



NORTH DAKOTA RACING COMMISSION
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Gunner laCour
Director

NORTH DAKOTA RACING COMMISSION
NDRC Meeting
Fort Totten Room, 600 E. Boulevard Avenue, State Capitol, Bismarck, ND
Friday, February 28, 2014 – 10:30 p.m. (Central Time)

Minutes

Present: Chairman Jim Ozbun, Commissioner Steve Hartman, Commissioner Andy Maragos, Commissioner Tom Senftner, Commissioner Ray Trottier, Director Gunner laCour, Legal Counsel Edward Erickson and Administrative Assistant Gail Allensworth

Others Present: Doug DeMontigny, John Bubel, Ron Klein, L.J. Harsche, Blaine DeCoteau, Scott Horst, Gail Hrdlicka, Mike Schmitz, Wes Heinert, Arlie Roller, Wayne Slater, and Leon Glasser

By Phone: Mark Thurman

Call to Order: Chairman Jim Ozbun called the meeting to order at 10:40 a.m.

Chairman Ozbun asked if there were any additions or corrections to the agenda. Director LaCour had two additions: Compliance Investigator under item 4c (Director's Report) and numbered 10; and Breed Fund Audit under 5c and move, Errors in 2013 Breed Fund Calculations to 5d. Chairman Ozbun asked for a motion to approve the agenda.

A motion was made by Commissioner Senftner and seconded by Commissioner Maragos to accept the agenda with changes requested by Director laCour. All Commissioners voted aye and hearing no negative vote the motion passed.

AGENDA

1. **Approval of Minutes** – November 15 and December 31, 2013 Meetings
2. **CHRIMS Contract Renegotiation**
3. **Administrative Rule Change** – Tote-X win Pari-mutuel Wager
4. **2014 Race Season**
 - a. ORDA Report
 - b. HRND Report
 - c. Director's Report
 - 1) State Veterinarians, State Stewards, and Licensing Staff
 - 2) Industrial Laboratories Testing
 - 3) Split Sample Lab Testing
 - 4) Tote, Photo Finish, and Official's Contracts
 - 5a) Electrical and Fire Safety Reports & Proof of Insurance
 - 5b) Bond or Letter of Credit Requirement for Pari-mutuel Wagering

- 6) Condition Books, ND Bred Program, and First Race Time
- 7) Starting Gate, Timing Device, and Claim Box
- 8) RCI Model Rules Medication and Withdrawal Times
- 9) Jockey and Driver Safety Rules
- 10) Compliance Investigator

5. **Breeders Fund**

- a. Out-of-State Points/Breeders' Awards for 2014 Harness Racing
- b. Registrations
- c. Breed Fund Audit
- d. Errors in 2013 Breed Fund Calculations

6. **Promotion and Purse Fund Requests**

- a. Conditions for Promotion and Purse Funding
- b. ORDA
- c. HRND

7. **2014 Proposed Administrative Rule Changes**

8. **Totalizator Application – United Tote Company**

9. **Any other business which may properly come before the Commission**

10. **Adjournment**

1. **Approval of Minutes – November 15 and December 31, 2013 Meetings**

Previously, all Commissioners had received a copy of the minutes to review.

A motion was made by Commissioner Maragos and seconded by Commissioner Hartman to accept the minutes of November 15, 2013, and December 31, 2013, as presented. All Commissioners voted aye and hearing no negative vote the motion passed.

2. **CHRIMS Contract Renegotiation**

Director laCour advised that the scope of work for CHRIMS needed to be revised and that the contract went through the State Procurement Office and the Attorney General's office. Both the AG's office and Procurement were advised that Melanie laCour, Director laCour's wife, is now employed by CHRIMS and the scope of that employment. The rate increased for their services from \$2,000 to \$4,000/month. Mr. Mark Thurman of CHRIMS provided the Commission with a report on their services to the NDRC. After the presentation, questions were asked by the Commissioners and answered by Mr. Thurman.

