



## **NORTH DAKOTA RACING COMMISSION**

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**Gunner laCour**  
Director

### **NORTH DAKOTA RACING COMMISSION**

#### **NDRC Meeting**

**Meeting Room A, Comfort Inn, 1030 E. Interstate Avenue, Bismarck, ND  
Tuesday, February 24, 2015 – 10:30 a.m. (Central Time)**

#### **Minutes**

**Present:** Chairman Jim Ozbun, Commissioner Steve Hartman, Commissioner Ray Trotter, Commissioner Tom Senftner, Commissioner Mary Ann Durick, Director Gunner laCour, Legal Counsel Edward Erickson and Administrative Assistant Gail Allensworth

**Others Present:** Wayne Slater, Robert Wilson, Kevin Gefroh, Scott Horst, John Bubel, Avery Erfle, Mike Schmitz, Leon Glasser, Pete Davis, Arlie Roller, and Ron Klein

**Call to Order:** Chairman Jim Ozbun called the meeting to order at 10:30 a.m.

Chairman Ozbun asked if there were any additions or corrections to the agenda. Director laCour asked to add an item after item one: the addition of the Racing Services International bankruptcy case. Chairman Ozbun asked for a motion to accept the agenda as amended.

**A motion was made** by Commissioner Durick and seconded by Commissioner Hartman to accept the agenda with the change requested by Director laCour. All Commissioners voted aye and hearing no negative vote the motion passed.

#### **AGENDA-Modified**

1. **Approval of Minutes – November 13, 2014 and December 15, 2014 Meetings**
2. **Racing Services International Bankruptcy Case**
3. **Administrative Rule Changes**
4. **Breeders' Fund**
5. **Breed Fund Administration**
6. **Horsemen's Meeting**
7. **2015 Legislation**
8. **Information Technology (ITD) Website Proposal**

9. 2015 Race Season Director Authorizations
10. Promotion and Purse Fund Requests
11. Date of Next Two Meetings
12. Any other business which may properly come before the Commission
13. Adjournment

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1. Approval of Minutes – November 13, 2014 and December 15, 2014 Meetings  
Previously, all Commissioners had received a copy of the minutes to review.

A motion was made by Commissioner Hartman and seconded by Commissioner Trottier to accept the minutes of November 13, 2014, and December 15, 2014, as presented. All Commissioners voted aye and hearing no negative vote the motion passed.

2. Racing Services International Bankruptcy Case

Director laCour provided the Commissioners a brief summary on the Racing Services International bankruptcy case. A ruling was made against the state of North Dakota. Director laCour talked to the Attorney General's office about this case and shared the information provided with the Commissioners.

3. Administrative Rule Changes

Director laCour reminded the horsemen about the recent Administrative Rule changes that have been adopted by the ND Racing Commission. They are the ARCI Model Medication Rules which are on the Racing Commission website; and Broodmare Registration which requires the registration of a broodmare before foaling (69.5-01-09-01).

Director laCour described the changes that were requested for the Mad Scramble Wager and asked for authorization to move forward with those changes to the Administrative Rule.

A motion was made by Chairman Ozbun and seconded by Commissioner Durick to authorize Director laCour to move forward with drafting the changes to the Mad Scramble Wager. Ozbun –Y, Durick –Y, Trottier –Y, Senftner –Y, Hartman –Y. Motion passed.

4. Breeders' Fund

Director laCour stated he had talked with Dale Lagerquist regarding harness racing dates for 2015 and allowing them to qualify for Breed Fund awards. The dates are July 17 through August 9. Director laCour asked to allow those dates to qualify for Breed Fund awards.

A motion was made by Commissioner Senftner and seconded by Commissioner Hartman to allow the harness racing dates of July 17 – August 9 to qualify for Breed Fund awards. Senftner –Y, Hartman –Y, Durick –Y, Ozbun –Y, Trottier –Y. Motion passed.

Director laCour reported that since 2013 a registration "holiday" was provided to the horsemen to support increased Breed Fund registration in North Dakota. The variance provides a tiered reduced fee system as opposed to the flat \$1,000 fee for late registration. It also allows for registration after the yearling year.

The fee system: anytime from foaling through December 31 of the foaling year – fee is \$10; anytime from January 1 through December 31 of the one-year-old year – fee is \$100; anytime from January 1 through December 31 of the two-year-old year – fee is \$200; if all requirements are met after December 31 of the two-year-old year – fee is \$500.

Director laCour asked for authorization to continue this variance for 2015.

**A motion was made** by Commissioner Trottier and seconded by Commissioner Hartman to authorize the variance for registration fees for 2015. Trottier –Y, Hartman –Y, Ozbun –Y, Senftner–Y, Durick –Y. Motion passed.

