VIRGINIA RACING COMMISSION

January 27, 2016

STATE CORPORATION COMMISSION
TYLER BUILDING
1300 EAST MAIN STREET
RICHMOND, VA 23219

Commencing at 2:00 p.m.

COMMISSION MEMBERS:
D.G. Van Clief, Jr., Chairman
Carol G. Dawson, Vice Chairman
J. Sargeant Reynolds, Jr.
Dr. Charles Steger

COMMISSION STAFF:
Bernard J. Hettel, Executive Secretary
Kimberly C. Mackey, Office Administrator

ATTORNEY GENERAL'S OFFICE:
J. Duncan Pitchford, Esquire

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CHAIRMAN VAN CLIEF: I'd like to call the meeting of the Racing Commission to order, and note that we have four commissioners present, and therefore a quorum. We have some, I believe, very late-breaking news. The parties, that being TwinSpires and the VEA, have been involved in negotiations, mediated negotiations, off and on for some days now.

I think I'm going to be delighted to be able to announce that we're looking at an agreement. Since this is late-breaking, and literally, I'm holding a copy that I was handed coming through the door and I don't think any of the other commissioners have even seen that, I would like, Mr. Pitchford, if we can go into executive session, and if we might be briefed by counsel on what's in front of us here today.

MR. PITCHFORD: Thank you, Mr. Chairman. In accordance with the provisions of §2.2-3711(a)(7) of the code Virginia, I move that the Commission go into closed meeting for the purpose of consultation with legal counsel and briefing 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 public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel concerning agenda item number one, which is the TwinSpires matter. The commissioners will only ask counsel questions and will not engage in deliberations or other activity.

CHAIRMAN VAN CLIEF: May I have such a motion?

COMMISSIONER REYNOLDS: I move.

COMMISSIONER STEGER: Second.

CHAIRMAN VAN CLIEF: Commissioner Reynolds makes the motion, Commissioner Steger seconds. Any opposed? All in favor?

NOTE: The Commission votes aye.

CHAIRMAN VAN CLIEF: The motion carries. Let's adjourn to our executive session.

NOTE: The hearing is adjourned from 2:02 p.m. until 2:19 p.m.; thereafter, the hearing resumes as follows:

CHAIRMAN VAN CLIEF: Mr. Pitchford, could you bring us back out of executive session?

MR. PITCHFORD: Thank you, Mr. Chairman.

§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, only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and 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 VAN CLIEF: Do I have such a motion?

COMMISSIONER STEGER: So moved.

CHAIRMAN VAN CLIEF: Commissioner Steger moves. Second?

COMMISSIONER REYNOLDS: Second.

CHAIRMAN VAN CLIEF: Commissioner Reynolds seconds. Any opposed? Motion passes. Thank you very much. We are back in session, open session.

It appears from the briefing that we just received that we do indeed have a memorandum of understanding between the parties; the parties in this case being the Commonwealth of Virginia, Churchill Downs Technology Initiatives Company, d/b/a Twinspires.com. We got it right that time?

MR. JOHNSON: That's right.
CHAIRMAN VAN CLIEF: And the Virginia Equine Alliance. That is truly good news, and I'd like to take a moment before I call on the parties to give us a quick briefing on the substance of this agreement to thank those of you, particularly the parties involved, the VEA and TwinSpires, and particularly our counsel, the office of the Attorney General, J. Duncan Pitchford, and perhaps most of all, Mr. Mark Rubin, who is here sitting right back there to my right, who is with the Virginia Center for Consensus Building. He's part of the VCU Office of Continuing and Professional Education.

I hear he is one of the best at what he does, and in my experience, if he can bring our industry to a consensus within two days, which he did, then he is indeed one of the best. Thank you, Mr. Rubin, and thanks to all of you. I think this is a very important building block for the relaunch of our industry here in Virginia.

Now I'd like to call on the parties, if they so desire, to give us an update, remembering that most of us on this Commission are brand new to this agreement.

MR. QUINAN: Yes. Michael Quinan with
Christian & Barton. I'm here on behalf of -- I represent the Virginia Horsemens Benevolent and Protective Association, which is one of the members of the Virginia Equine Alliance and also one of the signatories on the memorandum of understanding.

I'd like to start off also by thanking Mr. Rubin. He did a great job and we hung in long and hard. A couple of late nights where we were held captive until we appeared to reach agreement, and then finally did reach agreement, and the memorandum of understanding, notwithstanding the fact that it is relatively detailed for an MOU, still doesn't really capture all of the questions, issues and details that all of the parties had to wrestle with in order to come to this agreement.

