

## MINUTES OF THE MEETING HELD THURSDAY, FEBRUARY 19, 2009

The meeting was called to order by Chairman Willie Koester, at 10:00 am at 77 S. High Street, 19<sup>th</sup> Floor, Room 1948, Columbus, Ohio, pursuant to due notice. The following Commissioners were determined to be present: Tom Zaino, Ted Brown, Jerry Chabler, and Gerald Holland.

1. The first order of business was approval of the minutes from the meeting held on January 20, 2009. Upon motion by Commissioner Holland, second by Commissioner Chabler, the reading of the minutes was waived and the minutes were approved.
2. **EXECUTIVE DIRECTOR'S REPORT:**
  - A. **River Downs**
    1. In a letter dated February 3, River Downs requests approval to treat the Kentucky Derby/Kentucky Oaks Future Wager as Special Racing Events. Director Zonak recommends approval be granted. This request has HBPA approval. Motion by Commissioner Chabler, second by Commissioner Brown, unanimously approved.
  - B. **Beulah Park**
    1. In a letter dated February 10, Beulah Park requests approval to treat the Kentucky Derby/Kentucky Oaks Future Wager as Special Racing Events. This request has HBPA approval.
    2. In letters dated January 20 and February 7, Beulah Park requests to treat the following days as live racing days, which were cancelled due to inclement weather: January 12, 14, 16, 17, 23, 30, February 4 and February 7. These requests have HBPA approval. Director Zonak recommends approval be granted for both requests. Motion by Commissioner Brown to approve the items submitted by Beulah Park. The motion was seconded by Commissioner Holland, unanimously approved.
3. Approval of Host/Guest/Additional Simulcast Product for March.  
Motion by Commissioner Brown to approve the Simulcast Product for Beulah Park, River Downs, Thistledown, Lebanon Raceway, Raceway Park, Northfield Park and Cedar Downs for the month of March. The motion was seconded by Commissioner Chabler, unanimously approved.
4. Request from Thistledown to change March 2 to a guest day and March 4 to non-live host day. Director Zonak recommends that this request be granted. Motion by Commissioner Holland, second by Commissioner Zaino, unanimously approved.
5. Request from Beulah Park to amend the non-live and live host days  
Director Zonak outlined the request submitted by Beulah Park as follows: to delete Feb. 15, March 26, 29 as thoroughbred non-live host days; to delete March 6, 13 & 20 as quarter horse non-live host days; to add March 6, 13 & 20 as thoroughbred host live days; to add Feb. 15, March 26, 29 as quarter horse non-

live host days and to change March 27 to host live day. Director Zonak recommends that this request be granted. Motion by Commissioner Brown, second by Commissioner Zaino, unanimously approved.

6. Agreement between Thistledown & Northfield Park regarding hours of simulcasting operation on March 9 and 10. Director Zonak advised that this has been submitted as an informational item with both parties being in agreement. No motion needed.
7. Ratification of agreement for 2009 between Scioto Downs and Beulah Park. Director Zonak advised the Commission that this agreement regards simulcasting mirrors the same agreement as 2008. Director Zonak recommends this agreement be approved. Motion by Commissioner Holland, second by Commissioner Brown, unanimously approved.
8. Request for fine money from Beulah Park. Director Zonak requests to defer this item until after Commissioner Zaino discusses the Budget Report under Old Business.
9. To adopt Ohio Rules of Racing #3769-2-24 (License fees); 3769-5-66 (Ohio Thoroughbred race special account); 3769-5-67 (Cancellation of incorrect registrations); 3769-5-68 (Cancellation or suspension of registrations); 3769-5-69 (Execution of false application for registration or transfer); 3769-5-99 (Penalties commission may impose), to become effective March 2, 2009.  
Chairman Koester stated following the public hearing as required by 3769.03 of the Ohio Revised Code and Ohio Rule of Racing #3769-2-03, he moved to rescind old Ohio Rules of Racing #3769-2-24, 3769-5-66, 3769-5-67, 3769-5-68, 3769-5-69, and 3769-5-99, effective March 1, 2009. Commissioner Chabler seconded the motion, which passed unanimously. Chairman Koester further moved to adopt, as amended, Ohio Rules of Racing #3769-2-24, 3769-5-66, 3769-5-67, 3769-5-68, 3769-5-69, and 3769-5-99, to become effective on March 2, 2009. These rules are recommended by Director Zonak to be enacted. Commissioner Brown seconded the motion, which passed unanimously.
10. Approval of Ohio Thoroughbred Race Fund for 2009. Director Zonak outlined the Ohio Thoroughbred Fund for 2009. An exact copy of the Ohio Thoroughbred Fund is attached hereto and marked as Exhibit A.
11. Request by Doug Danner. Deputy Director John Izzo reminded the Commissioner's that Mr. Danner entered into a settlement agreement that was signed by him and his attorney. The agreement was that he serve a 120-day suspension; pay a \$250 fine; return purse money back to River Downs and pay costs of the appeal. Mr. Danner has