## **5. Breed Fund Administration**

Director laCour stated that the previous Breeders' Fund administrator resigned at the end of 2014 as she went out of business. Though the Commission is in the process of getting a bill passed to allow the administration of the fund to be done in-house, we do not yet have the authorization or the capability to do this. A solicitation for bids on the Breed Fund Administration went through State Procurement.

Only two bids were received: ProAssist Plus, LLC (Sally Dasinger) at \$22.50/hour and Personalized Management (Nancy Buechler) at \$47.40/hour. Director laCour stated that he wanted to make sure that the horsemen were aware that while both bidders currently work for a breed association, due to the Commission's yearly audit of the Breed Fund disbursements, there should not be any potential advantage to either association. Due to the significantly lower price, Director laCour asked that the bid be awarded to ProAssist Plus, LLC.

**A motion was made** by Commissioner Trottier and seconded by Commissioner Durick to award the bid for Breed Fund Administrator to ProAssist Plus, LLC. Trottier -Y, Durick –Y, Ozbun –Y, Hartman –Y, Senftner -Y. Motion passed.

## **6. Horsemen's Meeting**

Director laCour presented the issues that were raised at the Horsemen's meeting on January 12.

### Item 1: Out-of-State Breed Points

All parties with the exception of the Thoroughbred Association voted against out-of state Breed Fund points. Director laCour recommended not awarding out-of-state Breed Points at this time. However, Director laCour stated that it may be necessary to bring this issue up again soon based on the status of the Horse Park. No motion necessary.

### Item 2: 2015 In-State Pool Value for the Breed Fund awards

All parties agreed that a value should be established that the Commission would commit to paying out over the next four years. It was agreed that \$150,000 could be paid from the fund for the next four years with increases, if possible. Director laCour requested a motion to provide \$150,000 annually from the Breed Fund for Awards for the next four years.

**A motion was made** by Chairman Ozbun and seconded by Commissioner Senftner to provide \$150,000 annually from the Breed Fund for awards for the next four years. Ozbun -Y, Senftner –Y, Trottier –Y, Hartman –Y, Durick -Y. Motion passed.

### Item 3: Limits on ND-bred races

All parties agreed that the tracks should allow ND-bred races to run with only four head rather than the six head usually required. Director laCour believes we should informally ask the tracks to reduce the minimum number of starters in ND-bred races to four. No motion necessary.

### Item 4: Vet Certificate for Out-of-State Owners

All parties agreed that they would like to see a rule that required out-of-state owners of ND-bred foals to furnish a vet certificate within a certain number of days of foaling. Director laCour offered to draft a rule on this. No motion necessary.

### Item 5: Prohibition on Back-to-Back Breed Fund Points

Director laCour recommended that any horse that is eligible for Breed Fund points in a race may not again be eligible for a period of no less than four days. He recommended that the Commission implement a four-day ineligible period rule through a variance for the 2015 race season which will provide an opportunity to see how the new rule works and draft the appropriate administrative rule change. This is done to disincentivize any back-to-back running of horses for the safety of ND's horses based on medical information obtained from the American Association of Equine Practitioners. Though there were some individual objections, the breed associations did not object to this change.

**A motion was made** by Commissioner Senftner and seconded by Commissioner Durick to implement a four-day ineligible period rule through a variance for the 2015 race season. Senftner -Y, Durick –Y, Hartman –Y, Ozbun –Y, Trottier -Y. Motion passed.

7. **2015 Legislation**

Director laCour provided a synopsis of the six bills before the Legislature this year and their progress to date.

SB 2071 – Letter of Credit

This bill was heard the first day of the session and was passed out of committee unanimously. It was the first bill passed by the Senate. Director laCour is waiting to hear when the House hearings on the bill will begin.

SB 2078 – Commissioner Pay

This bill emerged from the Political Subdivisions Committee with a 4-3 do not pass vote. It was voted down on the Senate floor.

HB 1090 – Racing Infrastructure Fund

The bill passed out of committee with a 7-6 do not pass vote. It was voted down on the House floor 23-66.

HB 1091 – Breed Fund Administration

This bill passed out of committee with a unanimous do pass vote. It was passed in the House with an 89-1 vote. Director laCour is waiting to hear when the Senate Hearings on the bill will begin.

HB 1203 – ADW Tax Cap Reduction

The bill passed out of committee with a 12-1 do pass vote. It was re-referred to Appropriations which gave it a 12-10 do pass. The bill was passed on the House floor 52-40.

HB 1023 – Racing Commission Budget

Director laCour and Chairman Ozbun presented the budget in the middle of January. There was a subsequent hearing and Director laCour is waiting to see when it will be voted upon.

No motions necessary.

8. **Information Technology (ITD) Website Proposal**

Director laCour reported on the methods and cost associated with ensuring that the horsemen are kept up-to-date from the Commission. Due to the escalating cost of mailers and the fact that ITD must be paid for any updates made to the current website he asked ITD to submit a proposal for a new website. The proposal factored in the ability for the Commission to make their own updates to eliminate the need to pay ITD to make updates. The improved website would allow the Commission to communicate more effectively with the horsemen and to promote racing in the state. Director laCour asked for authorization to pursue a new website.

