

Minutes of the Meeting Held on April 24, 2008

The meeting was called to order by Chairman Charlie Luken, at 10:00 am at Raceway Park, 5700 Telegraph Rd., Toledo, Ohio, pursuant to due notice. The following Commissioners were determined to be present: Tom Zaino, Jerry Chabler, Ted Brown and Gerald Holland

Chairman Luken opened the meeting by thanking Raceway Park for its hospitality. General Manger Bill McLaughlin, introduced Chris McErlean from Penn National, who thanked the Commission for making the trip to Toledo.

1. The first order of business was approval of the minutes from the meeting held on March 17, 2008. Upon motion by Commissioner Holland, second by Commissioner Brown, a reading was waived and the minutes were unanimously approved.
2. **EXECUTIVE DIRECTOR'S REPORT:** The following items have been given tentative approval and are being submitted for formal approval at this time:

A. Thistledown

1. A Bond was posted for all meetings at Thistledown. The Bond was submitted for Commission review.
2. In a letter dated April 2, a request for approval of the List of Officials for the Summit and Thistledown Meetings. Two resumes (Associate Stewards) were attached. Also, a request for a new assistant starter. All officials have been certified as competent for their respective positions by General Manager Brent Reitz.
3. A request for the Number of Races and Wagering Format was submitted for Commission approval.
4. A requested 1:05 pm post time daily.
5. The Price Structure was submitted for approval.
6. A request to include of up to two out-of-state simulcast races on each live racing program, subject to contracts being submitted to the Commission office.
7. The customary letter requesting an inspection has been submitted to the State Fire Marshal.
8. A request dated April 9 to offer the Maker's Mark/Toyota Blue Grass Stakes Double at Keeneland on April 11 & 12.

Director Zonak advised that since a bond was posted, there is no need for action on item 1. Upon motion by Commissioner Chabler to approve items 2 - 8, second by Commissioner Holland, unanimously approved.

B. River Downs

1. A request dated April 4, to approve Felix Chavez as Clerk of Scales replacing Carl Kloentrup. A resume was attached. Mr. Chavez has been certified as competent for this position. Upon motion by Commissioner Brown, second by Commissioner Chabler, unanimously approved.

C. Lebanon Raceway

1. Ratification of Dr. Jack Swagler to replace Dr. Jennifer McQuinn as Track Veterinarian. Upon motion by Commissioner Brown, second by Commissioner Holland, unanimously approved.

D. Scioto Downs

1. Request for approval of Perry Lambert to serve as Identifier. A resume was attached. Mr. Lambert has been certified as competent for this position. Upon motion by Commissioner Chabler, second by Commissioner Zaino, unanimously approved.

3. Public Hearing on Ohio Rules of Racing #3769-6-25.1 and 3769-17-09.1. Director Zonak stated that pursuant to the provisions of Sections 119.03 of the Ohio Revised Code and 3769-2-03 and 3769-12-03 of the Ohio Rules of Racing, the Commission hereby gives notice of its intention to advertise for public hearing new rules, and to rescinded rules that are scheduled for a public hearing today. Commissioner Holland called the public hearing to order, stating that this is a public hearing on Standardbred and Thoroughbred Rules. He added that today is April 24, 2008, and we are at Raceway Park in Toledo, Ohio. He introduced himself as Jerry Holland, Commissioner, and chairman of the Safety Committee. Also present are Chairman Luken, Commissioner Brown, Commissioner Chabler, and Commissioner Zaino. Assistant Attorney General Michael Allen provided proof of a publication announcement for the record. At this time, the public hearing began.

Commissioner Holland asked for any discussion from the audience on the rules. Patricia Cross, an owner/groom for 28 years, is opposed to this safety rein rule. HBPA General Manager Dave Basler spoke regarding some misrepresentations that were provided early on when discussing this new rule. Commissioner Brown said that when this topic first came up, it was almost unanimously agreed upon. OHHA General Manager Jerry Knappenberger said that although safety is important, the OHHA feels this is not the appropriate time to follow through with this rule. All jurisdictions would need to adopt this rule at the same time due to the movement of horsemen racing in more than one state. With no additional comments given, Commissioner Holland concluded the public hearing.

