

Memorandum of the Regular Meeting of the
Indiana Horse Racing Commission

May 28, 2020

Virtual Meeting via Microsoft Teams

Commission members present: Philip C. Borst, Chairman; Greg Schenkel, Vice Chairman; George Pillow, member; and William McCarty, member.

Commission Staff members present: Deena Pitman, IHRC Executive Director; Tom Linkmeyer, IHRC Deputy Director; Noah Jackson, IHRC General Counsel; Dale Lee Pennycuff, IHRC Counsel; Jessica Barnes, IHRC Breed Development Director; Wendi Samuelson-Dull, IHRC Controller; Megan Arszman, Communications Coordinator; Joyse Banister, Standardbred Breed Development Coordinator; Michael Morris, Director of Security & Investigations; Karen Rash, Hoosier Park Test Barn Administrator; Sara Distler, TB & QH Breed Development Coordinator; John Connell, IHRC Investigator; Karla Vaughn, Racing Inspector; Daniel Fick, Sr. State Steward; James Lages, Associate Steward; Lorelei Masshardt; Breed Development Residency Coordinator & Accountant; and Randy Dever, Breed Development Inspector.

Speakers from the audience: Eric Halstrom, Indiana Grand VP and General Manager of Racing; Rick Moore, Vice President and General Manager of Racing for Harrah's Hoosier Park;

I. Call to Order

Chairman Borst called the meeting to order at approximately 1:20 p.m. A quorum was present.

II. Approval of memorandum from the December 3, 2019, meeting.

Chairman Borst asked for a motion for approval of the memorandum from the December 3, 2019, Commission Meeting. Motion for approval by Vice Chairman Schenkel. Commissioner McCarty seconded the motion. The vote, by roll call, was unanimous 4-0 for approval.

III. Agenda

Note: All items on the agenda were transcribed by a court reporter from Stewart Richardson. Transcripts are available at www.in.gov/hrc.

1. Consideration of Settlement Agreement between the Indiana Horse Racing Commission Staff and Brent R. Wendling.

Indiana Horse Racing Commission ("IHRC") General Counsel Noah Jackson ("Mr. Jackson") presented the Settlement Agreement between the Indiana Horse Racing Commission Staff ("Commission Staff") and Mr. Brent R. Wendling ("Mr. Wendling").

Mr. Jackson stated the Settlement Agreement was signed in January 2020 and stemmed from an incident on or about August 24, 2019, when Mr. Wendling's vehicle was searched and a saliva sample was taken from Mr. Wendling. Mr. Wendling was summarily suspended by the Stewards prior to an exclusion order being issued, which was timely appealed, and the subsequent lifting of the summary suspension.

After an Administrative Law Judge was assigned, Mr. Wendling asked to pursue a settlement agreement on or about September 27, 2019. Mr. Wendling agreed to pay a one thousand dollar fine, be suspended through and including April 28, 2020, and must

submit to a drug test and provide a negative drug test result before he is eligible for a license.

Mr. Jackson, on behalf of Commission Staff, respectfully requested approval of the Settlement Agreement. Chairman Borst asked if there were any questions. Seeing none, the Chairman asked for a motion and a second. Commissioner McCarty moved for approval of the Settlement Agreement as presented. Vice Chairman Schenkel seconded the motion. The vote, by roll call, was unanimous 4-0 for approval.

2. Consideration of the proposed emergency rule changes.

Mr. Jackson presented the IHRC Emergency Rules broken down by breed, with the intent to approve them with a single vote. Mr. Jackson detailed how the rules had been presented to the stakeholders for the various breeds, how several of the proposed rule changes came about through requests from various stakeholders and general housekeeping. Mr. Jackson explained that all the rules would be adopted through the Commission's emergency rule adoption procedure and go into effect as soon as filed.

Chairman Borst asked for a motion to approve all the emergency rules. Vice Chairman Schenkel moved to approve all the emergency rules. Commissioner Pillow seconded. The vote, by roll call, was unanimous 4-0 for approval of all of the IHRC Emergency Rules.

