



NORTH DAKOTA RACING COMMISSION

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Gunner laCour
Director

NORTH DAKOTA RACING COMMISSION

NDRC Meeting

State Capitol Building, Fort Union Room

600 East Boulevard Avenue, Bismarck, ND

Thursday, November 5, 2015 – 10:30 a.m. (Central Time)

Minutes

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

Present: Chairman Jim Ozbun, Commissioner Ray Trottier, Commissioner Mary Ann Durick, Commissioner David Piepkorn, Commissioner Tom Senftner, Legal Counsel Edward Erickson, Director Gunner laCour, and Administrative Assistant Gail Allensworth

Others Present: Kathy Mawicke, Kevin Hall, Wayne Slater, Arlie Roller, Avery Erfle, L.J. Harsche, Mike Schmitz, John Bubel, Ron Klein, Lisa Vig, Mike Nowatzki, Leigh Backhaus, Levi Otis, Jay Alsop, Chad Herrington, John Ford, Leon Glasser, Scott, Horst, Randy Schwartz, and Richard Balliet

Chairman Ozbun asked if there were any additions or corrections to the agenda. As there were no additions or corrections, Chairman Ozbun asked for a motion to accept the agenda as presented.

A motion was made by Commissioner Durick and seconded by Commissioner Piepkorn to accept the agenda as presented. All Commissioners voted aye and hearing no negative vote the motion passed.

AGENDA

1. **Approval of Minutes – August 20 Meeting**
2. **License Renewals**
3. **Modification to Conditions of Licensure: CW Technologies**
4. **Outstanding Medication Violation**
5. **HRND/Foundation Status**
6. **Race Dates**
7. **Commission Recommendations for New Foundation Board**

8. **Promotion Fund Applications**
9. **Lutheran Social Services (LSS)**
10. **Breeders Fund**
11. **2016 Meetings**
12. **Any other business which may properly come before the Commission**
13. **Adjournment**

1. **Approval of Minutes – August 20 Meeting**

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

A motion was made by Commissioner Trottier and seconded by Commissioner Durick to accept the minutes of August 20, 2015, as presented. Trottier –Y, Durick –Y, Ozburn –Y, and Piepkorn –Y. Motion passed.

2. **License Renewals**

Director laCour provided all of the Commissioners a summary on all Service Provider/ADW applicants and a recommendation for renewal of the licenses. He asked that the renewal for MegaTote continue with the same conditions as last year. Racing 2 Day is not seeking relicensure.

A motion was made by Commissioner Piepkorn and seconded by Commissioner Trottier to approve the renewal of the licenses of the Service Providers/ADWs with the exception for MegaTote, LLC, to continue with the same conditions as last year, and the exclusion of Racing 2 Day LLC for 2016. Piepkorn –Y, Trottier –Y, Ozburn –Y, and Durick –Y. Motion passed.

Director laCour provided all Commissioners a summary of all Tote Provider applicants and a recommendation for renewal of the Totalizator Provider licenses.

A motion was made by Commissioner Durick and seconded by Commissioner Piepkorn to approve the renewal of the licenses of the Totalizator Providers for 2016. Durick –Y, Piepkorn –Y, Ozburn –Y, and Trottier –Y. Motion passed.

Director laCour provided all Commissioners a summary of all Site Operator applicants and a recommendation for renewal of the Site Operator licenses.

A motion was made by Commissioner Trottier and seconded by Commissioner Durick to approve the renewal of the licenses of the Site Operators for 2016. Trottier –Y, Durick –Y, Piepkorn –Y, and Ozburn –Y. Motion passed.

3. **Modification to Conditions of Licensure: CW Technologies**

Director laCour stated that CW Technologies was issued a license to conduct account deposit wagering at the August 20 meeting. As a condition of licensure, the Commission required CW Technologies to utilize AmTote for their totalizator services. He asked that the Commission revise the condition to allow CW Technologies to utilize any currently licensed totalizator company.

A motion was made by Commissioner Durick and seconded by Commissioner Piepkorn to revise the condition to allow CW Technologies to utilize any currently licensed totalizator company. Durick –Y, Piepkorn –Y, Ozburn –Y, and Trottier –Y. Motion passed.

4. **Outstanding Medication Violation**

Legal Counsel Edward Erickson provided an update to the settlement agreements which were requested by the Commission at the August 20 meeting. He is still working on them and will forward a draft to Director laCour for review when completed. Director laCour stated that they should go out as soon as possible.

No motions needed.

Director laCour asked that the Commission skip to item number 8 on the agenda as Commissioner Senftner asked to be present when item number 5, HRN/Foundation Status was discussed.

8. Promotion Fund Applications

Director laCour stated that the North Dakota Thoroughbred Association had requested a \$5,000 Grant from the Promotion Fund for the Horsemen's Award Banquet for 2016. He stated that \$3,500 was the amount for the prior two years and recommended \$3,500, be awarded but no more than \$4,000. Other requests from the Promotion Fund and Purse Fund will be considered at subsequent meetings.