A motion was made by Commissioner Maragos and seconded by Commissioner Senftner to approve the contract. Maragos – Y, Senftner – Y, Ozbun -Y, Hartman –Y, Trottier –Y. Motion passed.

3. **Administrative Rule Change – Tote-X win Pari-mutuel Wager**

Director laCour gave an update on the Administrative Rule Change for the Tote-X win Pari-Mutuel Wager. He advised that the rule was to be submitted to the Attorney General's Office for legal review. After approval from the A.G.'s office it would then go before the Administrative Rules Committee for approval. Director laCour asked to approve the Rules subject to the Attorney General's approval.

A motion was made by Commissioner Trottier and seconded by Commissioner Maragos to approve the Administrative Rule Change for the Tote-X win Pari-mutuel Wager subject to the Attorney General's approval. Trottier –Y, Maragos –Y, Ozbun -Y, Hartman –Y, Senftner –Y. Motion passed.

4. **2014 Race Season**

- a. ORDA Report
- b. HRND Report

- c. Director's Report
 - 1) State Veterinarians, State Stewards, and Licensing Staff
 - 2) Industrial Laboratories Testing
 - 3) Split Sample Lab Testing
 - 4) Tote, Photo Finish, and Official's Contracts
 - 5a) Electrical and Fire Safety Reports & Proof of Insurance
 - 5b) Bond or Letter of Credit Requirement for Pari-mutuel Wagering
 - 6) Condition Books, ND Bred Program, and First Race Time
 - 7) Starting Gate, Timing Device, and Claim Box
 - 8) ARCI Model Rules Medication and Withdrawal Times
 - 9) Jockey and Driver Safety Rules
 - 10) Compliance Investigator

a. ORDA Report - Doug DeMontigny of ORDA presented their preparations for the 2014 Chippewa Downs race meet. After the report, questions were asked by the Commissioners and answered by Mr. DeMontigny.

b. HRND Report – Mike Schmitz of Horse Race North Dakota presented their preparations for the Horse Race North Dakota 2014 race meet. After the report, questions were asked by the Commissioners and answered by Mr. Schmitz.

c. Director's Report:

- 1) Authorization to hire State Veterinarian, State Steward, and Licensing staff for the race meets.

Director laCour asked for authorization to hire the State Veterinarian, State Steward and Licensing Staff for the Chippewa Downs and Horse Race North Dakota race meets for 2014.

A motion was made by Commissioner Senftner and seconded by Commissioner Trottier to authorize the Director hire the State Veterinarian, State Steward and Licensing staff for the 2014 race meets. Senftner –Y, Trottier –Y, Ozbun -Y, Maragos – Y, Hartman –Y. Motion passed.

- 2) Industrial Laboratories Testing & 3) Split Sample Labs Testing

Director laCour asked for approval to use Industrial Labs and Split Sample Labs (HFL Sport Science, University of Pennsylvania, and University of Florida) testing for the 2014 race meets.

A motion was made by Commissioner Maragos and seconded by Commissioner Hartman to authorize use of Industrial labs and Split Sample Labs testing for the 2014 race meets. Maragos -Y, Hartman –Y, Ozbun-Y, Senftner-Y, and Trottier -Y. Motion passed.

- 4) Tote, Photo Finish, and Official's Contracts

Director laCour asked for authorization to approve the tote, photo finish and official's contracts hired by the tracks.

A motion was made by Commissioner Trottier and seconded by Commissioner Maragos to authorize the Director to approve the tote, photo finish and official's contracts for 2014 race meets. Trottier -Y, Maragos –Y, Ozbun-Y, Hartman-Y, and Senftner -Y. Motion passed.

- 5a) Electrical and Fire Safety Reports & Proof of Insurance

Director laCour asked for authorization to approve the electrical and fire safety reports and proof of insurance from the racetracks.

A motion was made by Commissioner Senftner and seconded by Commissioner Maragos to authorize the Director to approve the electrical and fire safety reports and proof of insurance from the racetracks. Senftner –Y, Maragos –Y, Ozbun-Y, Trottier -Y, and Hartman - Y. Motion passed.

