



Arizona Department of Gaming

TRIBAL GAMING • RACING • BOXING & MIXED MARTIAL ARTS

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AGENDA

Pursuant to A.R.S. § 38-431.03(A)(3), the Commission may vote to go into Executive Session for the purpose of obtaining legal advice from its attorney on any matter listed on the agenda. Any such Executive Session will not be open to the public.

A. Call to Order of the 647th Regular Arizona Racing Commission Meeting at 10:00 AM.

Commissioners Present:

Chair Rory Goreé
Vice Chair William "Bill" Feldmeier
Commissioner Tom Lawless
Commissioner David Heiple
Commissioner Jay McClintock

Also present:

Rudy Casillas, Racing Division Director
Deanie Reh, Assistant Attorney General
Greg Stiles, Division of Racing
Cassie Goodwin, Commission Secretary
Camila Alarcon, Esq. (Item B only)
Chris Hering, Esq. (Item B only)

B. Appeals of Director's Decisions

Continuation of the hearings held on June 28, 2016 and August 24th 2016 on Jeremy E. Simms' Appeal to the Arizona Racing Commission of the Director's Ruling to Grant a Racing License to Ronald A. Simms, Case No. 14A-020-RAC.

Chair Goreé asked if anyone were opposed to moving Item B to the end of the meeting. All were in favor of moving Agenda Item B to the end of the meeting.

Ms. Harrison addressed the Commission on behalf of Ronald A. Simms. She requested to see the draft Findings of Fact from the Commission so they can comment on it. She also requested to know if there have been any communications by anyone on the Commission or by their counsel with Jerry Simms or any of the representatives, from the end of the last meeting on August 24th to the beginning of this meeting today, they request disclosure. She requested that the court reporter's transcripts and video tapes of the series of the meetings that have occurred since the time the Notice of Appeal filed by the Jerry Group in August of 2015 be accepted by the Commission into the record so it can be part of any appeal that goes up to the Superior Court or otherwise. She also requested that page 125 of Jerry's August 24, 2016 presentation be stricken per the Commission's counsel's email as that information is not part of the record. She reserved her time, depending on what the decision of the Commission is, to request a stay pending the appeal to the Superior Court, but she can't make that request yet as the decision has yet to be issued.

Mr. Torre addressed the Commission on behalf of TP Racing. He didn't have anything to add. He doesn't object to including the transcripts into the record so long as it's clear that those are not the official record. The official record is the actual recording. There is no authority of the Commission to grant a stay; that's for the Superior Court to do.

Chair Goreé stated he thinks it would be a good idea for the transcript and video to become part of the record. Commissioner Lawless agreed, stating he feels they should have access to everything.

Commissioner Heiple moved to approve Ms. Harrison's request for submission of the videos and transcripts of the Commission meetings. Commissioner Lawless second. Motion carried. (Ayes: Goreé, Feldmeier, Lawless, Heiple, and McClintock)

Chair Goreé addressed the issue of striking the page from the record. He thought this was already removed from the record. Mr. Manning stipulated to removal. Commissioner Lawless moved to remove page 125 from the record. Commissioner Heiple second. Motion carried. (Ayes: Goreé, Feldmeier, Lawless, Heiple, and McClintock)

Commissioner Heiple moved to go into Executive Session for legal advice. Commissioner Lawless second. Motion carried. (Ayes: Goreé, Feldmeier, Lawless, Heiple, and McClintock)

Open Session recessed at 11:00 AM.

Open Session reconvened at 11:27 AM.

Chair Goreé requested the Commission Secretary to poll each Commissioner regarding any ex parte communications that may have occurred between the Commissioners and Jerry Simms or his representatives.

Chair Goreé – Have none.

Vice Chair Feldmeier – No.

Commissioner Lawless – Several social interactions with Jerry but no ex parte communications regarding this case.

Commissioner Heiple – None.

Commissioner McClintock – Same as Commissioner Lawless. He’s spoke to Jerry about opening weekend at the track but nothing about the case. Ms. Harrison asked what the circumstances were for the “general socializing”. Commissioner McClintock stated he asked him how opening day of Turf went.

