

# Minutes of the Meeting Held On Thursday, October 16, 2008

The meeting was called to order by Chairman William Koester, at 10:00 am at Beulah Park, 3664 Grant Ave., Grove City, Ohio, pursuant to due notice. The following Commissioners were determined to be present: Jerry Chabler, and Gerald Holland. Commissioners Tom Zaino and Ted Brown had excused absences. The meeting proceeded with a quorum in attendance.

1. The first order of business was approval of the minutes from the meeting held on September 17, 2008. Upon motion by Commissioner Chabler, second by Commissioner Holland, the reading of the minutes was waived and the minutes were approved by a 3- 0 vote.

Next was approval of the minutes from the special meeting held on Wednesday, September 24, 2008. Upon motion by Commissioner Holland, second by Commissioner Chabler, the reading of the minutes was waived and the minutes were approved by a 3 - 0 vote.

2. **Executive Director's Report:** The following items have been given tentative approval by Director Zonak and are being submitted for formal approval by the Commission at this time:

## A. Thistledown

1. In a letter dated September 15, a request to count Monday, September 15 as a Live Host Program, which was cancelled due to storm damage. This is requested pursuant to 3769.089 of the Ohio Revised Code and has HBPA approval.
2. In a letter dated September 30, a request to uncouple entries for Pyrite Score and Pyrite Ore; for Raise the Reward and Astronaut; and for Pyrite Gem and Pay the Man for the Best of Ohio Series races on October 4. Motion by Commissioner Chabler to ratify approval of items #1 & #2 submitted by Thistledown. The motion was seconded by Commissioner Holland, approved by a 3 - 0 vote.

## B. Northfield Park

1. In a letter dated October 9, a request for a Waiver of Surety Bond for the Walton Hills Meet, which is accompanied by a Guaranty of Performance signed by Brock Milstein, Chairman of Northfield Park.
  2. In that same letter, a request for approval of the List of Officials, all of whom have been certified as qualified for their respective positions by Tom Aldrich, Chief Operating Officer. Lenore Posedly, registered nurse in the first aid office has been added to the officials list.
  3. Also requested is the approval of 14 live races each racing card and the Wagering Format, which has been submitted for Commission review.
  4. A requested 7:00 pm post time each live racing card.
  5. The price structure has been submitted for review.
  6. A request to simulcast two out-of-state races on each live card. Motion by Commissioner Holland to approve items 1 - 6 as submitted. The motion was seconded by Commissioner Chabler, approved by a 3 - 0 vote.
3. Approval of the Host/Guest/Additional Simulcast Product for November. Motion by Commissioner Chabler to approve the simulcast product from Thistledown, River Downs, Lebanon, Raceway Park, Northfield Park, Beulah Park and Cedar Downs. The motion was seconded by Commissioner Holland, unanimously approved.
  4. Public Hearing on Ohio Rules of Racing: #3769-3-03 & 3769-13-03; #3769-3-27 & 3769-13-27; #3769-3-28 & 3769-13-28; #3769-3-33 & 3769-13-33; #3769-3-34 & 3769-13-34; #3769-3-35 & 3769-13-35; #3769-3-36 & 3769-13-36; #3769-3-37 & 3769-13-37; #3769-3-38 & 3769-13-38; #3769-3-39 & 3769-13-39; #3769-3-40 & 3769-13-40. Commissioner Chabler called the public hearing to order. Assistant Attorney General Mike Allen read into the record the publication of Ohio Rules of Racing pursuant to 3769.032 of the Ohio Revised Code. Commissioner Chabler stated that if anyone wished to speak regarding the amendments of the aforementioned rules state their name and city in which they reside. No comments were given. Commissioner Chabler adjourned the hearing.
  5. Request by Lebanon to change post time on October 25. A request to change post time to 4:00 pm on Saturday, October 25 to accommodate Breeders Cup Day. Motion by Commissioner Holland to approve this request, second by Commissioner Chabler. The motion passed by a 3- 0 vote.
  6. Requests for fine money:
    - a. Northfield Park - A request for the expenditure of \$5,000 of fine money to be used for the Annual Horsemen's Steak Dinner on October 29 at Dragon Again Ranch Golf Links. Director Zonak signed the request and is in favor of approval Motion by Commissioner Holland, second by Commissioner Chabler. The motion passed by a 3 - 0 vote.