- 5b) Bond or Letter of Credit Requirement for Pari-mutuel Wagering

Director laCour reported that each track must provide a bond covering the amount normally due the state for their pari-mutuel wagering. He expects the racetracks to comply with state law on this issue and is holding their licenses until this is provided. Racetracks have confirmed that they are currently working on procuring a bond or letter of credit. No other action is needed.

- 6) Condition Books, ND Bred Program, and First Race Time & 7) Starting Gate, Timing Device, and Claim Box

Director laCour asked for authorization to approve condition books, ND Bred program and first race time for each meet. He also asked for authorization to approve the starting gate, timing device and claim box. The condition books are to be prepared before the next Commission meeting on April 25.

A motion was made by Commissioner Maragos and seconded by Commissioner Hartman to authorize the Director to approve condition books, ND Bred program, first race time, starting gate, timing device and claim box. Maragos -Y, Hartman -Y, Ozbun-Y, Senftner -Y, and Trottier - Y. Motion passed.

- 8) ARCI Model Rules Medication and Withdrawal Times

Director laCour asked for a motion to adopt by variance the ARCI Controlled Therapeutic Medication Schedule Version 1.0, the ARCI Uniform Classification Guidelines for Foreign Substances and Recommended Penalties Version 6.00, the ARCI Multiple Medication Violation Penalty System, and the ARCI Use and Administration of Bleeder Medications for the 2014 racing season.

A motion was made by Commissioner Senftner and seconded by Commissioner Trottier to approve the RCI Model Rules for the 2014 racing season. Senftner -Y, Trottier -Y, Ozbun-Y, Hartman -Y, and Maragos - Y. Motion passed.

- 9) Jockey and Driver Safety Rules

Director laCour asked for a motion to adopt by variance the ARCI Jockey and Driver Safety Rules for the 2014 racing season.

A motion was made by Commissioner Hartman and seconded by Commissioner Maragos to approve the ARCI Jockey and Driver Safety Rules for the 2014 season. Hartman -Y, Maragos -Y, Ozbun-Y, Senftner -Y, and Trottier - Y. Motion passed.

- 10) Compliance Investigator

Director laCour asked for a motion to authorize the hire of Butcher & Associates as the Compliance Investigator. The cost would be approximately \$8,000-\$8,500 and paid out of the Promotion Fund.

A motion was made by Commissioner Maragos and seconded by Commissioner Trottier to authorize hiring Butcher & Associates as the Compliance Investigator out of the Promotion Fund (\$8,000-\$8,500). Maragos -Y, Trottier -Y, Ozbun-Y, Hartman -Y, and Senftner - Y. Motion passed.

5. **Breeders Fund**

- a. Out-of-State Points/Breeders' Awards for 2014 Harness Racing
- b. Registrations
- c. Breed Fund Audit
- d. Errors in 2013 Breed Fund Calculations

- a. Out-of-State Points/Breeders' Awards for 2014 Harness Racing

Director laCour asked for a motion to authorize out-of-state points/Breeders' Awards for 2014 (July 18 – August 10) Harness Racing.

A motion was made by Commissioner Senftner and seconded by Commissioner Hartman to authorize out-of-state points/Breeders' Awards for 2014 Harness Racing. Senftner -Y, Hartman -Y, Ozbun -Y, Maragos -Y, and Trottier -Y. Motion passed.

- b. Registrations

Director laCour asked for a motion to approve renewing the variance with the same tiered system as 2013 to reduce the cost of registration fees for the Breeders' Fund.

A motion was made by Commissioner Maragos and seconded by Commissioner Senftner to approve a variance to reduce the cost of registration fees for the Breeder's Fund. Maragos -Y, Senftner -Y, Ozbun -Y, Hartman -Y, and Trottier -Y. Motion passed.

c. Breed Fun Audit

Director laCour asked for a motion to approve hiring Debbie Eisenhauer as the Auditor for the Breeders' Fund.

