistant Attorney General Michael Raine.

A. Call to Order

Chair McClintock called the 634th Regular Meeting of the Arizona Racing Commission to order at 10:01 a.m. The following matters were discussed, considered and decided at the meeting:

Approval of the Minutes:

Minutes of the 633rd Regular Meeting held on Thursday, February 12, 2015. **Chair McClintock** called for a motion to approve the minutes. **Commissioner Lawless** moved to approve the minutes. **Vice Chair Goreé** seconded the motion. Motion carried.

B. New Business

1. Request for Charity Days

Rillito Racing, Inc. Request for 2015 Charity Date, April 4, 2015

Chair McClintock tabled this matter.

C. Informational Reports

1. Letter from Mel McDonald regarding TP Racing, LLLP and Turf Paradise

Interim Director Casillas stated Mr. McDonald had requested the opportunity to address the Commission in response to information and comments made to the Commission by Steven Nolan regarding Turf Paradise, L.L.L.P.

Mel McDonald wished to address the issues raised in a letter left by Steve Nolan during the period of time of the January 2015 meeting. He was informed that Mr. Nolan had plans to file paperwork ex parte without giving him any opportunity to address or voice an objection. Mr. McDonald stated he has been a member of the Racing Commission and was familiar with criticism directed at the Directors and staff of the Department. He recalled the approval of Turf Paradise in 2000 while he was Chairman of the Commission. He recalled the many allegations that had been made during the years of 2000, 2002, 2003, 2006 and the same allegations were being made presently and they are wrong. The things that the Commission looked at in 2000 were events that had occurred in the '70s or '80s. Mr. McDonald recalled when he was a United States Attorney and knew what it meant to have the support or condemnation of the FBI. He stated that at the time the FBI supported Jerry Simms. During those previous years Mr. Simms had been a victim and a cooperating witness Mr.

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McDonald hoped that these issues could be finally put to rest. He wished to address one more issue concerning the 2010 Court of Appeals decision that had been included in the packet Mr. Nolan had distributed. The Court of Appeals stated when they would see a case such as this one that they would leave the decision up to the Department and only intervene if there were a clear abuse of discretion. Mr. McDonald referred to a comprehensive report made by Attorney Buzz Alston, The report include interviews from over one hundred witnesses including FBI agents in two different states. Mr. McDonald concluded that from the days of his own chairmanship for the Arizona Racing Commission to present, he believes Jerry Simms had done a good job and would invite anyone to call Jerry Simms, Vince Francia or himself for an open dialog.

Chair McClintock thanked Mr. McDonald.

2. Regulatory Wagering Assessment (RWA) Review

Interim Director Casillas stated to the Commission that from time to time the Department will review and analyze the Regulatory Wagering Assessment to make sure it is meeting the needs of the Department. It appeared from initial reviews that there were shortfalls in the revenue. The handle was down at the tracks and as a result, it was causing some financial difficulties for the Department. In short order, the Department will have a proposal prepared and submitted to the Commission for approval to increase the amount.

Commissioner Feldmeier asked if the Commission had recently dealt with this issue a few months ago.

Chair McClintock advised it's an ongoing matter. It goes up or down based on the needs of the Department and the revenue the tracks generate. The Department has a budget every year and the RWA is the revenue generated by racing. So if racing revenue is down, the RWA amount would be down. That might call for an increase in the percentage taken out of the RWA.

Commissioner Feldmeier asked how often the Department looks at this to make that recommended adjustment.

Chair McClintock replied probably annually.

Director Casillas said yes, it has to be reviewed annually to make sure the Department is meeting the revenues to effectively regulate the industry.

Commissioner Feldmeier questioned that today, the Department was providing this information and the Department expects to come back, perhaps at the next meeting or one following, to recommend an adjustment.

Director Casillas stated that was correct. Depending on how soon the Department can get the rule change package together, there may be a need to call an emergency session to get this done as timely as possible because the Department is running to the end of its fiscal year. If the Department doesn't do it timely enough it will run into some problems.