Ms. Harrison asked Commissioner Lawless to expand upon his communications with Jerry Simms during this time period.

Commissioner Lawless stated he sees him [Jerry] at the Armadillo Grill OTB. He asked him who he had in the next race, that kind of thing. He also had dinner with Jerry in a group setting. The issue of any of this did not come up. It was purely social. Ms. Harrison asked how many times Commissioner Lawless saw Jerry during this time period. Commission Lawless stated he saw him a couple times a week at the OTB.

Ms. Harrison asked Commissioner McClintock to expand upon his communications with Jerry Simms or his representatives during this time period.

Commissioner McClintock stated he just inquired about how opening weekend went at Turf Paradise. Just to see how the (inaudible) went, the handle, how the racing went, because he was out of town. Ms. Harrison asked how many times Commissioner McClintock saw Jerry during this time period. Commission McClintock stated just once.

Chair Goreé asked for a motion on the Findings of Fact and Conclusions of Law.

Commissioner Lawless move that we accept the Findings of Fact and Conclusions of law as prepared by Camila and Chris with the following changes: Findings of Fact 6 will add a cite to Mr. Mangum; we want to accept the modifications made by our legal team to the Findings of Fact paragraph 20. As far as the Conclusions of Law we want to include paragraph 10 as prepared by Camila and renumber paragraph 10 of the Conclusions of Law to paragraph 11. These are in addition to the prior Findings of Fact and Conclusions of Law already accepted at the prior meeting.

Ms. Alarcon: We did make a motion of pulling the other Findings of Fact and Conclusions of Law in the last meeting. These changes today are in addition to those voted on at the last meeting.

Commissioner Lawless - right, in addition to those Findings of Fact and Conclusions of Law from the last meeting. Commissioner Heiple second.

Ms. Harrison requested to see a draft of the Findings of Facts. Ms. Alarcon advised the draft is considered attorney client work product and not subject to release. She further clarified that

she is more than willing to provide a verbal summary of the changes and that these changes reflect the Commission discussion from the last meeting.

Ms. Harrison: She request that they each get to see a draft.

Mr. Manning: They were advised at the last meeting there would be no input from counsel, they relied upon this instruction; so seeing a draft is no big deal but they're not allowed to comment on it. They arrived prepared to listen to the Commission, watch them deliberate and vote. That's what it must be limited to because that's what they were told the ground rules were going to be before they arrived today.

Commissioner Lawless: I agree.

Mr. Manning: Frankly, I don't think we need to see this draft until you're finished with it.

Commissioner Heiple: We should give them a final product versus -

Commissioner Lawless: Yeah.

Commissioner Heiple: - our draft.

Commissioner Lawless: Given that we're not going to have argument on it, I agree with Mr. Manning's assessment of last meeting. I didn't expect to hear from the lawyers at all today.

Ms. Harrison: I agree that there should not be argument. The only difference is that there is additional changes that were not part of the deliberations of last meeting. So, now we don't know what those changes are and we need to understand better what your deliberations were. hear your deliberations with respect to those additional changes.

Ms. Alarcon: They are going to deliberate on those right now.

Ms. Harrison: - Okay.

Ms. Alarcon: But for, so that you understand what they are deliberating about, it was my suggestion that I just briefly summarize what the changes were. Finding of Fact 6, Finding of Fact 20. Finding of Fact 6 the only addition is the addition of Mr. Mangum's name. there was some wording changes but because it referred to the tribunal because the ALJ referred to the tribunal, I changed the sentence structure so that it says the parties also submitted portions of the deposition testimony. It lists everything that the ALJ decision listed and then it adds Mr. Mangum's name to it.

Ms. Harrison: Alright. So in your - in - that's part of the deliberations will be what the changes are in paragraph -

Ms. Alarcon: - exactly -

Ms. Harrison: - paragraph 20 and -

Ms. Alarcon: - exactly.

Ms. Harrison: - and will include (unintelligible)

Ms. Alarcon: Yes.