A motion was made by Commissioner Trottier and seconded by Commissioner Hartman to approve hiring Debbie Eisenhauer as the Auditor for the Breeders' Fund. Trottier -Y, Hartman -Y, Ozbun -Y, Maragos -Y, and Senftner -Y. Motion passed.

d. Errors in 2013 Breed Fund Calculations

Director laCour advised that races 3 and 6 from July 21, 2013 at HRND were not awarded double breed points initially and were then awarded the correct breed points. No action needed.

6. **Promotion and Purse Fund Requests**

- a. Conditions for Promotion and Purse Funding – See Attachment A
- b. ORDA
- c. HRND

a. Conditions for Promotion and Purse Funding

Director laCour asked for conditions for Promotion and Purse Funding. The conditions are included as Exhibit A to these minutes.

A motion was made by Commissioner Senftner and seconded by Commissioner Hartman to authorize the conditions for Promotion and Purse Funding. Senftner -Y, Hartman -Y, Ozbun -Y, Maragos -Y, and Trottier -Y. Motion passed.

b. ORDA

Director laCour's recommendation is to give ORDA \$150,000 out of the Promotion Fund and half of Purse Funds (estimated \$80,000) for a total of \$230,000. Director LaCour's asked for authorization to send ORDA \$115,000 out of the Promotion Fund with the Purse Funds to be decided later.

c. HRND

Director laCour's recommendation is to give HRND \$180,000 out of the Promotion Fund and half of Purse Funds (estimated \$80,000) for a total of \$260,000. Director LaCour's asked for authorization to send HRND \$115,000 out of the Promotion Fund with the Purse Funds to be decided later.

A motion was made by Commissioner Maragos and seconded by Commissioner Hartman to award \$115,000, to ORDA and \$115,000 to HRND minus the 10% retention. Maragos -Y, Hartman -Y, Ozbun -Y, Trottier -Y, and Senftner -Y. Motion passed.

7. **2014 Proposed Administrative Rule Changes – See Attachment B**

Director laCour asked for a motion to move forward on the 2014 proposed Administrative Rule changes. The proposed changes are included as Exhibit B to these minutes.

A motion was made by Commissioner Hartman and seconded by Commissioner Trottier to move authorize the Director to move forward on the 2014 proposed Administrative Rule changes. Hartman -Y, Trottier -Y, Ozbun -Y, Maragos -Y, and Senftner -Y. Motion passed.

8. Totalizator Application – United Tote Company

Director laCour recommended approving the application for United Tote Company.

A motion was made by Commissioner Maragos and seconded by Commissioner Senftner to approve the totalizator application from United Tote Company. Maragos -Y, Senftner -Y, Ozbun -Y, Hartman -Y, and Trottier -Y. Motion passed.

9. Any other business which may properly come before the Commission

- Legal Counsel, Edward Erickson, asked if the Racing Commission would pay the cost for him to attend the Equine Law Conference in Lexington, Kentucky, at the end of April/first of May. He estimated that the cost would be \$2,000 to \$3,000. Director laCour recommended that the Commission authorize the expenditure.

A motion was made by Commissioner Maragos and seconded by Commissioner Hartman authorize the expenditure to send Edward Erickson to the Equine Law Conference. Maragos -Y, Hartman -Y, Ozbun -Y, Senftner -Y, and Trottier -Y. Motion passed.

- Chairman Ozbun said he would like to see some discussion on behalf of the two Thoroughbred associations (ND TOBA and the Thoroughbred Association) to merge and to see what it would take to make it happen. The representatives of the associations agreed to a meeting to discuss the matter further between each other.

10. Adjournment

A motion was made by Commissioner Hartman and seconded by Chairman Ozbun to adjourn the meeting. All Commissioners voted aye and hearing no negative vote the motion passed.

Meeting was adjourned at 1:10 p.m.