- b. Lebanon Raceway – A request for the expenditure of \$1,000 of fine money to be used for the Horsemen’s Thanksgiving & Christmas Dinners to be held in the track kitchen at a date to be determined. Director Zonak signed the request and is in favor of approval. Motion by Commissioner Chabler, second by Commissioner Holland. The motion passed by a 3 – 0 vote.
7. In the Matter of Financial Judgment on Brad Hanners. On August 31, 2008 the Ohio State Racing Commission issued a notice of opportunity for a hearing regarding a financial judgment which was issued against Mr. Hanners by Firethorn Veterinary Clinic in the Fairfield County Court due to veterinary services performed on race horses. Mr. Hanners failed to request a hearing regarding this judgment, therefore Commissioner Holland moved to suspend the 2008 license of Mr. Hanners until such time as he satisfies the judgment. The motion was seconded by Commissioner Chabler, passed by a 3 – 0 vote.
8. Settlement Agreement on Doug Danner. Executive Director Zonak stated that this was originally a Hearing Officer’s Report and Recommendation but changed to a Settlement Agreement. Deputy Director Izzo stated that although a hearing was held for Mr. Danner regarding his appeal of River Downs Stewards ruling when his horse tested positive for Aminorex, the Commission is aware of the issues arising from Aminorex and after conferring with his attorney, Mr. Danner has agreed to the following settlement: a 120-day suspension commencing October 20, 2008; a \$250.00 fine; return of the purse money as indicated from River Downs ruling #52, dated June 10, 2007; and he agrees to pay the cost of the adjudication hearing. Deputy Director Izzo recommended that staff approve this settlement agreement. Motion by Commissioner Holland to authorize the Executive Director to enter into this settlement agreement. The motion was seconded by Commissioner Chabler. The motion passed by a 3 – 0 vote.
9. Hearing on Bert Crawford. This matter was brought before the Commission as a result of a financial judgment issued against Mr. Crawford by Richard Nelson, DVM for veterinary services rendered on Mr. Crawford’s race horses. Mr. Crawford requested a hearing which was originally scheduled for the August meeting. Mr. Crawford asked for a continuance of the August hearing which was granted and re-scheduled for October 16, which he failed to appear. Assistant Attorney General Mike Allen submitted Exhibits into the record and they were accepted by the Commission. A motion by Commissioner Chabler to suspend the 2008 license of Mr. Crawford until such time as he satisfies the judgment issued against him. The motion was second by Commissioner Holland, passed by a 3 – 0 vote.
10. Allocation of 2009 Race Dates
- Beulah Park** -- Mike Weiss, General Manager, twenty-eight quarter horse days and two thoroughbred days. The reason for this request as submitted is financial reasons. No motion made, request not accepted. Director Zonak requested Beulah Park resubmit their final application at the November meeting.
- River Downs** -- Jack Hanessian, General Manager, requested 14-days for their quarter horse meet and two thoroughbred days. No motion made, request not accepted. Director Zonak requested River Downs resubmit their final application at the November meeting. Director Zonak added that it is his belief if only quarter horse days are granted, simulcasting will not happen in 2010 for River or Beulah, without a two-party agreement with the HBPA. Further discussion led into Commissioner Holland making a motion to postpone this request until the November meeting. The motion was seconded by Commissioner Chabler, and the motion passed by a 3 – 0 vote.
- Thistledown** -- Brent Reitz, General Manager, requested 91 days commencing April 30 through October 3, 2009. This request is 33 days less than 2008. Director Zonak reminded that it is his belief simulcasting will not happen in 2010 without a two- party agreement with the HBPA. Motion by Commissioner Chabler to grant approval to this request. The motion was seconded by Commissioner Holland, unanimously approved.
- Lebanon Raceway** -- Director Zonak stated that 52-days were granted to Lebanon in August without a two-party agreement. Director Zonak again stated it is his belief simulcasting will not happen in 2010 without a two- party agreement with the OHHA. Mel Hagemeyer was present and stated he is aware of the implications without a signed agreement with the OHHA but will stay with the same 52-day request without a two- party agreement.
- Northfield Park** -- Director Zonak stated that 213 days were approved for Northfield Park and no amendments to that request.
- Raceway Park** -- A request for 60 days commencing April 18 through October 11, 2009. This request is 16 days less than 2008 and has an OHHA two-party agreement. Motion by Commissioner Holland, second by Commissioner Chabler, the motion passed by a 3 – 0 vote.
- Scioto Downs** -- 62-days were approved for Scioto Downs and no amendments are requested. No action needed. Dates were approved in August. Two-party agreement to be presented at the November meeting.