Ms. Harrison: Thank you.

Ms. Alarcon: Summarize 20?

Commissioner Lawless: Please, please.

Ms. Alarcon: Okay. Once we drafted the proposed Findings of Fact and Conclusions of Law based on our last meeting, we found that the current Findings of Fact 20 presented some issues of continuity and we wanted to add certain citations to it. Chris can speak a little bit more on it as well but that was the main reason for doing that.

Mr. Hering: Yeah, basically it's to make sure that when you plug all of the findings that are being modified into the ALJ's decision, that everything reads consistently. And makes sense. And is consistent with your decision.

Commissioner Lawless: Okay.

Commissioner Heiple: I don't know what the finding was. Do you have the original copy?

Ms. Alarcon: Yes, we have it.

Commissioner Heiple: Okay.

Ms. Alarcon: They're looking at the original ALJ decision.

Commissioner Heiple: This was also stated somewhere else, in 22 right?

Ms. Alarcon: Yes, we - that was part of -

Commissioner Heiple: We're just clarifying 20?

Ms. Alarcon: Right. That was part of the issue that was once we put in our - the new findings we found that 20 just didn't provide enough continuity in the Findings of Fact. We tried very hard to make sure that we didn't add Findings. We did have to end up adding a Conclusions of Law but we wanted to make sure that the transition between the ALJ decision and this final order was as easy to comprehend as possible. So there aren't any additional footnotes in the Findings of Fact. All citations are made within the Finding itself because we didn't want to mess up the numbering of the entire decision. So things like that. So 20 just makes it more -

Commissioner Heiple: Conclusions of Law 20.

Ms. Alarcon: Yeah.

Commissioner Heiple: Are there any more questions on 20?

Chair Goreé: No, I'm fine with the Finding.

Commissioner Heiple: Do you want to summarize 20?

Ms. Alarcon: Commissioner Lawless did you make the motion for Conclusion of Law 10?

Commissioner Lawless: Yes.

Ms. Alarcon: Let's do the Findings first. If you could amend your motion -

Commissioner Lawless: Okay -

Ms. Alarcon: - and then we'll do another motion for the Conclusion.

Commissioner Lawless: I move that we accept the Findings of Fact with the addition to Finding of Fact 6 to add Mr. Mangum and the modification to Findings of Fact 20 as explained by Ms. Alarcon.

Commissioner Heiple: Second.

Chair Goreé: Want to take a vote on that now? Or can we -

Ms. Alarcon: You can deliberate.

Chair Goreé: Okay. Any deliberation or discussion on those?

Commissioner Heiple: Just clarifies it.

Chair Goreé: Yeah, adding Mr. Mangum to number 6 was pretty easy. And 20, I like the way it reads; it's a lot smoother. So we need to vote on this one before we can go to the next one?

Commissioner Lawless: There's been a motion and a second.

Chair Goreé: Yeah. So all of those in favor?

Chorus: Aye

Chair Goreé: Opposed?

Feldmeier: Aye. Mr. Chairman, I'm voting no as a part of my objection that we're changing the direction that the ALJ and the Director already delivered. I'm going to reserve my detailed comments for when - for later.

Chair Goreé: Okay.

Ms. Goodwin: Taking the poll: Commissioner Goreé: Yes; Commissioner Feldmeier: No; Commissioner Lawless: Yes; Commissioner Heiple: Yes; Commissioner McClintock: Yes. So we have four Ayes and one Nay.

Chair Goreé: Alright now number 10.

Ms. Alarcon: That's Conclusion of Law 10.

Chair Goreé: Conclusion of Law number 10.

Commissioner Lawless: I move that we include the inclusion of paragraph 10 under the Conclusions of Law renumbering number 11 thereafter.

Ms. Goodwin: Do I have a second?

Commissioner Heiple: Second. I'm sorry.

Chair Goreé: Do you wanna -

Ms. Alarcon: Do you want me to summarize?

Chair Goreé: - summarize -

Ms. Alarcon: - or do you want me to summarize Conclusion of Law 10? Do you want me to summarize it?