The situation really is a complex one, and it did take the parties a good amount of effort and compromise on all sides on issues that were issues that are addressed in here that we didn't think should be issues.

But everybody at the end gritted their teeth and agreed upon this MOU, which addresses the principal issues of the rates that will be paid or rebates that will be provided of the fees paid under the Virginia code for ADW fees, as well as
addressing some of the baggage that has accumulated over the past year or so regarding claims and payments, and this agreement resolves all of those and is a full settlement agreement.

One of the provisions in here is the formal agreement that will follow, and will contain mutual releases, and so this does give the parties a platform to move forward with no baggage still hanging on.

So we hope you will, you know, approve this agreement and the formal agreements that follow, and that if you have any questions about any of the particular provisions, I'll be glad to respond.

CHAIRMAN VAN CLIEF: Thank you very much. Mr. Johnson?

MR. JOHNSON: Only very briefly. Mr. Quinan did very nicely summarizing what this is. I'm Harry M. Johnson on behalf of TwinSpires. The only other thing that I imagine you're also interested in, is that this agreement resolves the back-payments, those that have accrued, those that have already accrued, and I believe that's going to be upwards of over $300,000. The numbers are here, so I think that's good for the Commonwealth. That's good for the equine interests here.
Frankly, it's good for TwinSpires to be back in the
good graces of the Commonwealth.

CHAIRMAN VAN CLIEF: Thank you. We are glad
that they are back.

At this point, I would like to convene as part
of our hearing an Administrative Process Act
hearing on the subject of TwinSpires' advance
deposit wagering license application, which I think
the foregoing briefing sets up for.

Before we get into the substance of that, let
me ask our executive secretary, Mr. Hettel, if we
have as a Commission all the necessary information
and applications, and if so, are they in good order
and do they meet all statutory requirements?

MR. HETTEL: Yes. They do. They are complete
and accurate, and I suggest approval.

CHAIRMAN VAN CLIEF: Okay. I'd like to also
ask our counsel, Mr. Pitchford, given the
completeness and appropriateness of those
applications, is there any other issue that we need
to address given the circumstances as a Commission
before we move forward into the concrete aspects of
a license application?

MR. PITCHFORD: I don't believe so,
Mr. Chairman.
CHAIRMAN VAN CLIEF: Thank you very much. I'd like to ask my fellow commissioners if they have any questions about this memorandum of understanding for either of the parties.

NOTE: There was no response.

CHAIRMAN VAN CLIEF: Okay. Thank you very much. In that case, we come to the topic of the 2016 license application for TwinSpires.com, and I think all the questions have been answered. I would like to ask again the parties, starting with Mr. Johnson, if you would have any comments or testimony to offer on this subject of your client's license app?

MR. JOHNSON: No, sir. I don't think we need to add anything to what is already in the papers and what has already been heard. My expectation is that this will be provisional on the consummation of the various agreements and obligations herein, but we do appreciate your consideration of our application for 2016 and hope you approve it.

CHAIRMAN VAN CLIEF: Okay. Thank you very much. Any comments from the VEA, from the VHBPA or any other constituents involved?

MR. QUINAN: No, and no opposition.

CHAIRMAN VAN CLIEF: Thank you. There seems to
be no opposition. We seem to have an agreement which will in principle at least govern the operation of our ADW operations here in Virginia in 2016, and I think it's very encouraging that further moves to address for future operations, OTBs, satellite wagering facilities, should that occur, and we hope it will.

Are there any questions or comments from commissioners? If there are not, then I think it would be in order to entertain a motion to provisionally approve the TwinSpires 2016 ADW license. That's provisional upon completion of the necessary agreements and documentation signed by relevant parties, and the license would be issued at that time.

COMMISSIONER REYNOLDS: Mr. Chairman, I would move that we the Commission provisionally approve the 2016 ADW license for Churchill Downs Technology Initiatives Company, doing business as TwinSpires.com.

CHAIRMAN VAN CLIEF: Thank you. Is there a second to that motion?

COMMISSIONER DAWSON: I second that.

CHAIRMAN VAN CLIEF: Commissioner Dawson seconds. Is there a discussion or are there any
questions? If there are none, then all in favor, signify by saying aye.

    NOTE: The Commission votes aye.

    CHAIRMAN VAN CLIEF: The motion passes unanimously. Thank you very much.