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Chair McClintock advised that about four years ago the State stopped funding the Department of Racing so the Department of Racing is self-funded. It's funded by the participants, the thoroughbreds, and dog track; this is where the funds come from to operate. Once the Department determines its budget, it determines how much the tracks need to contribute to operate the Department.

3. Racetrack safety reports

Assistant Director of Enforcement & Operations Division Nolan Thompson reported there was a memo from Gary Baze, the Steward of Safety at Turf Paradise. He, with Vince Francia and his maintenance crew, walked around the track for review. One of the issues was the lighting that needs to be corrected as noted in the report. There were four areas that needed to be looked at and lighting needed to be put in those areas. Based on their observations, and the safety of the horses, they're recommending the best course of action is to wait until the end of the race meet. This way they can dig trenches and lay lines on the backside that wouldn't interfere with the daily operations and endanger horses that may fall into a trench. Other than that, for this period, there's nothing else to report on Turf.

Chair McClintock asked if anyone had any questions for Mr. Thompson. He agreed that it would be safer to wait until the end of the race meet.

Mr. Thompson stated that several issues have been resolved at Tucson Greyhound Park which were list on the previous report. The General Manager has walked around with Dan Reinsertion, Chief Steward, and they've taken care of the starting box issue; they're 50% complete on finishing the rail around the track and there are several other areas, like the break area, that they're still working on. He was planning to go down to TGP on Friday; walk through the list with the General Manager, look at these areas and make a time table to go through when everything will be concluded at the track. He will report his findings at the upcoming meetings.

Chairman Goreé was down at TGP a week and a half ago. They didn't know he was going to be there as he was going there to adopt a new greyhound. While he was on the backside, he observed them walking the track. He thanked them for taking care of this and getting on top of it.

4. Pending Revisions to the Advanced Deposit Wagering (ADW) Rules

Chair McClintock turned this over to Interim Director Casillas.

Director Casillas stated on January 30, 2015, he signed off and approved the Advance Deposit Wagering providers' permits to go ahead and start their operations in Arizona, with the exception of Pima County regarding time limitations. As a result of signing off and approving the providers to conduct business, a month later it came to his attention that one of the providers had provided a smart phone app that can be down loaded from iTunes to a smart phone or tablet that conduct wagering through the internet. That is totally prohibited in Arizona Gambling Statutes and it causes

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significant concern to the State regarding the permitted internet wagering. Not only is it unlawful it does affect the Native American Indian Gaming Compacts where it could invoke the Poison Pill and as a result the state could lose a lot of revenue from the casinos. So the Department was in the process of re-defining the definition of telephone to correct it to prevent this from continuing. That will be submitted for approval, probably at the next Commission meeting.

Commissioner Feldmeier asked Mr. Casillas to explain the "Poison Pill".

Director Casillas stated there are provisions in the Gaming Compacts that state if the State of Arizona allows, by doing nothing, or permits other entities to conduct gaming that is unregulated then it opens the door for the Tribes to go ahead and do full casino style gambling without any restrictions or limitations. As a result of that, they would have the right to reduce the revenue sharing they do with the State that fund Education, Tourism and all these other Departments, to simply provide nothing but a percentage to the Department of Gaming for regulatory duties only.

Commissioner Feldmeier asked if it would also open up the ability of the private sector to compete.

Director Casillas stated that it would be a possibility; however, it would have to go through the Governor's office. It cannot just be arbitrarily done.

Commissioner Feldmeier asked if it goes to the Governor's office, and they're the ones making the yes or no decision, would the legislature be out of that picture.

Director Casillas asked for commercial gaming?

Commissioner Feldmeier responded correct.

Director Casillas replied, no, it would most likely go through the legislature.

Commissioner Feldmeier said alright.

Chair McClintock asked if there were any other questions.