Chair Goreé: Yes, please.

Ms. Alarcon: Okay. The new Conclusion of Law 10 talks about ex parte communications and it basically, because Findings of Fact 49 through 56 discuss those conversations the communications, we felt it was appropriate to add a Conclusion of Law in the decision regarding them and it basically states that that sure communications were not determinative of whether or not there're other violations of racing statutes and regulations.

Commissioner Lawless: I thought that was well worded.

Commissioner Heiple: Yeah it is.

Chair Goreé: I'm satisfied with it.

Ms. Harrison: I just have to note that this Conclusion of Law is completely new. It was not something that was part of the deliberation at the last meeting so if you're going to do what you're going to do with it, we believe a formal objection that this was added not in the public forum and hasn't been discussed in a public forum.

Chair Goreé: Well we are discussing it now. And I think, you know, it goes with facts 49-56, it does add some, you know, clarity as to, you know, on the ex parte communications.

Ms. Harrison: I make my objections

Chair Goreé: Okay. Thank you.

Ms. Harrison: Thank you.

Chair Goreé: Does anyone have anything to add to it?

Ms. Alarcon: I mean, you guys don't have to accept it, but ...

Chair Goreé: I'm just 50/50 on it.

Commissioner Heiple: (inaudible)

Ms. Alarcon: No, no -

Commissioner Heiple: So 11 becomes 12?

Ms. Alarcon: Eleven didn't exist.

Chair Goreé: Yeah.

Ms. Alarcon: So old 10 becomes 11.

Chair Goreé: So 11 used to be 10.

Commissioner Heiple: Yeah. This used to be 10.

Ms. Alarcon: Yes. Yes.

Commissioner Heiple: In the first draft?

Ms. Alarcon: Yes.

Commissioner Heiple: Alright.

Ms. Alarcon: And we did maintain those through ten because you did pull it the first time around. You pulled it last time. Or the time before.

Chair Goreé: As much as I like it, I don't know if we really need to have it.

Ms. Alarcon: It's up to you.

Chair Goreé: But I'm just one of five.

Commissioner Lawless: Well have we not deliberated on that in the past? Is that an issue that we've talked about?

Ms. Alarcon: Ah, I would have to review the transcripts but I, we did go through each Findings of Fact and Conclusions of Law.

Commissioner Lawless: Yeah, but what about -

Ms. Alarcon: There was extensive -

Commissioner Lawless: - Stacy's comment that this was not discussed? This is a new -

Chair Goreé: This is the new addition.

Ms. Alarcon: You can have...because this matter has occurred over a length of time, there has been more deliberation than what is probably typical, but in a -

Commissioner Lawless: Well I -

Ms. Alarcon: - in other administrative proceedings, you can, you hear the appeal all in one day so you have you know, you hear argument, you decide how to whether to accept reject or modify an ALJ's decision. You talk about it, the Assistant Attorney General goes back to their office, his or her office, drafts the Findings of Fact Conclusions of Law, and sends out to the Chair to sign and then it's done. So, yes there has been more discussion on Findings of Fact and Conclusions of Law and Order than what is...

Commissioner Lawless: That's why I didn't object to the addition. Because it seems like we've hashed this out, deliberated, discussed what's in Conclusion of Law 6 many times over the last year or year and a half, or however long this has gone on. And that's just a culmination of what we decided -

Ms. Alarcon: Absolutely -

Lawless: - if it truly -

Ms. Alarcon - Absolutely.

Commissioner Lawless: - Okay, if it truly adds something new, then I think -

Commissioner Heiple: Doesn't 11 cover -

Chair Goreé: My thought is it says see Findings of Fact 49 through 56 which we've not brought into here. So I'm, my question is why would we then be addressing this something new for 49-56 that we're not -

Ms. Alarcon: It's up to you. It's absolutely up to you. There - we thought that the ALJ decision didn't - it talked about - it had those findings and then it didn't have a Conclusion of Law that corresponded with it and this was just more for again for continuity, it wasn't for it wasn't meant to have to really add anything to the discussion that has not been discussed before. We went back and listened to the deliberations from last meeting about this issue and we thought this reflected what your position was. If it doesn't, we'd be more than happy to take it out. It's not determinative.