Scott Horst of the North Dakota Thoroughbred Association was present to answer questions from the Commissioners. The date for the banquet is February 13, 2016 at the Comfort Inn in Bismarck.

A motion was made by Commissioner Trottier and seconded by Commissioner Durick to award a \$4,000 Grant from the Promotion Fund to the North Dakota Thoroughbred Association for the Horsemen's Award Banquet for 2016. Trottier -Y, Durick -Y, Ozbun -Y, and Piepkorn -Y. Motion passed.

Director laCour provided an update on the installation of the new rail at Chippewa Downs, which is now fully installed. There was a slide show presentation of the steps of the installation of the new rail and results of the survey done for the installation. It indicated that the racetrack grading was severely deteriorated. In order for the racetrack to be safe the track needed to be regraded. ORDA is working with Marion's Construction to regrade the entire track at 2-4% and reprocess the cushion, as well as the drainage system in the infield. The cost is \$40,000, and ORDA asked to split the cost with the Commission 50/50.

Wayne Slater of ORDA provided an update on the progress of the regrading and stated that the work is to be completed before winter. The Commissioners asked questions and Mr. Slater answered their questions.

A motion was made by Chairman Ozbun and seconded by Commissioner Durick to award a \$20,000 Grant from the Promotion Fund to ORDA to split the cost of regrading Chippewa Downs. Ozbun -Y Durick -Y, Piepkorn -Y, Senftner -Y, and Trottier -Y. Motion passed.

5. HRND/Foundation Status

Director laCour provided an update on the progress at the ND Horse Park. HRND and the Foundation have entered into an agreement whereby a new Foundation board will be created, primarily under the control of HRND, if HRND is able to develop a solution to their financial issues with the City of Fargo. HRND has developed an agreement whereby Lien Games is willing to pay the current Foundation TIF and property tax obligations and the upcoming 2016 payment. In conjunction with these efforts, HRND and Lien Games have been working with the city to settle differences regarding the amount of the debt owed.

Lien Games will be working to put HRND as operators of existing and future simulcast sites. HRND has already been put in as operator of the Fargo off-track betting location. It is anticipated that these additional revenues will be sufficient by the next tax cycle (2017) to allow HRND to make the yearly payments with the support of Lien Games. This revenue would be in addition to any sites added through the Foundation as the operation of the additional charity allows for another 25 potential charitable gambling sites from which they may produce revenue.

Based on the foregoing, Director laCour believes that we can move forward with Fargo in good faith that an agreement would be reached by the first meeting of next year during which funding would be discussed and establish race dates for 2016.

Mike Schmitz of HRND provided an update and answered questions from Commissioners.

Kevin Hall of Lien Games provided an update stating that they have three goals: 1) to make sure that the Foundation and HRND maintain ownership with the financial resources to run the facility; 2) a vision to utilize the facility more – to have more racing days; and 3) have more infrastructure – equipment, buildings, etc.

No motions needed.

6. Race Dates

Director laCour stated that Chippewa Downs requested a total of 10 days (5 weekends) of racing in 2016 with the following dates: June 11/12, 18/19, 25/26, July 2/3 and 9/10. Horse Race North Dakota requested a total of 8 days (3 weekends, including two Fridays) of racing in 2016 with the following dates: July 16/17, 22/23/24, and 29/30/31.

Director laCour recommended a total of 8 days (4 weekends – Saturday/Sunday) for Chippewa Downs: June 11/12, 18/19, 25/26 and July 2/3. He also recommended 6 days (3 weekends – Saturday/Sunday): July 16/17, 23/24, and 30/31 for the North Dakota Horse Park.

Randy Schwartz, Vice President of the North Dakota Quarter Horse Racing Association, raised some concerns regarding racing at Chippewa Downs. Specifically, he was concerned about the failure to scratch horses who are not sufficiently trained and the conditioning of the track during the meet. Director laCour stated that he had concerns along the same lines and had already been discussing the issues with the state steward and the track to find a resolution. The Commissioners asked some questions and Mr. Schwartz answered the questions.

A motion was made by Chairman Ozbun and seconded by Commissioner Piepkorn to approve the race dates recommended by Director laCour for Chippewa Downs and the North Dakota Horse Park for 2016. Ozbun –Y, Piepkorn –Y, Senftner –Y, Trottier –Y, and Durick –Y. Motion passed.

7. Commission Recommendations for New Foundation Board

Director laCour stated that the Commission had developed a list of four candidates for consideration on the new Foundation board per the Foundation/HRND Memorandum of Agreement requirements. Once recommended, HRND would choose two to fill the vacancies on the new Foundation board. The candidates are Kevin Smallerz, Chris Huus, Chad Herrington, and Jay Alsop.

A motion was made by Commissioner Senftner and seconded by Commissioner Piepkorn to approve the list of candidates. Senftner –Y, Piepkorn –Y, Ozbun –Y, Durick –Y, and Trottier –Y. Motion passed.