2014 Conditions for Grant Recipients on
Funds Received from the ND Racing Commission

1. The Purse funds awarded by the Racing Condition must be printed in the Condition book and the racing program for the race they are being used. The funds must be stated in the amount that is used for that specific race and the Racing Commission must be named as the grantor of the amount.
2. **No change to purses may be made after entries except in the case of an emergency with events being designated an emergency in the sole discretion of the NDRC Director.**
3. **All purse funding provided to horsemen's associations must be approved by the Director as part of the Condition Book (with the exception of any funds earned through participation in HRND's raffles).**
4. Each promotion fund recipient must provide copies of receipts of the payment for each expenditure that is paid with grant dollars. Also the recipient is to include an itemized statement of all expenses used for an event, race, or promotion.
5. The governing board of the entity receiving the grant dollars must review and approve of the expenditure report sent to the Racing Commission not more than 45 days after the conclusion of the event. This report will then be forwarded to the racing commission for review of the expenditures.
6. All grants dollars will be reviewed and approved by the Commission. If there are further questions the recipient must respond within 15 days in writing to the Commission.
7. Any violations of these guidelines may jeopardize awarding of future grant requests. **The Commission shall withhold 10% of Promotion Fund awards (in addition to withholdings for lab testing, state steward and vet) to insure conformance with these conditions.**

1. Subsection 3 of 69.5-01-09-01 – Revise as below:

- a. "North Dakota-bred" means a foal born in North Dakota out of a mare registered as a broodmare under section 69.5-01-09-02 with the North Dakota racing commission prior to the foal's birth, and which mare was in North Dakota:

2. 69.5-01-05-16, 17, &18 – Replace with below:

Licensing Requirements for Multiple Owners

- a. If the legal owner of any horse is a partnership, corporation, limited liability company, syndicate or other association or entity, each shareholder, member or partner shall be licensed as required in of this rule.
- b. Each partnership, corporation, limited liability company, syndicate or other association or entity shall disclose to the Commission all owners holding a five percent or greater beneficial interest, unless otherwise required by the Commission.
- c. Each partnership, corporation, limited liability company, syndicate or other association or entity which includes an owner with less than a five percent ownership or beneficial interest shall file with the Commission an affidavit which attests that, to the best of their knowledge, every owner, regardless of their ownership or beneficial interest, is not presently ineligible for licensing or suspended in any racing jurisdiction.
- d. To obtain an owner's license, an owner with less than a five percent ownership or beneficial interest in a horse shall establish a bona fide need for the license and the issuance of such license shall be approved by the stewards.
- e. Application for joint ownership shall include a designation of a managing owner and a business address. Receipt of any correspondence, notice or order at such address shall constitute official notice to all persons involved in the ownership of such horse.
- f. The written appointment of a managing owner or authorized agent shall be filed with the Commission.
- g. The aggregate fee paid for owners' licenses by members of a partnership, corporation, limited liability company, syndicate or other association or entity shall not exceed the lesser of the total number of members of the legal entity having a 5% or greater beneficial interest in the entity or the number of horses to be entered under ownership of the entity in North Dakota in the current year. All members having a 5% or more interest shall

be jointly and severally liable for payment of the fee. Nothing contained in the foregoing shall relieve any member or entity from any requirements for the issuance of an owner's license other than with regard to fees as specified herein.

3. Subsection 1 of 69.5-01-11-07 – Add at the end:
 - a. Notwithstanding the foregoing, employees of a Service Provider shall not be required to obtain a license from the Commission if they are already licensed to engage in the same type of employment related to pari-mutuel wagering in another jurisdiction which has the same or similar licensing requirements and standards. This exception shall not apply to the principals or supervisory personnel of a Service Provider.

4. Subsection 2 of 69.5-01-11-07 – Add after the first sentence:
 - a. Notwithstanding the foregoing, employees of a Site Operator not engaged in or responsible for supervision of activities related to pari-mutuel or live racing shall not require a license from the Commission unless otherwise indicated by the Commission.