    Okay. Next in line is the approval of the January 6 meeting minutes. I'm going to defer those, since they deal in large part with the conversation with regards to the TwinSpires license, since Commissioner Miller is not here and a lot of that is attributable to him, and also since those minutes were circulated, I think as recently as yesterday evening.

    I'd like to defer those and we will take up the approval on the January 6 minutes at our next meeting at the same time as our minutes from this meeting. Does that meet with our fellow commissioners?

    COMMISSIONER DAWSON: Makes sense.

    CHAIRMAN VAN CLIEF: Thank you very much. We have under new business to address Breeders Fund expenditures for 2015 year-end Breeder and Stallion awards. Ms. Easter, would you like to address that?

    MS. EASTER: Well, I hope that you all would
approve that we would spend $500,000 on breeders' awards for 2015 and 25,000 on Stallion awards.

CHAIRMAN VAN CLIEF: Can you refresh our memory as to how that compares with previous years and if there are any changes in detail?

MS. EASTER: That would be the same as 2014, and we've been slowly increasing. A lot of previous years to that, a majority of our fund had gone to owners' bonuses at Colonial Downs, and so we've been slowly trying to make that a little bit more of an equal number and reward the breeders, since it is the breeders' incentive fund.

CHAIRMAN VAN CLIEF: Thank you. Are there any questions on the Breeders Fund? In that case, I'd like to entertain a motion to approve.

COMMISSIONER DAWSON: So moved.

CHAIRMAN VAN CLIEF: Thank you, Commissioner Dawson. Is there a second?

COMMISSIONER STEGER: Second.

CHAIRMAN VAN CLIEF: Commissioner Steger, second. All in favor, signify by saying aye.

NOTE: The Commission votes aye.


Lastly, I don't think this is going to be an
action item, but we thought it would be a good idea for the VEA to continue its regular budget updates to the Commission. This is, after all, going to be the guts of rebuilding our industry, so we'd like a briefing.

I understand you're prepared to give that, and if you could also include -- I gather you have made some progress with regards to your audit requirement, and under the statute, I understand that you are required to provide this Commission with an audit annually, and given the environment with which we are working under the new legislation, we thought it was important to get a fresh look and get an independent audit.

Can you brief us on your progress with both your budget development and your audit solicitation?

MS. EASTER: I will do that today. Jeb, unfortunately, couldn't make it today because of the snow and his kids being out of school, so I will try to stand in his place, which will not be quite as eloquent.

I think in your package, you have a budget, VEA budget, and that is a very fluid document, but I think the budget reflects our current deal with
TwinSpires and Xpressbet, the rebates that will kick back. Basically give us net proceeds of about $1.8 million to work from in 2016.

I think also that what might be different, but I'm not sure that it is, I think you actually got it on the last budget. At the bottom, it reflects the money that we are going to need for capital improvements at both Morven Park and also Shenandoah state fairgrounds for the harness improvements.

Commissioner Van Clief just asked me to update you on our progress since our last meeting, and I'd say that what's happening now is that we are working with institutions to try and get the loans to fund those improvements. I think that we're fairly optimistic in the very near future that we will have those tied up and hope that we could start cutting some dirt maybe at Tom's facility when we get rid of this weather.

But we continue to research how we can get an OTB open as quickly as possible. We met on that subject today. I'm hopeful we'll bring you that application back as soon as possible. Other than that, it's just constant go, but if you all have any questions, I'll be glad to entertain any of
those.

We're also working to get -- the other priority on our list would be to get a schedule for a race meet, what racing will look like in 2016 as soon as possible, so I hope by the next meeting we'd have something like that for you also.

CHAIRMAN VAN CLIEF: Okay. Any questions for Debbie? I'd encourage the commissioners to use these opportunities for updates, and I know she can field operational questions as well as the line items on our budget, so please fire away if you have any.

MS. EASTER: And I would encourage you all, obviously, as I said before, I think the very positive thing, as we said before, we'll all be working together, so we would welcome your input, your energy. Whatever you can do to help us move forward would be super.

If there are no questions, then as far as the audit, I believe what is going on there is that Jeb has three independent firms, and that he and Mr. Hettel are going to work out, choose somebody they like and we will go ahead and get an audit done whenever you all want that done.

That's very standard procedure for everything
we do at Easter Associates, so we're happy with
whoever you bring in there and we'll do what we
need to do.

CHAIRMAN VAN CLIEF: Okay. Great. Thank you
very much, Debbie.

This brings us to the public comment period.
As always, we welcome comments from the public.
Are there any this afternoon?

MS. EASTER: I have one comment, if you don't
mind.