Commissioner Lawless: Well, that's my understanding, too. And I follow my counsel's advice, I think.

Chair Goreé: Yeah, I'm okay with it, leaving it in.

Mr. Manning: I just wanted to say this, you know, it's your decision. It's your working on now is your decision based on everything you've read everything you've seen, everything you've heard. Every argument that's been submitted. There's no requirement, your counsel can advise you on this if she has a different position, that every sentence be vetted and discussed in front of both parties. You're the judges, you make the decision based on everything - not just that you've heard but what you've read. This was discussed at the last or the one before that.

Commissioner Lawless: Yeah, I vote to leave it in.

Commissioner Heiple: We've discussed this?

Ms. Alarcon: Yes.

Commissioner Heiple: in Open -

Ms. Alarcon: Yes. We've discussed this in open...

Chair Goreé: Further discussion?

Commissioner Heiple: No.

Chair Goreé: All those in favor say Aye.

Chorus: Aye.

Chair Goreé: Opposed?

Vice Chair Feldmeier: No. Again for the same reasons provided earlier.

Ms. Alarcon: You can now renew your motion just to over clarify, we need a motion to deny the license?

Commissioner Lawless: The final order?

Ms. Alarcon: The final order.

Commissioner Lawless: I move we accept the final Order and authorize Chairman Goreé to -

Ms. Goodwin: You didn't have a vote on this one -

Chair Goreé: Yeah, we still -

Ms. Alarcon: Oh, yeah -

Ms. Goodwin: - we haven't done the roll call -

Ms. Alarcon: Oh, okay.

Chair Goreé: - yeah -

Ms. Alarcon: Oh, sorry.

Ms. Goodwin: Commissioner Goreé: Yes, Commission Feldmeier: No; Commissioner Lawless: Yea; Commissioner Heiple: Yes; Commissioner McClintock: Yes. Four Ayes, One Nay.

Commissioner Lawless: Okay.

Ms. Goodwin: Thank you. Go ahead.

Commissioner Lawless: Okay, I move that we adopt the final judgment as prepared by Camila and authorize Chairman Goreé to sign on behalf of the Commission.

Commissioner McClintock: Second.

Ms. Alarcon: I'm sorry, was that -

Commissioner Lawless: was that Okay - yeah -

Ms. Alarcon: I'm sorry, I was -

Commissioner Lawless: Was that Okay?

Ms. Alarcon: I was getting -

Commissioner Lawless: My motion, my motion was to accept -

Ms. Alarcon: I can't listen to -

Commissioner Lawless: - to accept - to adopt the -

Chair Goreé: Commission Decision -

Commissioner Lawless: - Commission decision in its final form and authorize Chairman Goreé to execute it on behalf of the -

Ms. Alarcon: Yes.

Commissioner Lawless: - Commission.

Ms. Alarcon: Yes -

Commissioner Heiple: Once these changes are made?

Ms. Alarcon: Once the changes are made, yes.

Commissioner Heiple: Right.

Chair Goreé: all those in favor say Aye?

Chorus: Aye.

Chair Goreé: Opposed?

Vice Chair Feldmeier: No.

Chair Goreé: And at this point I do believe you have -

Vice Chair Feldmeier: I have my reasons for objecting to this and if you'll all bear with me I'll just explain to you that I've, over the number of months that we've worked this through, although I haven't dwelt on it with the exception of being at these meetings, I have processed this stuff, all this information, and I sat down yesterday afternoon and wrote up six points why I felt that it was important to retain the decision that the Judge made as well as the Director when the Director enforced that decision. So bear with me as I go through these with you. First, I'm still uncomfortable with the fact that Jerry Simms is aggrieved. I don't see it. I didn't see it before and I still don't see it. Number two, that after the lengthy hearing with the ALJ provided numerous reasons why Ron Simms should receive and issued, in fact, that license. Three, Director Casillas endorsed and let stand that decision by the ALJ after his review. Four, twelve years ago, after the ownership of Bruin became a moot point, until former Director Walsh denied Ron Simms racing license. Director Walsh's denial was encouraged by Mel McDonald who was employed by Jerry Simms. Five, it's my belief that this has been a witch hunt all along. And it's about Jerry Simms doing whatever he can to prevent Ron Simms from getting his license. That's what it comes down to. Six and I also believe that both Commissioner McClintock and Commissioner Lawless, after reviewing this information over

