

Minutes of the Meeting Held On August 21, 2008

The meeting was called to order by Chairman Willie Koester, at 10:00 am at River Downs Racetrack, 6301 Kellogg Ave., Cincinnati, Ohio, pursuant to due notice. The following Commissioners were determined to be present: Tom Zaino, Ted Brown, Jerry Chabler, and Gerald Holland.

Chairman Koester acknowledged Norman Barron in attendance at the meeting as well as Jim Morgan in the audience.

1. The first order of business was approval of the minutes from the meeting held on July 17, 2008. Upon motion by Commissioner Holland, second by Commissioner Chabler, the reading of the minutes was waived and the minutes were approved.
2. Ratification of cancellation of registrations of several horses from the Ohio Thoroughbred Race Fund. Chairman Koester stated that several people were in attendance who wished to speak regarding the cancellation of registrations of several horses and that he would take those comments up under new business. The horses in question are as follows: Houston Heist, foaled on 3/29/05; Marble Cliff, foaled on 4/2/05; An unnamed foal, foaled on 4/17/05; Rushland, foaled on 1/31/06; Teton Gold, foaled on 4/30/06; Cat Teezer, foaled on 5/8/06; An unnamed foal, foaled on 4/23/07; An unnamed foal, foaled on 3/6/07; Foolish Little Girl, foaled on 3/21/07. Motion by Commissioner Brown to approve the cancellation of registrations of the aforementioned horses. The motion was seconded by Commissioner Chabler, unanimously approved.
3. Appeal Hearings: **A) Houston Heist B) Marble Cliff**

Chairman Koester opened the hearings and asked that the hearing regarding Houston Heist be taken up first and Joe Sugar asked to defer Houston Heist and Marble Cliff proceed first. Mr. Sugar also stated that Mr. Charles Ruma would be addressing the Commission regarding Marble Cliff. Assistant Attorney General Michael Allen presented the Commission's case first. The Commission heard testimony from Director Zonak, and Deputy Director John Izzo., Charles Ruma and Joe Sugar. Mr. Izzo was cross examined by Charles Ruma, owner of Marble Cliff. Each witness was also cross examined and questioned by the Commission members. After hearing from all witnesses, and reviewing all documents submitted by all parties, Commissioner Brown moved to uphold River Downs Steward's ruling #90, dated August 15, 2008, in regard to Marble Cliff. The motion was seconded by Commissioner Chabler. Commissioner Zaino voted Nay. The motion passed by a 4 – 1 vote.

Regarding Houston Heist, it was agreed the appeal regarding River Downs Steward's Ruling # 91, dated August 15, 2008, will be withdrawn. Discussion was held after the motion, Commissioner Zaino stated that based upon testimony given, it appears that there is enough evidence established to require the breeders of these horses to come before the Commission for a hearing pursuant to #3769-5-69 of the OAC, therefore Commissioner Zaino moved that a 3769-5-69 hearing be held and that the breeders be notified to appear before the Commission to provide sworn testimony. The motion was seconded by Commissioner Chabler, unanimously approved.

Executive Director's Report:

A. River Downs

1. In a letter dated July 26, River Downs requested approval to import as a special racing event the Seven Claiming Crown Races on August 2 from Canterbury Park. This request has HBPA approval.
2. In a request dated July 31, Ed Vomacka, Race Secretary at River Downs requested Commission approval to uncouple the two betting entries of Blazing Meadows in the \$55,000 Horizon Stakes and have ten betting interests. Motion by Commissioner Holland to approve items 1 & 2 as submitted, second by Commissioner Brown, unanimously approved.

B. Thistledown

1. The Surety Bond has been posted for all meets- No action needed.
2. In a letter dated August 6, a request for approval of the List of Officials for the Cranwood Meet. All officials remain the same as the current meeting and are certified by Brent Reitz, General Manager and Bill Couch, Director of Racing as being competent for their positions.
3. The Wagering Format has been submitted for Commission review.
4. Price structures remains the same as the current meet.
5. A 1:05 pm post time is requested. Motion by Commissioner Brown to approve items 2 – 5, second by Commissioner Zaino, unanimously approved.

6. In a letter dated July 31, a request to offer the Hambletonian/Haskell Daily Double on August 2 from the Meadowlands.
7. In a letter dated July 31, a request to open at 10:30 am for wagering on Delaware County Fair cards on Sept. 17 & 18.
8. Request to uncouple entries for the Miss Ohio Stakes on August 23. Motion by Commissioner Zaino to approve items #6 – 8, second by Commissioner Brown, unanimously approved.

C. Lebanon Raceway

1. In a letter dated August 4, 2008, a request for a Waiver of Surety Bond for the Lebanon Trotting Club Meet which was accompanied by a Guaranty of Performance signed by Lou Carlo of Lebanon Trotting Club.
2. In that same letter, a request for approval of the List of Officials, all of whom remain the same as the current meet and are certified as being competent for their positions by John Carlo, President of Lebanon Trotting Club.
3. The Number of Races and Wagering Format have been submitted for Commission review.
4. A 6:30 p.m. post time each live racing card is requested.
5. Price Structure remains the same. Motion by Commissioner Chabler to approve items #1 – 5, second by Commissioner Holland, unanimously approved.