Director laCour made a recommendation to do a survey of the Fargo track and rail which would be the same as the survey done for Chippewa Downs. He suggested using the same surveyor which completed the Chippewa Downs track. The cost would be \$2,700 plus airfare and hotel from the Promotion Fund.

A motion was made by Commissioner Durick and seconded by Commissioner Piepkorn to accept the proposal from Director laCour to hire the surveyor to complete a survey of the Fargo track and to authorize \$2,700 plus airfare and hotel costs from the Promotion Fund. Durick –Y, Piepkorn –Y, Ozbun –Y, Trottier –Y, and Senftner –Y. Motion passed.

9. Lutheran Social Services (LSS)

Lisa Vig with Lutheran Social Services of North Dakota gave a presentation and distributed a report of how they utilized the 2014 Promotion Grant for their Gamblers Choice program. The Commissioners asked questions and Ms. Vig answered their questions.

A motion was made by Commissioner Senftner and seconded by Commissioner Durick to award a \$12,000 Grant from the Promotion Fund to Lutheran Social Services for Ms. Vig to administer at her discretion. Senftner –Y, Durick –Y, Ozbun –Y, Trottier –Y, and Piepkorn –Y. Motion passed.

10. Breeders Fund

Director laCour provided an update to bid out a Breed Fund database that would collect all breed fund data electronically and streamline the award process. This would allow the Commission to administer the Breed Fund in-house. A statement of work, which would be included in any bidding process or sole source dependent upon the outcome of discussions with State Procurement, is close to being finished. The Director anticipates having a proposal before the Commission at the first meeting of 2016.

Director laCour, while reviewing the Breed Fund rules, found a rule which will be enforced effective January 1, 2016. Admin. Rule 69.5-01-09-02(4)(g) provides: “The foal of a mare registered in the North Dakota Breeders’ Fund program, but owned by

an out-of-state individual or corporation, will be required to be inspected by a state-licensed veterinarian at the expense of the owner.”

No motions needed as this is already a rule.

Another rule also caught Director laCour’s attention and required discussion with legal counsel. That is Stallion Registrations, per Admin. Rule 69.5-01-09-02(3) requires that:

- a. Stallions must physically be in North Dakota and registered or the registration renewed with the North Dakota Racing Commission or official registering agency by February first of the current breeding year;
- b. Stallions must remain in North Dakota for the entire current breeding season from February first to July thirty-first.

Legal Counsel Edward Erickson suggested that the language in the Rule be fixed as it ambiguous. Director laCour will review/clarify the rule making process with the horsemen at the next Racing Industry Advisory Council. He will schedule a meeting with the horsemen before the next Commission meeting.

No motions needed as this is already a rule.

Director laCour reviewed the registration fees for the Breed Fund as it has had a variance for late registration since 2013. This allowed horsemen to pay a reduced fee for foals if paid after December 31 of the foaling year. The revised fee schedule with the variance retained the \$10 fee if received by December 31 of foaling year and created a \$100 fee is received during the 1 year-old-year, \$200 fee if received during the 2-year-old year, and \$500 if received on any date thereafter. The current rule states a fee of \$10 if received by December 31 of the foaling year and a late fee of \$1,000 if paid after December 31 of the foaling year.

There was discussion with the horsemen regarding the fee schedule. Director laCour recommended modifying the fee through a variance to \$200 as a yearling; \$400 as two-year-old; \$1,000 after the two-year-old year.

A motion was made by Commissioner Senftner and seconded by Commissioner Piepkorn to revise the fee schedule through a variance to modify the fee to \$200 as a yearling; \$400 as a two-year-old and \$1,000 after the two-year-old year. Senftner -Y, Piepkorn -Y, Ozbun -Y, and Trotter -Y. Motion passed.

11. **2016 Meetings**

- Racing Commission: Thursday, February 25
- Racing Commission: Thursday, April 28
- Racing Industry Advisory Committee: Director laCour would like to meet mid-January of 2016; individuals that represent horsemen associations should send possible dates to Director laCour – he will schedule by the end of November

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

- Licensing fees for individuals for racetrack occupation licenses. In 2015, there was a reduced fee for licensing prior to the race meet. Director laCour proposed continuing the same reduced fees for 2016.

A motion was made by Commissioner Senftner and seconded by Chairman Ozbun to continue the reduced fee for licensing for racetrack occupation licenses prior to the beginning of the race meet. Senftner -Y, Ozbun -Y, Piepkorn -Y, Durick -Y, and Trotter -Y. Motion passed.

- Randy Schwartz asked if it would be possible to allow two years in a row for racetrack licensing with the option of one-year-only. Director laCour will put that on the agenda for the next Racing Industry Advisory Council meeting.
- Susan Bala bankruptcy update: approximately \$4.6-million that was collected through ADW taxes is to go to the bankruptcy court to be distributed to creditors.
- Commissioner Tom Senftner is resigning from the Racing Commission effective November 6.

13. **Adjournment**

Chairman Ozbun requested the meeting be adjourned. The meeting was adjourned at 1:05 p.m.