4. Approval of the host/guest/additional simulcast product for May. Upon motion by Chairman Luken to approve the simulcast schedules for the month throughout Ohio. The motion was seconded by Commissioner Brown, unanimously approved.
5. Request by Thistledown and Lebanon Raceway to open early at 10:30 am for wagering on days the Kentucky Oaks and Kentucky Derby will be held. Upon motion by Commissioner Chabler, second by Commissioner Holland, unanimously approved.
6. Request by Thistledown and River Downs to offer the High Five (straight flush) wager beginning May 1, on an experimental basis. Vince Cyster of Thistledown explained the wager to the Commission. Upon motion by Commissioner Holland, second by Commissioner Chabler, unanimously approved.
7. Request by Scioto Downs for a 5:30 pm post time on May 17 and June 7. Upon motion by Commissioner Brown, second by Commissioner Zaino, unanimously approved.
8. Request by Beulah Park for the expenditure of \$350 of fine money for a backside cookout for all licensees. Upon motion by Commissioner Holland, second by Commissioner Brown, unanimously approved.
9. Request by Beulah Park for approval of Tax Reduction Application #1986-1 (Submission #15). This is a tax abatement request pursuant to Section 3769.20 of the ORC on debt service in the amount of \$154,847.38. An audit has been taken of the completed project and the auditor's report has been submitted. Upon motion by Commissioner Holland, second by Commissioner Brown, unanimously approved.
10. Hearing Officer's Report and Recommendation regarding:
 - a. **Shane Heasley** - This is a result of an appeal from a Northfield Park judges' ruling that imposed a \$250 fine; a thirty-day suspension; and loss of purse when the trainer raced the horse "Breeze On By N" that tested above the furosemide limit at the Coshocton County Fair on October 2, 2007. Commissioner Chabler moved to approve adoption of the Hearing Officer's Report and Recommendation in its entirety, and Mr. Heasley be fined \$250; that he serve a thirty-day suspension from May 17 through June 15, 2008 (inclusive); and that he return purse money won from the eighth race on October 2, 2007 at the Coshocton County Fair. The motion was seconded by Commissioner Zaino, unanimously approved.
 - b. **Kenny Kidd** - At the November 2006 meeting of the Ohio State Racing Commission, a Finding & Order was issued affirming the Report and Recommendation issued in this matter from August, 2006. Mr. Kidd appealed that Finding & Order to the Franklin County Common Pleas Court. The court remanded the matter back to the Commission in order for Mr. Kidd to present additional information. A remand hearing was set and Mr. Kidd was represented by attorney Paula Brown. Subsequently, a Hearing Officer's Report and Recommendation was issued, along with objections from Attorney Brown and objections from Assistant Attorney General Michael Allen, who represented the Commission. After reviewing all documents, Chairman Luken moved to adopt the Findings of Fact and Conclusions of Law, but amend the Recommendations by waiving the penalties of a \$1,000 fine and a one-year suspension. Mr. Kidd will still be required to return purse money received as a result of winning the twelfth race at Northfield Park on November 17, 2004. The motion was seconded by Commissioner Zaino, unanimously approved.
11. Request by Thistledown to amend its permit for live race days. Director Zonak stated he has received in the Commission Office a two-party agreement between the HBPA and Thistledown that would permit the racetrack to conduct live racing on 122 days this year. Chairman Luken thanked all parties for reaching this agreement. Upon motion by Commissioner Brown to approve the agreement as submitted, second by Commissioner Zaino, unanimously approved.
12. Request by Thistledown to move Best of Ohio Races to October 4, 2008. Director Zonak stated that as a result of the approval of this two-party agreement, Thistledown requests to hold the Best of Ohio Races on the original date of October 4, 2008. Mr. Zonak asked the Commission to address item 12 and item 2 (under old business) jointly. Chairman Luken agreed to that. Director Zonak then advised the Commission of the changes he would like to make to the Ohio Thoroughbred Race Fund supplement and overnight races that would result in the distribution of an additional \$100,000. Chairman Luken moved to approve the changes as stated. Commissioner Chabler seconded the motion, passed unanimously.

Old Business

1. Monthly Fiscal Report - Commissioner Zaino presented the monthly fiscal report to the Commission.
2. Ohio Thoroughbred Race Fund Changes: These items were addressed in number 12.

Chairman Luken asked for a motion to go into Executive Session to discuss matters regarding an RFP. Commissioner Chabler moved to go into Executive Session. A roll call vote was taken. Chairman Luken voted Aye; Commissioner Brown voted Aye; Commissioner Zaino voted Aye; Commissioner Holland voted Aye; and Commissioner Chabler voted Aye.

Commissioner Chabler moved to come out of Executive Session. Commissioner Brown seconded the motion. A roll call vote was taken. Chairman Luken vote Aye; Commissioner Zaino voted Aye; Commissioner Holland voted Aye; Commissioner Chabler voted Aye; and Commissioner Brown voted Aye.

New Business

1. Chairman Luken announced that this will be his last meeting. He thanked everyone and wished the best to the racing industry.

Date, Time & Place of Next Meeting:

Thursday, May 15, 2008 at 10:00 am at Scioto Downs, 6000 S. High St., Columbus, Ohio.