this period of time, would have been cleaner and clearer had they recuse themselves some time ago. I trust your judgments; it's just I think -

Commissioner Lawless: No -

Vice Chair Feldmeier: - the results of -

Commissioner Lawless: You're fine -

Vice Chair Feldmeier: - it would have been a lot easier. I'd also say that our Chairman's contact with Mel McDonald also cast a shadow on these proceedings as well. For those reasons I voted no. I'm done now. As a matter of fact, I'm cooked.

Chair Goreé: I guess we should call roll now. So, Madam Secretary, would you please call the roll?

Ms. Goodwin: Commissioner Goreé: Aye; Commissioner Feldmeier: No; Commissioner Lawless: Yes; Commissioner Heiple: Yes; Commissioner McClintock: Yes. Four Ayes, one Nay.

Chair Goreé: Okay.

Commissioner Lawless: we're done here.

Chair Goreé: Again, thank you for everyone who -

Ms. Alarcon: Mr. Goreé, I think you have one more request.

Ms. Harrison: Just a little housekeeping issue -

Chair Goreé: Oh -

Ms. Harrison: - the issue of the stay?

Ms. Alarcon: Oh, yes -

Chair Goreé: Oh, that's right. I forgot about that. I'm sorry.

Ms. Harrison: So, your counsel at the special action which we challenged jurisdiction and standing, had made a comment to the court that we could request a stay of this decision pending our appeal to the Superior Court, which we intend to file under a case called Medda, which requires us to simply establish that our client has a colorable claim on appeal and that the balance of hardship are in his favor to maintain a stay. I think that we have established before this Commission that our client at least has a colorable claim while you have voted to reverse the ALJ decision. The ALJ determined that he that there was substantial - no substantial evidence to support the denial of Ron's license. So at the very least we have a colorful claim and as for the balance of hardship, there is absolutely no harm to any party to

stay your decision pending the appeal. Ron remains licensed with his new license for a period of time and the only harm is to Ron for his reputation. So, in order to make it absolutely clear that we are exhausting our administrative remedies on this point, whether we need to or not, I am requesting the Commission vote on and stay the decision pending the appeal to the Superior Court.

Chair Goreé: A stay would take it back to the ALJ's decision?

Ms. Harrison: Correct, the Director's decision deferring to the ALJ decision. It would still go up on an appeal -

Chair Goreé: Director Casillas not Director Walsh -

Ms. Harrison: Correct, Director Casillas -

Commissioner Lawless: Yeah, but what good does a stay do you Stacy? You're going to appeal whether it's off a denial by us or if we're stayed. I don't understand what the benefit is.

Ms. Harrison: Well the benefit is the status quo remains. Which it would be that Director Casillas' deferral to the ALJ decision which, if for no other reason, is helpful to Ron in terms of reputation. I mean, to have a decision out there that calls him, you know, that he, I don't know exactly what your decision is going to say because I haven't seen it yet. But I presume it's going to talk about how he told different things under oath regarding Bruin. And he is a business man in the community and he's entitled to have this heard before the Superior Court before this decision is deemed to be something that goes out there. If you stay it then there's benefit to his reputation ultimately.

Commissioner Lawless: So it stays kind of hidden through this (inaudible) -

Ms. Harrison: Well, the obviously in the appeal it'll be that you voted this way but it won't be a decision that's enforceable in any particular way during the appeal.

Commissioner Lawless: Okay, I'd like to hear from Jim or Mike since we allowed Stacy since this is still confusing.