CHAIRMAN VAN CLIEF: Sure.

MS. EASTER: I would certainly -- we had an
election at the end of the year, the VTA, and we
elected a new board of directors, and about a week
ago, we had our first board meeting and elected
new officers, and I'd like to introduce you all to
our new president, Brooke Royster, and he can tell
you a little bit about himself.

CHAIRMAN VAN CLIEF: Brooke, congratulations on
your election, and the floor is yours.

MR. ROYSTER: Thank you. I spent a large part
of my life in Kentucky and back in Virginia. About
13 years ago, had a commercial breeding operation
in Kentucky, take care of some of the horses in
your families and very happy to be here and very
excited about what's going on with Virginia racing right now.

CHAIRMAN VAN CLIEF: Good to have you here, and thanks in advance for your service to the VTA.

Any other comments? All right. Thank you very much. In that case, the floor is open for commissioners' comments. If there are any, I'll start to my far left with the former chairman.

COMMISSIONER REYNOLDS: I'll be brief. I'm thrilled to death that you all reached an agreement. That's great that you could compromise at the meeting, but I look forward to many more of them.

Just a little tongue-in-cheek, Mr. Johnson. Do you still think your 2014 license is in full effect?

UNIDENTIFIED: Sit down, Pete. I'm just playing.

CHAIRMAN VAN CLIEF: Don't answer that.

MR. JOHNSON: If I need to say it, I will.

COMMISSIONER REYNOLDS: We look forward to seeing Virginia racing move forward at long last, and thank you all, everybody, for your efforts. It has been a long road, and Mr. Rubin, I don't know if it's Dr. Rubin or Mr. Rubin or Judge Rubin, but
thank you very much and the Attorney General staff as well, Duncan and John. Thank you. That's all I have, sir.

CHAIRMAN VAN CLIEF: Commissioner Steger.

COMMISSIONER STEGER: I would just join Commissioner Reynolds in expressing my gratitude to all the parties who engaged in this mediation to bring this to closure. I think it's very, very important as we begin to get racing off to a healthy start again, and I look forward to the prospects of the future. Thank you, sir.

CHAIRMAN VAN CLIEF: Commissioner Dawson.

COMMISSIONER DAWSON: I just first want to say I admire and praise you for a good job that you've done today on your first meeting as chairman, and also to echo what Commissioner Reynolds said about those people from the Attorney General's office who have been so helpful, and for the mediator, and for Commissioner Steger who suggested that move.

CHAIRMAN VAN CLIEF: Absolutely.

COMMISSIONER REYNOLDS: Yes.

COMMISSIONER DAWSON: It's good for you, too. So really, it is a pleasure to be at a meeting like this and see things going smoothly, and I agree with Ms. Easter that we can look forward to working
together in a more professional and cooperative manner.

CHAIRMAN VAN CLIEF: Thank you, Commissioner Dawson. In my case, it's always better to be lucky than smart. That's how I always hope it works for me.

I just echo my fellow commissioners' sentiments and know that it's always nice when people of good faith and like mind get together. Thank you all for your efforts.

I know that at least one of those days was a very long day, and I don't think that anybody counted on coming back to the table for a second go around, so thank you very much for your good faith and your perseverance and for helping the Virginia industry take this step forward. Thank you very much.

With that, I will entertain a motion to adjourn.

COMMISSIONER REYNOLDS: So moved.

CHAIRMAN VAN CLIEF: Second?

COMMISSIONER DAWSON: Second.

CHAIRMAN VAN CLIEF: Any opposed? I'll note that also, Bernie, I'm going to ask you to circulate the commissioners for available dates.
MR. HETTEL: Okay.

CHAIRMAN VAN CLIEF: I think we're going to skip February and try to have an early first week of March meeting.

MR. HETTEL: All right.

CHAIRMAN VAN CLIEF: So let's see when everybody is available, get that lined up and notices out.

MR. HETTEL: Maybe back in the same room. Seems like a nice room.

CHAIRMAN VAN CLIEF: So far, so good. Thank you very much, everybody. The meeting is adjourned.

NOTE: The meeting is adjourned at 2:43 p.m.
CERTIFICATE OF COURT REPORTER

I, Sandra G. Spinner, hereby certify that having first been duly sworn, I was the Court Reporter at the meeting of the Virginia Racing Commission at the time of the hearing herein.

Further, that to the best of my ability, the foregoing transcript is a true and accurate record of the proceedings herein.

Given under my hand this 4th day of February, 2016.

__________________________
SANDRA G. SPINNER
COURT REPORTER