5. Legislative Update re Merger with Arizona Department of Gaming

Public Information Office Gregory Stiles stated the budget had been passed that morning, it had not been signed yet but he's sure they're taking a final review. Under SB1480, which was known as the Agency Consolidation Bill, it calls for the Department of Racing to consolidate with the Arizona Department of Gaming. Racing will be known as the Arizona Division of Racing and will be part of the Gaming Department. It also requires the Director of the Department of Gaming to administer the division. It allows the Director of Gaming to establish a Deputy Director position for the Department of Racing. As far as the Commissioners, it stipulates Gaming succeeds to

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the the authority, powers and duties and responsibilities of the Arizona Department of Racing and it also says the Commission does not have the authority, duties and responsibilities of the Department of Gaming. That was one of the major changes in the budget and the Arizona Breeders Fund has been swept of \$250,000 out of the budget. That has gone by the wayside in this proposed budget.

Commissioner McClintock stated this was not good news.

Mr. Stiles replied that in any budget process there are winners and losers.

Commissioner Feldmeier questioned if the \$250,000 lost in the recently approved budget impacted the Department's budget.

Mr. Stiles deferred to one of the Department's staff, Kathie Hock.

Kathie Hock, Accounts Payable advised the \$250,000 came from the State's General Fund and this portion of the Department was General Funded.

Commissioner Feldmeier asked why the breeder's award was a General Fund item as opposed to a Department operated expense when the Department is a self-funded.

Commissioner McClintock indicated he misspoke earlier; the Department is not 100% self-funded. The breeder's award funding is for Arizona bred horses and was left in the State's budget when the Department went to the self-funding.

Commissioner Feldmeier suggested that it could come to the Department so that when the RWA adjustment is made it could be included in that adjustment, and that portion becomes self-funded with the Department instead of a budget item. That \$250,000 would be important to the industry. What would we do to offset that loss?

Assistant Attorney General Raine advised this item (Breeder's Award) was not on the agenda for the solution to this problem. It was for the report regarding the merger. So to some extent unless they would go back to the regulatory wagering assessment review agenda item, further discussion under that agenda item could occur.

Commissioner Feldmeier indicated he would have been willing to re-open the RWA item.

Assistant Attorney General Raine said that would have been up to the Chair as to whether he would like to reopen a closed item. He suggested it would be something that could be brought up for a future agenda item under Item D.2 and the Director stated plans to provide further information next month.

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Commissioner Feldmeier replied that would be fine. He expressed concerns that the future is now because of how decisions being made at other meetings affect the industry.

Assistant Attorney General Raine stated the extent of the discussion among the Commission members regarding what to do to replace those funds was outside the scope of the agenda item currently open. The Commission would not be allowed to take action on these items.

Commissioner Feldmeier agreed.

Assistant Attorney General Raine stated he wanted to raise those concerns on the open meeting issues. He believed it's duly noted and the suggestion to maybe comeback with the next report.

Chair McClintock agreed with that. He believed the question would be between the Department and the participating race tracks on how much they can afford to charge the race tracks in the RWA and not hurt racing. That was something that they would need to work out between themselves and then they could come back. He did not see a reason the Department couldn't ask for additional monies to fund the Arizona bred program.

Commissioner Feldmeier said he understood. He couldn't fix that part and the industry could work that out. When the emergency meeting is scheduled, he would be looking to see how a solution could be found to the \$250,000 loss; if it would be appropriate to have \$150K, \$350K or \$550K he would be open to hearing what the recommendation would be.

Director Casillas said he understood Commissioner Feldmeier's concerns. The issue had been raised by some of the industry personnel and the bottom line was there are some possible solutions. He cannot openly just include that in the RWA; the industry has to talk to one another. There may be some other solutions where the tracks agree to that they would set aside revenue for that particular purpose on their own accord or if they can arrange it through the RWA somehow. It's an item that will need to be discussed fully.

Commissioner Goreé asked if the funds were in the budget last year. He thought Governor Brewer had taken and given it to the child welfare agency.

Mr. Stiles said it was left in the budget.

Commissioner McClintock stated that was something for a future agenda and for everyone to consider who's involved in the industry.