contacted the Racing Commission office to advise them he can not afford to pay the approximately \$4,000.00 in costs. His request is to be on a payment plan. Discussion continued between Commission members, Executive Director, HBPA regarding the wording in the current signed settlement agreement, possible interest being charged or an additional fine. After discussion, Commissioner Zaino moved to amend the settlement agreement by the following: permit a payment plan of 10-months; that interest would accrue as provided for personal income tax purposes; that he shall commence payment on March 1 and should he miss a payment he automatically loses his license until such time as he continues with payment. The motion led into discussion regarding accrued interest whereas Commissioner Zaino stated he would agree to eliminating the interest. This led into the question by Commissioner Holland as to when will he be eligible to obtain his license. Deputy Director Izzo stated at the time he signs off on this amended agreement. Commissioner Zaino amended his original motion and moved to authorize Director Zonak to enter into a settlement agreement to amend the original settlement and adjust the agreement as it relates to the following terms: that Mr. Danner could make the payments over the next ten months beginning on March 1; each payment shall be made on the 1<sup>st</sup> day of each month and should any payment be late Mr. Danner's license shall be immediately suspended until full payment is made. If full amount is not received by the end of ten months then he will be denied a license for the next year. The motion was seconded by Commissioner Brown, unanimously approved.

12. Settlement Agreement on Kenneth McClure.  
This settlement agreement is a result of Thistledown stewards ruling #113 which fined Mr. McClure \$500.00 and suspended him for 180-days for his horse testing positive for o-desmethyltramadol after finishing first in the 3<sup>rd</sup> race on July 29, 2008 at River Downs. The settlement fines Mr. McClure \$500 and suspends him for 120- days commencing February 2, 2009. Motion by Commissioner Holland to authorize the Executive Director to enter into the settlement agreement with Mr. McClure. The motion was seconded by Commissioner Zaino, unanimously approved.
13. In the Matter of Hearing Officer's Report and Recommendation of David Asbury.  
Deputy Director Izzo stated that this is a result of an appeal of River Downs' stewards ruling #95, dated August 22, 2008 which fined Mr. Asbury \$250 and suspended him for 15 days when his horse tested positive for furosemide after winning the 4<sup>th</sup> race on July 17, 2008. The hearing was set on October 29, 2008 and the Commission will now consider the Report and Recommendation. Motion by Commissioner Zaino to accept the Hearing Officer's Report and Recommendation. The motion was seconded by Commissioner Chabler, unanimously approved.

Mr. Asbury arrived late for the meeting after the Commission had made a motion to accept the Hearing Officer's Report and Recommendation. Commissioner Zaino stated that he moved to eliminate the original motion and to re-open

discussion now that Mr. Asbury was present. Commissioner Holland seconded the motion, which passed unanimously approved. Director Zonak stated that for time sake, Mr. Asbury was present to request the Commission give him credit for time already served. Mr. Asbury responded that was one issue but he wished to address the Commission on other issues relative to his case as well. Soo-Beng Tan, Director of the Analytical Toxicology Lab at the Dept. of Agriculture addressed the Commission regarding the huge amount of furosemide found in his horses system. After discussion, Commissioner Zaino moved to amend his original motion and accept the Hearing Officer's Report and Recommendation, but give Mr. Asbury credit for time served. The motion was seconded by Commissioner Chabler, unanimously approved.

**OLD BUSINESS:** 1. Monthly Budget Report – Commissioner Zaino presented the monthly fiscal report. Due to the budget deficits of the Racing Commission, Commissioner Zaino stated that staff had some options that he shared on how to possibly increase revenues. He added not that any one idea was going to take place now, but should there be a need in the future, the Racing Commission does have some options.

