

Minutes of the meeting held on Thursday, February 23, 2012

1. The meeting was called to order by Chairman Robert K. Schmitz at 10:00 am in Conference Room South B & C, 31st Floor, 77 South High St., Columbus, Ohio, pursuant to due notice.
2. Roll call. The following Commissioners were determined to be present: Todd Book, William Koester, Mark Munroe and B. J. Roach.
3. Approval of the minutes from the meeting held on Jan. 19, 2012. Motion by Commissioner Koester, second by Commissioner Book, unanimously approved.
4. Policies governing travel for commission members: Executive Director William Crawford read aloud a communication containing compensation limits for expenses incurred by commissioners for lodging, meals and transportation. Motion to adopt these policies by Commissioner Munroe, second by Commissioner Roach, unanimously approved.
5. Pari-mutuel wagering discussion. Mr. Crawford completed a 25-minute presentation detailing the pari-mutuel system of wagering, how wagers are taxed in this state, the advent and growth of advance-deposit wagering companies, and other details related to the subject.

6. Executive Director's Report:

A. Beulah Park

1. In a letter dated February 10, 2012, Beulah Park requested approval of the following: A waiver of surety bond for the HJC/PDC LLC Meeting #1, accompanied by a Guaranty of Performance signed by Robert S. Ippolito, vice-president, secretary and treasurer of Penn National Gaming.
2. List of Officials. All have been certified as competent for their positions by General Manager James McKinney.
3. Number of Races and Wagering Format.
4. Post Time at 1:15 daily.
5. Simulcasting.
6. A copy of the 2012 letter from Beulah Park to the state fire marshal requesting an inspection was submitted. Motion by Commissioner Roach to approve items 1-6, second by Commissioner Book, unanimously approved.
7. In the same letter, a request to open for wagering before noon on May 4, 2012 (Kentucky Oaks) and May 5, 2012 (Kentucky Derby). Motion by Commissioner Koester, second by Commissioner Munroe, unanimously approved.
8. In a communication dated January 24, 2012, a request for James Witherite to replace Bill Downes as track announcer on January 27-28, 2012. This was approved subject to ratification by the commission. Motion by Commissioner Roach, second by Commissioner Book, unanimously approved.
9. In a communication dated January 26, 2012, a request for Jesse Hinkle to replace John Pollert and serve as interim track superintendent beginning on January 26, 2012. This was approved subject to ratification by the commission. Motion by Commissioner Munroe, second by Commissioner Roach, unanimously approved.

B. River Downs

1. In a letter dated February 1, 2012, a request to treat the following 2012 Churchill Downs offerings as special events: the Kentucky Derby win and exacta future wagers offered in Pool #1 (Feb. 10-12), Pool #2 (March 2-4), and Pool 3 (March 30-April 1); and the Kentucky Oaks win and exacta future wagers on March 2-4. This was approved subject to ratification by the commission. Motion by Commissioner Roach, second by Commissioner Book, unanimously approved.

C. Thistledown

1. In a letter dated January 31, 2012, a request to treat the following 2012 Churchill Downs offerings as special events: the Kentucky Derby win and exacta future wagers offered in Pool #1 (Feb. 10-12), Pool #2 (March 2-4), and Pool 3 (March 30-April 1); and the Kentucky Oaks win and exacta future wagers on March 2-4. This was approved subject to ratification by the commission. Motion by Commissioner Munroe, second by Commissioner Koester, unanimously approved.
2. In a request dated January 17, 2012, a request to open for wagering before noon on the following days in 2012: March 31 for Dubai World Cup; May 5 for the Kentucky Derby; May 19 for the

Preakness; June 9 for the Belmont; July 28 for three early programs; August 4 for the Hambletonian; August 25 for the Travers; September 20 for the Little Brown Jug; November 2 and 3 for the Breeders Cup; and November 22-24 for early wagering at Churchill Downs. Motion by Commissioner Munroe, second by Commissioner Roach, unanimously approved.

D. Northfield Park

1. In a communication dated January 27, 2012, a request to add Santa Anita as host product on January 28, 2012 after racetrack moved post time from 2:45 pm to 3:00 pm. This was approved subject to ratification by the commission. Motion by Commissioner Munroe, second by Commissioner Book, unanimously approved.
7. Approval of Host/Guest/Additional Simulcast Product for March. Motion by Commissioner Book to approve the submissions by Beulah Park, River Downs, Thistledown, Lebanon Raceway, Northfield Park, Northfield Park on behalf of Cedar Downs, and Raceway Park. Second by Commissioner Munroe, unanimously approved.
8. In a letter dated January 21, 2012, a request from Jacob Radosevich for an extension of his apprentice weight allowance as a result of a broken collarbone suffered on October 25, 2011. Mr. Radosevich resumed riding on January 24. The stewards at Beulah Park supported this request in a communication dated January 25, and recommended a 91-day extension of the weight allowance beginning on February 27, 2012 and ending on May 28, 2012. Motion Commissioner Roach, second by Commissioner Book, unanimously approved.
9. Monthly Financial Report: The report was presented by Fiscal Officer Sherry White.
10. Compliance Reports: Racetrack compliance reports were presented by Greg Veit (Beulah Park and Thistledown) and Doug Thomas (Lebanon Raceway and Northfield Park).
11. Committee Reports: None
12. Chairman's Comments: Chairman Schmitz appointed Commissioner Roach to chair the Medication Committee. He appointed Commissioners Koester and Munroe to the same committee. He said more than one OSRC meeting may be scheduled in March.
13. Public Comments: None