**A motion was made** by Chairman Ozbun and seconded by Commissioner Hartman to authorize Director laCour to pursue the development of a new website. Ozbun -Y, Hartman -Y, Senftner -Y, Trotter -Y, Durick -Y. Motion passed.

9. **2015 Race Season Director Authorizations**

Director laCour asked for authorization to hire the State Veterinarians, State Stewards, and the licensing staff; approval to use Industrial Laboratories for our lab, University of Pennsylvania, University of Florida for sample labs; authorization to approve Tote, Photo Finish and Official's contracts; require tracks to submit electrical and fire safety reports and proof of insurance; requirement that the tracks provide a bond or letter of credit be for Pari-mutuel wagering; authorization for Director laCour to approve Condition Books, ND-bred Program and First Race Time; and authorization to approve Starting Gate, Timing Device, and Claim Box.

**A motion was made** by Commissioner Durick and seconded by Commissioner Trotter to authorize Director laCour to take care of all of the tasks for the upcoming race meets. Durick -Y, Trotter -Y, Ozbun -Y, Hartman -Y, Senftner -Y. Motion passed.

Jockey and Driver Safety Rules – Director laCour asked for a variance, per 69.5-01-02-01, to be instituted as it was adopted last year and included in the condition books for both meets.

A motion was made by Commissioner Hartman and seconded by Commissioner Senftner to adopt the jockey and driver safety rules. Hartman -Y, Senftner -Y, Ozbun -Y, Trottier -Y, Durick -Y. Motion passed.

**10. Promotion and Purse Fund Requests**

Director laCour asked that any Promotion and Purse Fund requests that are awarded have the same seven conditions as last year.

Commissioner Senftner asked for an additional condition that the track shall not provide funding to any horsemen's association other than the official breed associations recognized by North Dakota statute NDCC 53-06.2-02.

A motion was made by Commissioner Senftner and seconded by Commissioner Hartman to impose these conditions including the additional condition that the grant recipients shall not provide funding to any horsemen's association other than the official breed associations recognized by North Dakota statute NDCC 53-06.2-02. Senftner -Y, Hartman -Y, Ozbun -Y, Durick -Y, Trottier -Y. Motion passed.

Director laCour reported that the Commission received Promotion Fund requests from ORDA for Chippewa Downs in the amount of \$140,000 and a Purse Fund request from ORDA in the amount of \$160,000 for the 2015 race season. Director laCour requested that the Commission approve the funding for ORDA in the amounts of \$100,000 from the Purse Fund and \$180,000 from the Promotion Fund. Director laCour stated that based on his discussions regarding the budget projections with Doug DeMontigny, this will allow Chippewa Downs to offer \$200,000 in purses this year.

A motion was made by Commissioner Trottier and seconded by Commissioner Hartman to approve the funding for ORDA in the amount of \$180,000 from the Promotion Fund and \$100,000 from the Purse Fund. Trottier -Y, Hartman -Y, Ozbun -Y, Durick -Y, Senftner -Y. Motion passed.

Director laCour reported that all efforts to reduce or address the over \$2 million in long term debt obligations of the ND Horse Park had failed. Per the Advisory Committee's recommendations, the Commission had provided for a financial analysis of the Horse Park and subsequently supported negotiations between the Horse Park and the City of Fargo. No agreement was reached and the full debt will have to be paid at this time. Also per the Advisory Committee recommendations, the Commission put forward and supported HB 1090 which would have created a new Racing Infrastructure Fund for four years to help pay off this debt. The House voted down this bill.

Therefore, based on the fact that there is no current plan that can support paying this debt, the ND Horse Park Foundation's portion of the property will be in arrears as of March 1 (approx. \$116,000 due). As recommended by the Advisory Committee, since there is currently no plan which can make the Horse Park financially viable, Director laCour recommended not funding the race meet at the Horse Park until such time as a plan was developed. Further, Director laCour was concerned that it would be improper to have a government sanctioned event on a piece of land in arrears to another government entity or for the Commission to take taxes from the event when taxes were not being paid to the other government entity.

Horse Race North Dakota (HRND) GM Mike Schmitz stated that he believe that if the Horse Park did not run, it could never get started again or find a partner to invest. Director laCour passed on the statements of HRND President Wes Heinert who had requested one more year and if no solution was found HRND would end the racing voluntarily. There was subsequent discussion by the Commissioners and those in attendance regarding this recommendation. It was decided to table the discussion for this meeting and to meet again on March 17 for further discussion. No motion necessary.

**11. Date of Next Two Meetings**

The next two meetings will be scheduled for March 17 and April 30.

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

**13. Adjournment**

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

Meeting was adjourned at 2:00 p.m.