The matter of Fine Money for Beulah Park was taken up at this point.

A request for the expenditure of \$350 of fine money to be used for a backside cook out with HBPA approval.

Director Zonak recommends approval. Motion by Commissioner Brown, second by Commissioner Chabler, unanimously approved.

A request for the expenditure of \$1500 of fine money to be used for an Easter Dinner with HBPA approval.

Director Zonak recommends approval. Motion by Commissioner Brown, second by Commissioner Chabler, unanimously approved.

A request for the expenditure of \$1200 of fine money to be used for pizza parties from January through April with HBPA approval. Director Zonak stated with the issues of opening and other delays he recommends this request and back dates it to January.

Motion by Commissioner Brown, second by Commissioner Holland. Commissioner Zaino voted Nay. Let the reflect that the motion passed by a 4 – 1 vote.

A request for the expenditure of \$5000 of fine money to be used for a Beulah Park Chaplaincy Program. Director Zonak asked Mr. Basler to explain this program, how the money would be allocated, etc. Director Zonak stated this is a good program but the Commission may want to seek an AG's opinion regarding state funds being paid into a Chaplaincy Program. After discussion, Commissioner Zaino moved to table this request pending an opinion from the Assistant Attorney General. The motion was seconded by Commissioner Chabler, unanimously approved.

Chairman Koester stated at this time he calls for an Executive Session to discuss possible Litigation. A roll call vote was taken whereas Commissioner Brown voted Aye; Commissioner Chabler voted Aye; Commissioner Zaino voted Aye; Commissioner Holland voted Aye. In resuming from Executive Session, Chairman Koester moved to go back onto the record and polled the Commissioners as follows: Commissioner Brown voted Aye; Commissioner Chabler voted Aye; Commissioner Zaino voted Aye;

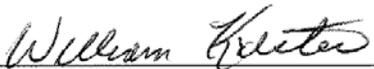
Commissioner Holland voted Aye and Chairman Koester voted Aye.

Commissioner Chabler advised that the rules committee meeting originally scheduled for after the meeting today has been postponed until after the March meeting.

**NEW BUSINESS:** NONE

**DATE, TIME, & PLACE OF NEXT MEETING:** Thursday, March 19, 2009 at 10:00 am. at Beulah Park, 3664 Grant Ave., Grove City, Ohio.

Commissioner Chabler moved to adjourn the meeting, Commissioner Brown seconded the motion, which passed unanimously.

  
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WILLIAM KOESTER, CHAIRMAN

  
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SAM ZONAK, EXECUTIVE DIRECTOR



OHIO THOROUGHBRED RACE FUND SPECIAL ACCOUNT  
2009 proposed budget

Beginning balance	1/1/2009 .....	\$613,204.81
Credits through	12/31/2009	\$1,959,225.00
Debits through	12/31/2009	\$2,226,000.00
Ending balance	12/31/2009 .....	\$346,429.81

	2009 Budget	
Debits		
Administrative Exp.	\$122,000.00	Includes \$20,000 for new computer program
Broodmare Awards	\$345,000.00	
Stallion Awards	\$89,000.00	
Promotion	\$9,500.00	
Supplements	\$265,000.00	
Overnights	\$532,000.00	
Stakes	\$863,500.00	
TOTAL	\$2,226,000.00	
Credits		
Receipts	\$1,774,225.00	
Nom. and Entry Fees	\$185,000.00	
TOTAL	\$1,959,225.00	

3769.083(B)- Not less than ten nor more than twenty-five per cent of the total money to be paid from the fund for all types of races shall be allocated to races restricted to accredited Ohio thoroughbred horses.

3769.083(C)(2)- Twenty-five per cent of the total moneys to be paid from the fund for stakes races shall be allocated to races for only accredited Ohio thoroughbred horses.

\$863,500.00 in stakes races of which \$215,875.00 for accredited Ohio thoroughbred horses only stakes races.  
\$1,660,500.00 to be paid from the fund for all races, of which no less than \$166,050.00 and no more than \$415,125.00 will be allocated to races restricted to accredited Ohio thoroughbred horses (Overnights), which includes the funds paid in stakes races.