6. Permittee Reports

a. American Greyhound Racing – No report

b. County Fairs – No report

c. Rillito Park – Mike Weiss, General Manager of Rillito, reported that they has a great start but still have a ways to go. They had received compliments from the fans, licensees set new track record for attendance and the purse is steady. Numbers show the community was excited and behind the

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track. Their handle was averaging over \$100K per day with \$124K record the week before. Pima County Parks and Recreation had recommended removing the proposal to tear down the track. The formal vote was to take place on March 13, 2015, and they were recommending a \$4 million bond for renovations of the track facility. Me. Weiss gave an update on the racetrack industry program (University of Arizona) and reported one of the student employees, Bridgette Gerbaski, who worked on programs and press releases had been presented with a travel award. Only three students around the country are recipients of this award and Rillito expressed they were proud of her for being acknowledged for her accomplishments. The U of A students in the racetrack industry program had taken a random poll on racetrack attendees by residency. They poll's results showed 39.2% were from Pima County, 15.3% were from other counties, other states 21.2%, Mexico 23.1% and foreign nations 1.1%. There were people from France England and Trinidad.

d. Tucson Greyhound Park – Dale Popp, General Manager of Tucson Greyhound Park, reported that he wants to reiterated the fact that TGP is constantly monitoring and trying to make the facility safer for the health and wellbeing of the dogs. He looked forward to Mr. Thompson's visit tomorrow and the opportunity to show him what they have done that hasn't been brought forward for the Commission.

e. Turf Paradise – Vince Francia, General Manager of Turf Paradise, reported this Saturday would be Wiener Mania out at the race course. Turf did this promotion last year and nearly 7,000 people showed up. It would be a very family oriented promotion. There were over a thousand children in attendance last year. He hopes Commissioner Goreé will be officiating again and he invites everyone to come out. Other good thing about this promotion, in addition to being a family oriented event, is that it brings in money for the Arizona Greyhound Adoption Foundation which is a good cause. There were currently over 180 wiener dogs registered and this year the finals for the juvenile and senior wieners would be on the racetrack. Turf is getting a lot of local publicity about the event.

7. Optional Industry Stakeholder Association Updates

a. Arizona Greyhound Association – No report

b. Arizona Quarter Horse Association – No report

c. Arizona Thoroughbred Breeders Association – Dove Ward, Executive Director of the Arizona thoroughbred Breeders Association reported that next month, Friday, April 24, 2015, they would be having their annual dinner and awards for the 2014 champions. They would be sending out invitations to the Commissioners and she hopes they can attend the event. Saturday April 25 would be their breed day. They would be making plans to see how many races they can hold. They're really down on the foal crops so they're having trouble filling the Arizona bred races. They just lost their breeders awards so they don't have any incentive. She hoped there would be some way they could get these funds back; maybe build it into the wagering race fund. There needed to be some incentive for the breeders. They can't depend on out of state horses. She hoped everyone could work together on this issue and it get it on an agenda so they can talk about it.

d. Horsemen's Benevolent & Protective Association – No report

e. Jockey's Guild – No report

D. Commission Reports

1. Director Casillas reported that Commissioner Owens' term had expired and she would be replaced with a new member.

Chair McClintock stated he was sorry to hear that Ms. Owen's term was not extended. She was the most knowledgeable member by far on this Commission regarding the horse racing business. She

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has been a Commissioner for 15 years, maybe longer. She would be missed. He thanked her for her service.

E. Call to the Public

Chair McClintock called on Steve Nolan who wished to speak.

Steve Nolan thanked Commissioner Owens for her service. He responded to Mr. McDonald's comments stating he was happy the information was open for discussion now.

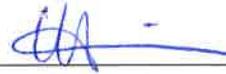
Commissioner Goreé made a motion to adjourn. **Commissioner Lawless** seconded the motion. Motion carried.

This public meeting adjourned 10:41 a.m.

Dated this 17th day of April, 2015

Arizona Racing Commission

By _____



Cassie Goodwin, Administrative Assistant