Mr. Torre: There's no basis for the Commission to issue a stay. You've issued your Order. Your Order is what it is. They now have their appeal rights. Either they can ask you for a rehearing or they could go to the state court and ask the state court for a stay. There's no basis to do this. Nor is there, as Commissioner Wallace pointed out, any good reason to do this. If you deny a license you deny a license. There's no reason to stay the denial of the license. Moreover, it's a little outrageous that they're doing this on an oral motion now. If they want to try to file something. We haven't had any time to think of this, any time to look at it. They have never brought this up. If they want to try to file something it's not authorized and you're inclined to consider it, then we can respond to it in writing.

Commissioner Lawless: Well, isn't the proper forum for Stacy to go to the Superior Court and request an emergency stay?

Mr. Torre: Absolutely -

Commissioner Lawless: I don't - I'm not sure its within our purview, Stacy, to issue a stay.

Chair Goreé: Can we even issue a stay when it's the order has not even been signed?

Mr. Torre: And, frankly, we're in that as far as I know, we're in the call to the public section. Where all we're allowed to do is comment. And even your, the Order, the schedule for the meeting says all we can do in this section is direct staff to study the matter or reschedule the matter for further consideration at a later date. I don't think there's any legal mechanism to consider a motion at this point. Nor should one be considered just not proper. She should bring that to the state court.

Commissioner Lawless: Well I thought we're in a call to the public -

Chair Goreé: Well, but it was brought up -

Commissioner Lawless: - I think we're back up to B -

Chair Goreé: Yeah -

Commissioner Lawless: - aren't we -

Chair Goreé: Yeah -

Commissioner Lawless: - on the agenda?

Mr. Torre: Okay. But at any event, it's an oral motion in front of the Commission like this is not the proper way to do it.

Commissioner Heiple: I'd like to make a motion.

Chair Goreé: Sure, go ahead.

Commissioner Heiple: I'd like to make a motion to deny the stay.

Commissioner Lawless: I'll second that.

Chair Goreé: All those in favor say aye.

Chorus: Aye

Chair Goreé: Opposed.

Vice Chair Feldmeier: No. I might as well be consistent -

Commissioner Lawless: You might as well be consistent.

Chair Goreé: We like that.

Ms. Goodwin: Roll call. Commissioner Goreé: Yes; Commissioner Feldmeier: No; Commissioner Lawless: Yes; Commissioner Heiple: Yes; Commissioner McClintock: Yes. Four Aye, one Nay to deny the stay.

C. New Business

The following New Business items are for a status report, presentation, discussion, and possible action for the Commission.

1. La Paz County Fair Association requests to amend its approved race dates for FY 2017

Greg Stiles addressed the Commission advising all necessary paperwork is in order and the Department recommends approval of the request.

Commissioner Heiple moved to approve La Paz County Fair Association's request to amend its dates from January 20, 21, 27, and 28, 2017 to January 21, 22, 28 and 29, 2017, due to January 20 and 27 are Dark Days at Turf Paradise Race Course. Commissioner Lawless second. Motion carried. (Ayes: Goreé, Feldmeier, Lawless, Heiple, McClintock)

2. Rillito Park Foundation Request Approval of Fiscal Year 2017 Race Dates

Greg Stiles addressed the Commission advising Rillito has a Permit running through 2017. These dates are for its 2017 dates. He indicated February 17 and March 17 are Fridays and Rillito indicated it may run a late post-time. He has alerted Mr. Wells there may be possible lighting issues and we'll address it at that time. Everything is in order and the Department recommends approval of the requested dates.

Chair Goreé clarified that if there is a lighting issue then will Rillito run earlier? Mr. Stiles stated yes.

Vice Chair Feldmeier moved to approve Rillito Park Foundation's request of the following race dates for Fiscal Year 2017: February 11, 12, 17, 18, 19, 25 and 26, 2016 and March 4, 5, 11, 12, 17, 18, and 19, 2017. Commissioner Heiple second. Motion carried. (Ayes: Goreé, Feldmeier, Lawless, Heiple, McClintock)

3. TP Racing, L.L.L.P. Request Approval of Charity Race Dates for 2016

Greg stiles addressed the Commission advising A.R.S. § 5-110 allows days for charity racing. Turf paradise has requested November 5, 25, and 26, 2016. All of the paperwork is in order and the Department recommends approval of the dates.