5. 69.5-01-07-18 Medication – Replace in entirety:
 - a. Adopt by reference the ARCI Controlled Therapeutic Medication Schedule Version 1.0
 - b. Adopt by reference the ARCI Uniform Classification Guidelines for Foreign Substances and Recommended Penalties Version 6.00
 - c. Furosemide
 - i. Furosemide may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of the official veterinarian or the racing veterinarian for the purpose of removing a horse from the Veterinarian's List or to facilitate the collection of a post-race urine sample, furosemide shall be permitted only after the official veterinarian has placed the horse on the Furosemide List. In order for a horse to be placed on the Furosemide List the following process must be followed.
 1. After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with furosemide the official veterinarian or his/her designee

- shall be notified using the prescribed form, that the horse is to be put on the Furosemide List.
2. The form must be received by the official veterinarian or his/her designee by the proper time deadlines so as to ensure public notification.
 3. A horse placed on the official Furosemide List must remain on that list unless the licensed trainer and licensed veterinarian submit a written request to remove the horse from the list. The request must be made to the official veterinarian or his/her designee, on the proper form, no later than the time of entry.
 4. After a horse has been removed from the Furosemide List, the horse may not be placed back on the list for a period of 60 calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the official veterinarian. If a horse is removed from the official Furosemide List a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days.
 5. Furosemide shall only be administered on association grounds.
 6. Furosemide shall be the only authorized bleeder medication
- ii. The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is utilized:
1. Furosemide shall be administered by the official veterinarian or his/her designee no less than four hours prior to post time for the race for which the horse is entered.
 2. A horse qualified for furosemide administration must be brought to the detention barn within time to comply with the four-hour administration requirement specified above.
 3. The dose administered shall not exceed 500 mg. nor be less than 150 mg.
 4. Furosemide shall be administered by a single, intravenous injection.
 5. After treatment, the horse shall be required by the Commission to remain in the detention barn in the care, custody and control of its trainer or the trainer's designated

- representative under association and/or Commission security supervision until called to the saddling paddock.
- iii. The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is not utilized:
 1. Furosemide shall be administered by the official veterinarian or his/her designee no less than four hours prior to post time for the race for which the horse is entered.
 2. The furosemide dosage administered shall not exceed 500 mg. nor be less than 150 mg.
 3. Furosemide shall be administered by a single, intravenous injection.
 4. After treatment, the horse shall be required by the Commission to remain in the proximity of its stall in the care, custody and control of its trainer or the trainer's designated representative under general association and/or Commission security surveillance until called to the saddling paddock.
 - iv. Test results must show a detectable concentration of the drug in the post-race serum, plasma or urine sample.
 1. The specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010. If the specific gravity of the urine is found to be below 1.010 or if a urine sample is unavailable for testing, quantitation of furosemide in serum or plasma shall be performed;
 2. Quantitation of furosemide in serum or plasma shall be performed when the specific gravity of the corresponding urine sample is not measured or if measured below 1.010. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.
 - v. The administering authority or association may assess a fee approved by the commission on licensed owners of treated horses to recoup the reasonable costs associated with the administration of furosemide in the manner prescribed in these rules.
- d. Bleeder List

- i. The official veterinarian shall maintain a Bleeder List of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by the official veterinarian.
 - ii. Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to race for the following time periods:
 1. First incident – 14 days;
 2. Second incident within 365 day period – 30 days;
 3. Third incident within 365 day period –180 days;
 4. Fourth incident within 365-day period – barred for racing lifetime.
 - iii. For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period.
 - iv. The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by this policy.
 - v. A horse may be removed from the Bleeder List only upon the direction of the official veterinarian, who shall certify in writing to the stewards the recommendation for removal.
 - vi. A horse which has been placed on a Bleeder List in another jurisdiction pursuant to these rules shall be placed on a Bleeder List in this jurisdiction.
- e. Anti-Ulcer Medications
- i. The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to 24 hours prior to the race in which the horse is entered.
 1. Cimetidine (Tagamet®) – 8-20 mg/kg PO BID-TID
 2. Omeprazole (Gastrogard®) – 2.2 grams PO SID
 3. Ranitidine (Zantac®) – 8 mg/kg PO BID