Old Business: None

New Business: None

14. In the Matter of Hearing Officer's Report and Recommendation:

- a. **Enzo Canelo (Case #2011-36):** Mr Canelo was not present. He was represented by attorney Robert Farinacci. Mr. Canelo was fined \$500 and suspended 180 days as a result of Ruling Number 140 issued by the stewards at Thistledown on Oct. 19, 2011, after a needle and syringe were found by investigators in the tack room of his barn. His appeal was heard in Columbus, Ohio on Dec. 16, 2011. The Hearing Officer issued his recommendation on Jan. 9, 2012, affirming that Mr. Canelo is liable for the violation of the Ohio Rules of Racing 3769-2-26(A)(10), 3769-8-01(B)(5) and 3769-8-07. The Hearing Officer recommended no change in the original fine amount of \$500, but recommended the 180-day suspension be reduced to 90 days. In addition, the Hearing Officer recommended the costs of the adjudication hearing be assessed against Mr. Canelo.

Mr. Farinacci spoke on behalf of Mr Canelo. Assistant Attorney General Vivian Tate spoke on behalf of the Commission. A motion was made by Commissioner Roach to accept the recommendation of the Hearing Officer. Second by Commissioner Koester. In a roll call vote, the motion was approved unanimously.

- b. **Darrell Hooser (Case #2011-30A):** Mr. Hooser was present and represented by attorney Philip Lehmkuhl. Mr. Hooser was fined \$500 and his license was suspended 90 days as a result of Ruling Number 155 issued by the judges at Northfield Park on July 30, 2011, for inappropriate use of a whip. Further, another 90-day suspension was held in abeyance should appellant have a second whipping offense prior to July 20, 2012. His appeal of the ruling was heard in Columbus, Ohio on Oct. 5, 2011. The Hearing Officer issued his recommendation on Dec. 30, 2011 affirming the ruling of the judges. In addition, the Hearing Officer recommended the costs of the adjudication hearing be assessed against Mr. Hooser.

Mr. Hooser and Mr. Lehmkuhl offered testimony. Ms. Tate spoke on behalf of the Commission. A motion was made by Commissioner Book that members of the commission deliberate on this matter. Second by Commissioner Munroe, unanimously approved. The Commissioners deliberated on this matter in their capacity as an adjudicative body.

After the completion of deliberations, a motion was made by Commissioner Munroe to uphold the recommendation of the Hearing Officer. Second by Commissioner Koester. In a roll call vote, the motion was approved unanimously.

- c. **Darrell Hooser (Case #2011-30B):** Mr. Hooser was fined \$500 and his license was suspended 10 days as a result of Ruling Number 156 issued by the judges at Northfield Park on Aug. 2, 2011, for engaging in an altercation with another licensee after Race 11 on July 18, 2011 and for using a head pole as a weapon during that altercation. Mr. Hooser's appeal of the ruling was heard in Columbus on September 28, 2011. The Hearing Officer issued his recommendation on Dec. 16, 2011 indicating that the ruling of the judges should be affirmed. In addition, the Hearing Officer recommended that the costs of the adjudication hearing be assessed against Mr. Hooser.

Mr. Hooser and Mr. Lehmkul offered testimony. Ms. Tate spoke on behalf of the Commission. A motion was made by Commissioner Koester to uphold the recommendation of the Hearing Officer. Second by Commissioner Munroe. In a roll call vote, the motion was approved unanimously.

- d. **Catherine Blanks (Case #2010-42) and Ronald Burke (Case #2010-45):** Ms. Banks and Mr. Burke were not present. Each licensee was represented by attorney Howard Taylor. Each licensee was fined \$250 for separate rulings by judges for DMSO positive findings. Each was required to return the purse in the respective race. The violation by Ms Banks occurred at the Darke County Fair on Aug. 26, 2010. The violation by Mr. Burke occurred at the Delaware County Fair on Sept. 22, 2010. The two appeals were considered in a combined hearing originally scheduled in Columbus on April 26, 2011. Further evidence was presented during three continuations of the proceeding. The Hearing Officer recommended that the Judge's rulings in these two matters be modified as follows: The finding of a violation of medication rules in each instance should be affirmed, but the penalty assessed to each and the return of the purse should be vacated. In addition, the Hearing Officer recommended the costs of the adjudication hearing be assessed equally against Ms. Blanks and Mr. Burke.