D. Northfield Park

1. In a letter dated August 13, a request to approve Gerald Sanders as the photo-finish timer operator. Mr. Sanders has been certified as competent for this position by Thomas Aldrich, Chief Operating Officer at Northfield Park. Motion by Commissioner Chabler to approve this request, second by Commissioner Brown, unanimously approved.
5. Approval of the Host/Guest/Additional Simulcast Product for September. Director Zonak advised that River Downs submitted a request to drop simulcasting on Tuesdays in September, so approval for their Simulcast Schedule would include this request. Motion by Commissioner Holland to approve the simulcast product from Thistledown, River Downs, Lebanon, Raceway Park, Northfield Park, Scioto Downs and Cedar Downs. The motion was seconded by Commissioner Brown, unanimously approved.
6. Request from Scioto Downs to treat July 23 as a live racing day, which was cancelled due to a Tote Malfunction; and to pay \$100 to each owner scheduled to race in races 6 – 10. This request has OHHA approval. Motion by Commissioner Brown, second by Commissioner Chabler, unanimously approved.
7. Request from Scioto Downs to treat July 26 as a live racing day, which was cancelled due to a Power Outage; and to pay \$100 to each owner scheduled to race in races 2 – 10. This request has OHHA approval. Motion by Commissioner Brown, second by Commissioner Zaino, unanimously approved.
8. Approval of Raceway Park's Tax Reduction Application #2008-TOL-1&2. Director Zonak advised the Commission that this request has been through the Audit process. The requested abatement amount is \$2,119,291.00 and staff Recommends approval. Motion by Commissioner Chabler to approve this Tax reduction Application of Raceway Park. The motion was seconded by Commissioner Holland, unanimously approved.
9. Approval of Northfield Park's Tax Reduction Application #1984-1 (sub. 17). Director Zonak advised the Commission that this request has been through the Audit process. The staff took exception to one item on the audit in the amount of \$3,070.00, therefore amending the abatement amount to \$6,895,506.05. Staff recommends approval. Motion by Commissioner Holland to approve this Tax reduction Application of Northfield Park. The motion was seconded by Commissioner Chabler, unanimously approved.
10. Two requests for the expenditure of Fine Money from Scioto Downs. Director Zonak recommends approval of these requests. A request for the expenditure of \$500.00 to be used for a Pizza Super Night on August 30. Motion by Commissioner Chabler to approve this request, second by Commissioner Brown, unanimously approved. A request for the expenditure of \$2,500.00 to be used for the Annual Horsemen's Labor Day Picnic. Motion by Commissioner Brown to approve this request, second by Commissioner Zaino, unanimously approved.

11. Request by River Downs to amend their simulcast permit. This request was to delete simulcasting on Tuesdays in September and October 7 and substitute these days for Fridays, September 12, 19, 26, and October 3; and Saturdays, September 13 & 20. Director Zonak reminded the Commission there will be no other thoroughbred host these days so Scioto Downs will pick up host days. Motion by Commissioner Holland to approve this request, Commissioner Brown seconded the motion, which passed unanimously.
12. Move to adopt Ohio Rules of Racing #3769-3-01 & 3769-13-01 (Win, Place, Show Wagering and Entries). After advertising pursuant to Section 119.032 of the ORC, and public hearing held on July 17, Commissioner Chabler moved to rescind old Ohio Rules of Racing #3769-3-01 & 3769-13-01, effective August 31, 2008, and adopt, as amended, Ohio Rules of Racing #3769-3-01 & 3769-13-01 to become effective on September 1, 2008. The motion was seconded by Commissioner Zaino, unanimously approved.
13. In the Matter of Report and Recommendation and objections regarding Tabitha Elmore and Sean Gilbraith. Deputy Director John Izzo briefed the Commission regarding the appeal filed by Ms. Elmore and Mr. Gilbraith regarding Northfield Park Judge's ruling's #NFLD07-346 and #NFLD07-347. Mr. Phillip Lehmkuhl was present representing Ms. Elmore and Mr. Gilbraith. Assistant Attorney General Michael Allen, representing the Ohio State Racing Commission addressed the Commission regarding his response to the Hearing Officer's Report and Recommendation. Attorney Lehmkuhl then addressed the Commission regarding his reply. After hearing from all parties, Commissioner Zaino moved to modify the Findings of Fact in paragraph #3, #10 and #11. He also moved to modify the Conclusions of Law in paragraph 4. He further moved to modify the Recommendation of the Hearing Officer and Ms. Elmore and Mr. Gilbraith must each pay a \$1,000.00 fine; the each shall serve a one-year suspension commencing September 9, 2008 and be assessed the total cost of the adjudication hearing. The motion was seconded by Chairman Koester, unanimously approved.
14. In the Matter of Financial Judgment of Ronald Behrens. On June 20, 2008, a notice of opportunity for a hearing was sent to Mr. Behrens regarding a financial judgment issued against him in the Bedford Municipal Court regarding a horse racing related debt. Mr. Behrens failed to request a hearing within thirty days, therefore Commissioner Chabler moved to suspend the 2008 Thoroughbred license(s) of Mr. Behrens until such time as he satisfies the judgment against him. The motion was seconded by Commissioner Brown, unanimously approved.
15. Discussion regarding 2009 Race Dates. Director Zonak stated that he will begin with the Harness industry and Live Dates would be issued today. He added that there will be time to work out Host/Guest simulcast details later.