**Old Business:**

Monthly Fiscal Update – Monthly Budget Report: With Commissioner Zaino being absent, Director Zonak gave the monthly budget report. He also encouraged anyone interested in viewing the new fingerprint machine that is set up at Beulah and explained the accuracy and speed in obtaining fingerprinting results from the new machines. The staff will be visiting the other tracks to complete hook up of their machines.

Chairman Koester advised that the transcript from the hearing regarding the Breeders complaint held on September 24 has been submitted. He added there has been a meeting held regarding Ohio Breeders rule amendments and another meeting will be held as soon as it can be coordinated.

**New Business:**

Chairman Koester stated that the Finance Committee Meeting will be postponed until the November meeting.

Chairman Koester also read a Resolution into the record opposing Issue 6 on the November ballot. Commissioner Chabler moved to adopt this resolution stating that the Ohio State Racing Commission is opposed to Issue 6. Commissioner Holland seconded the motion, which passed by a 3 – 0 vote.

Chairman Koester announced the next meeting: Friday, November 21, 2008 at 10:00 am in Room 1948 at 77 S. High Street, Columbus.

A motion by Commissioner Chabler to adjourn the meeting, second by Commissioner Holland, motion passed by a 3 - 0 vote.

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## **Mintutes of the Special Meeting Held on Friday, November 14, 2008**

The special meeting regarding the continuation of the 3769-5-69 hearing was called to order by Chairman William Koester at 10:00 a.m. in Room 1952, 19th Floor, 77 South High Street, Columbus, Ohio, pursuant to due notice. The following Commissioners were present: Thomas Zaino, Jerry Chabler and Gerald Holland. Commissioner Ted Brown had an excused absence, due to surgery. Also, in attendance were Executive Director Sam Zonak, Deputy Director John Izzo, Steve Zaper of the Commission Staff; and Michael Allen, Assistant Attorney General.

Chairman Koester recapped the following: on September 24, 2008, the Commission had a special meeting where a hearing was conducted in accordance with Rule 3769-5-69. At that meeting, the Commissioners asked questions of Diane Shashura, G. David Shashura, and Joe Sugar, and discussed the transcript from the hearing before the Commission on August 21, 2008, at River Downs; and the exhibits JS-1 and 2, S-1 through 14, and Sugar 1 through 3. Several weeks after the September 24 Special Meeting, all Commissioners were provided a copy of the transcript from the special meeting for review.

Deputy Director John Izzo presented to the Commission Exhibit S-15 which was a response from Mr. & Mrs. Shashura's attorney regarding the special meeting held this day.

Neither Mrs. Shashura, nor Mr. Shashura were present, nor their counsel Carl Stich, Jr. of White, Getgy & Meyer Law Firm. Mr. Sugar was not present, nor his counsel Tom Hill or Rebecca Price of Kegler, Brown, Hill & Ritter Law Firm.

After considering testimony, reviewing exhibits presented at the September 24, 2008, and reviewing the transcript of the special hearing, Chairman Koester reminded the Commissioners, they can only take action against the person who executed the false or misleading applications, and Diane Shashura was the only one who executed the applications which were in question.

After discussion, Commissioner Zaino moved to cancel all registrations of all horses owned by Mrs. Shashura, as well as barring any future registrations of any horses owned by Mrs. Shashura. The motion was seconded by Commissioner Chabler, and the motion passed by a 4 – 0 vote.

Mr. Allen then addressed the Commission concerning Mr. Sugar. He stated that, based upon discussions with staff and the information at hand, the Commission could not prevail against Mr. Sugar at a 119 hearing. Commissioner Chabler asked Mr. Allen if additional information was brought forward concerning Mr. Sugar, is this matter still open? Mr. Allen stated that new information could change the opinion that the Commission does not have enough evidence to prevail at a 119 hearing.

Chairman Koester stated for the record that no member of the Racing Commission, including the Chairman, has ever bought, sold, owned or raced a horse with Mr. or Mrs. Shasura or Mr. Sugar.

Motion made by Mr. Holland to adjourn this meeting, second by Commissioner Chabler, motion passed by a 4 – 0 vote.