At this time Commissioner Koester moved to take the matter under advisement. Second by Commissioner Book, unanimously approved.

Commissioner Book moved to recess the meeting until 2:30 p.m. Second by Commissioner Munroe, unanimously approved.

The meeting reconvened at 2:30 p.m.

- e. **Enzo Canelo (2010-57):** Mr. Canelo was not present. Motion by Commissioner Koester to table the matter until March 15, 2012. Second by Commissioner Roach, unanimously approved.

- 15. A motion for the Commission to enter into executive session was made by Commissioner Roach, second by Commissioner Munroe. Chairman Schmitz voted aye. Commissioner Koester voted aye. Commissioner Book voted aye. Commissioner Munroe voted aye. Commissioner Roach voted aye.

Following the executive session, the Commissioners went back on the record solely for the purpose of clarifying that suspensions imposed in today's cases are to commence on March 1, 2012. The motion to go back on the record was made by Commissioner Koester, second by Commissioner Roach. Chairman Schmitz voted aye. Commissioner Koester voted aye. Commissioner Book voted aye. Commissioner Munroe voted aye. Commissioner Roach voted aye.

The motion to have all license suspensions imposed by the Commission at today's meeting commence on March 1, 2012 was made by Commissioner Koester. Second by Commissioner Munroe, unanimously approved.

A motion to adjourn by Commissioner Koester, second by Commissioner Monroe, unanimously approved.

Date, Time & Place of Next Meeting:

March 15, 2012 at 10:00 am
77 South High St., Columbus, Ohio
31st Floor, Room South B & C

Appendix

The policies governing travel and compensation are now being set forth by the Racing Commission this 23rd day of February, 2012.

The Commission will pay mileage expenses for Commissioners to travel to and from Commission meetings, banquets and other Horse Racing events per the travel rule for the State of Ohio: Travel by privately owned automobiles may be reimbursed for mileage incurred at the rate of 45 cents/mile. • Receipts are required for miscellaneous transportation expenses, such as parking, taxis, car rental, etc., that exceed \$10/day. All receipts are required if transportation expenses accumulate to \$25 or more in one day. Any time spent traveling to and from meetings is not eligible for compensation.

Lodging

- Overnight lodging must be more than 45 miles from both your residence and headquarters.
- Receipts are required for all lodging expenses.
- If you are away for more than one week (including a weekend), you may be reimbursed for reasonable miscellaneous expenses such as laundry, dry cleaning, personal telephone calls, postage. You must submit a receipt for any expense that exceeds \$1.
- The reimbursement rate for lodging in commercial establishments within the Continental U.S. is \$80/night plus applicable taxes *or* the lowest government rate in the area with approval from the state agency head or his/her designee.

Meals

There is a statewide per diem rate for meal reimbursement that includes gratuities. OBM may update the per diem annually to adjust to the revisions to the Federal per diem schedule. Reimbursement for meals is authorized only when overnight lodging is required. Meal reimbursement for a full calendar day does not require an allocation for breakfast, lunch, and dinner. You may determine how to allocate the allowed amount for meals. Meal receipts are not required. Standard meal reimbursement rates (including tips) are set forth below:

- Breakfast \$6 • Lunch \$9 • Dinner \$12 • Incidentals \$4
- Total \$31. The \$31 reimbursement is pro-rated as follows: Up to \$10 if traveling anytime after midnight but no later than 10 AM. Up to \$13 if traveling anytime after 10 AM but no later than 4 PM. Up to \$16 if traveling anytime after 4 PM but no later than midnight.

Note: With the adoption of the per diem, travelers will only be reimbursed at the per diem rate. If a traveler spends more than the per diem and has receipts to document the expense, he/she will only be reimbursed at the per diem rate.

The compensation for attending Commission related meetings will be eight (8) hours.

Other compensation includes hours that are spent reading, processing and responding to communications, telephone calls, dealing with state agencies and state government, providing information to the members of the commission and staff and commission business at race tracks on behalf of the Commission.

The commission will reimburse up to \$50.00 the expense of a horse related function. Examples are; OHHA banquet, HBPA banquet, OTBO banquet, Best of Ohio, Super Night etc. Please receive approval in advance from the Executive Director before attending.

As per our meeting with the Ethics Commission please be aware of the following: Generally, the Ethics Commission advises that officials should not solicit or accept things of value from those parties they regulate or with whom they do business.

The Ohio Ethics Law and related statutes prohibit an official from:

Soliciting, accepting, or using the authority of his public position to secure a gift, meal, entertainment, or other thing of value if it is of a substantial nature and is provided by someone that is regulated by, interested in matters before, or doing or seeking to do business with the agency he serves; and accepting anything, regardless of its value, if the item is provided to the official as compensation for the performance of his public duties. From our meeting with the Ethics Commission only items under \$20 value would be considered to not be of a substantial nature such as doughnuts and coffee served at the tracks. Any meals or anything else greater than just doughnuts and beverages would be considered of a substantial value.