Northfield Park – Tom Aldrich, General Manager was present requesting **(213)** Live dates to be spread out through out the year. The OHHA has given approval to this request. Motion by Commissioner Brown to approve this request for 213 live days. The motion was seconded by Commissioner Chabler, unanimously approved.

Lebanon Raceway – Jerry Knappenberger of the OHHA stated that his organization is not prepared today to go further with the issuance of the 2009 dates for Lebanon. Mel Hagemeyer of Lebanon stated that Lebanon requests **(52)** Live dates. Director Zonak stated there is no two party agreement and asked did Lebanon want the days issued. John Carlo, President of Lebanon Raceway meet stated yes. Director Zonak reminded Mr. Carlo that with no agreement there will be no simulcasting in 2010. Motion by Commissioner Chabler to approve this request for 52 live days. The motion was seconded by Commissioner Brown, unanimously approved.

Scioto Downs – Stacy Cahill, General Manager was present requesting **(62)** Live dates. The OHHA has given approval to this request. Motion by Commissioner Brown to approve this request for 62 live days. The motion was seconded by Commissioner Zaino, unanimously approved.

Raceway Park - Bill McLaughlin, General Manager was present requesting **(56)** Live dates. John Oberle, Counsel representing Raceway Park spoke stating that a two-party agreement has not yet be reached with the OHHA. Mr. Knappenberger stated the OHHA is not prepared to go further today with this request. This matter to be deferred until the October meeting, at the request of Bill McLaughlin and with the full understanding that the dates will be issued at that time.

Thistledown – Brent Reitz, General Manager was present requesting **(91)** Live Days. The HBPA has not approved this request. This matter was deferred until the October meeting, at the request of Brent Reitz and with the full understanding that the dates will be issued at that time.

River Downs – Jack Hanessian, General Manager was present requesting **(14)** quarter horse days and **(2)** live thoroughbred days. This matter was deferred until the October meeting, at the request of Jack Hanessian and with the full understanding that the dates will be issued at that time.

Beulah Park – Mike Weiss, General Manager was present requesting **(28)** quarter horse days and **(2)** live thoroughbred days. This matter was deferred until the October meeting, at the request of Mike Weiss and with the full understanding that the dates will be issued at that time. Director Zonak reminded the Permit Holder's with or without agreements, 2009 Race Dates will be issued at the October Commission Meeting.

Old Business:

1. Monthly Budget Report – Commissioner Zaino updated the Commission regarding the monthly financial/budget report.
2. Director Zonak stated that the RFP has been issued to a group called The Innovation Group and it will be returned by October 31.
3. Commissioner Brown stated that he and the Chairman attended the ARCI meeting in Saratoga. The anabolic steroid issue was addressed and the ARCI has revised classification guidelines for foreign substances and recommended penalties. He added that a Medication Meeting will be held in Columbus on Thursday, September 4 at 10:00.
4. Commissioner Chabler reminded everyone of the rules meeting immediately following the Commission meeting.

New Business:

1. Chairman Koester stated that in light of the recent events that led to the cancellation of registrations of thoroughbreds in the State of Ohio, he is forming a Thoroughbred Advisory Committee to exam the registration process in the state and to make any recommendations to the breeding program. The following people will participate in this committee: Chairman Koester; Director Zonak, Deputy Director Izzo; Betty Alexander. Gayle Babst, Dr. Gabel, Tim Hamm, Charlie Ruma and George Smith.
2. Doug Cowen, Thoroughbred Trainer has concerns about how can he be ensured that he is truly racing an Ohio Bred horse. Director Zonak responded by stating that we will continue to believe that the breeders are being honest when they sign a notarized application for a certificate of registration. Should we find out this continues then more investigation will be conducted. Commissioner Chabler added that he commends the staff for doing their due diligence in this matter and he would be very surprised if this happened again. Jim Yaegel, President of the HBPA has concerns with jockeys and trainers who are innocent and the monies they pay out that will never be able to be recouped. Director Zonak agrees and stated that this matter may bleed into other avenues after the 3769-5-69 hearing is held. Kim Williams asked questions on the record and those questions were responded to by Director Zonak.

Date, Time And Place Of Next Meeting: **Wednesday, September 17, 2008 at 10:00 am, at the Delaware County Fairgrounds.**