Commissioner Lawless moved to approved TP Racing's request of 2016 charity race dates as follows: Saturday, November 5, 2016, Friday, November 25, 2016, and Saturday, November

26, 2016. Commissioner Heiple second. Motion carried. (Ayes: Goreé, Feldmeier, Lawless, Heiple, McClintock)

D. Information Reports

1. Turf Paradise Race Course Safety Report – **Greg Stiles addressed the Commission. (See attached Report.) Mr. Stiles encouraged the Commissioners to contact him at any time to schedule a visit to the backside of the track and see what everything looks like. Safety for the Department is our number one priority. Chair Goreé asked if there was anyone representing the jockeys. Mr. Stiles stated not at this time but he will contact the Jockey’s Guild and seek their input.**
2. TP Racing L.L.P. Permit issued November 17, 2015 – **There was discussion on the Permit relating to the promise made by Turf that repaving of problem areas would be done, which, according to the safety report, has not been done. Turf has taken steps to remove the standing water and continues to fill/repair potholes. Director Casillas stated that since the Permit was issued on a conditional basis, there’s room for further conditions on it. Commissioner Heiple suggested the Commissioners go out to the track and see what’s there. Chair Goreé stated he would like to do it a couple of times, depending on the weather and moisture factors. Mr. Stiles invited the Commission to not only tour the backside of Turf but Rillito and any of the County Fairs. Vice Chair Feldmeier asked that Director Casillas follow up with them on what can be done if Turf is found to be in violation of the conditions of the Permit to which he agreed. Mr. Francia, General Manager of Turf, addressed the Commission.**
3. Permittee Reports – **Not to exceed 3 minutes**
 - a. American Greyhound Racing – **No Report.**
 - b. County Fairs – **No Report.**
 - c. Rillito – **Jaye Wells, President, addressed the Commission.**
 - d. Turf Paradise – **Vincent Francia, General Manager, addressed the Commission.**
 - e. Tucson Greyhound Park – **No Report.**
4. Optional Industry Stakeholder Association Updates (limited to officers or officially designated spokesman) – **Not to exceed 3 minutes**
 - a. Arizona Counties Racing Association – **Sharon Denim, President, addressed the Commission.**
 - b. Arizona Greyhound Association – **No Report.**
 - c. Arizona Quarter Racing Association – **Loretta Brashear, President, addressed the Commission.**
 - d. Arizona Thoroughbred Breeders Association – **No Report.**
 - e. Horsemen’s Benevolent & Protective Association – **No Report.**
 - f. Jockey’s Guild – **No Report.**

E. Commission Reports

1. Summary of Current Events Affecting the Arizona Racing Commission. A.R.S. § 38-431.02(K) – Only Commission Members or the Director may report. No discussion or action may be taken on matters reported unless properly noticed for legal action or discussion. **No Report.**

2. Identification of Matters to be placed on future agendas. **None Requested.**

F. Call to the Public

Those members of the public wishing to address the Commission must sign the signup sheet and be recognized by the Chair. Time permitting; each presentation will be given approximately two minutes. Action taken as a result of public comment will be limited to directing staff to study the matter or re-schedule the matter for further consideration at a later date.

Stacy Ms. Harrison, counsel for Ronald Simms, addressed the Commission
James Mr. Torre, Counsel for TP Racing and Jerry Simms, addressed the Commission

Announcements

The next regular Arizona Racing Commission meeting is tentatively scheduled to be held on **Thursday, November 10, 2016, at 10:00 a.m.** in the Building Conference Room 250, 2nd Floor, located at 1110 West Washington St., Phoenix, Arizona. This is subject to change based on a quorum. Please remember to check the Racing Division's website or contact Cassie Goodwin at 602-771-4263 for confirmation.

Adjournment at 12:09 PM.