3. Approval of Caesars proof of financial responsibility.

Mr. Jackson presented Caesars' proof of financial responsibility contained in a confidential attachment to the Commissioner's meeting books.

Chairman Borst asked for a motion to approve Caesars' proof of financial responsibility. Vice Chairman Schenkel moved to approve. Commissioner Pillow seconded the motion. The vote, by roll call, was unanimous 4-0 for approval of Caesars' proof of financial responsibility.

4. Consideration of Executive Director's approval re: 2020 operational plans.

Mr. Jackson explained there was no vote on Agenda Item No. 4, but he wanted to give a rundown of the Executive Director's approval of the 2020 operational plans. Caesars submitted its 2020 operational plans at the December 3, 2019 Commission meeting. Due to certain deficiencies, Caesars was given conditional approval of the operational plans and required to update the plans by December 31, 2019. Executive Director Pitman was

delegated the authority to approve the updated 2020 operational plans. Executive Director Pitman approved the Caesars updated plans in a letter dated January 13, 2020, included in the Agenda Item No. 4 materials.

5. Presentation of 2020 Thoroughbred Breed Development Advisory Committee Program.

Jessica Barnes, IHRC Breed Development Director, explained that the program had to be revamped due to the financial impact of the COVID-19 pandemic. The budget went from approximately \$14 million to quite a bit less for 2020. The program was able to keep the Thoroughbred stakes intact, although at reduced purses. The program was able to keep the purses for the Indiana bred overnights at 2019 levels. Ms. Barnes stated they were able to do this due to the support from the horsemen and the racetracks. Further, they met the mandate that forty-one percent of the program be allocated to the sired portion.

Chairman Borst asked if there were any Commission questions. Chairman Borst, hearing no comments, asked for a motion and a second to approve the 2020 Thoroughbred Breed Development Advisory Committee Program. Commissioner McCarty moved to approve. Commissioner Pillow seconded the motion. The vote, by roll call, was unanimous 4-0 for approval of the 2020 Thoroughbred Breed Development Advisory Committee Program.

6. Presentation of the 2020 Quarter Horse Breed Development Advisory Committee Program.

Ms. Barnes explained that the program was in really great shape, even with the COVID-19 pandemic losses. Due to reserves, the program was able to keep the purses above the 2019 levels. Further, they were able to increase trials put into the original 2020 program.

Chairman Borst asked if there were any Commission questions. Hearing none, Chairman Borst asked for a motion to approve the 2020 Quarter Horse Breed Development Advisory Committee Program. Vice Chairman Schenkel moved to approve. Commissioner McCarty seconded the motion. The vote, by roll call, was unanimous 4-0 for approval of the 2020 Quarter Horse Breed Development Advisory Committee Program.

7. Presentation of the 2020 Standardbred Breed Development Advisory Committee Program.

Ms. Barnes explained that the program had to be revamped due to the financial impact of the COVID-19 pandemic. The Standardbred program is different in that it is primarily

self-funded through the breed development program. They utilized some reserves and then recalculated the reduction for the program. They were able to keep the sire stakes programs primarily intact. Some of the late closers were eliminated with the funding moved to the overnight program. They have moved to a one series fair program.

Vice Chairman Schenkel moved to approve. Commissioner McCarty seconded the motion. Vice Chairman Schenkel commented on the reserves being used and wanted to make clear even though reserves were used, the reserves were not depleted. Ms. Barnes confirmed adequate reserves remain. Chairman Borst asked if there were any other Commission questions. Hearing none, Chairman Borst went to the roll call vote to approve the 2020 Standardbred Breed Development Advisory Committee Program. The vote, by roll call, was unanimous 4-0 for approval of the 2020 Standardbred Breed Development Advisory Committee Program.

8. Approval of Hoosier Park's 2020 Standardbred racing official list pursuant to 71 IAC 3-1-2.1.

Mr. Jackson respectfully requested the Commission approve Hoosier Park's 2020 Standardbred racing official list and grant the Executive Director the authority to approve any changes to the list that occurs during the 2020 race meet.

Chairman Borst asked if there were any Commissioner questions. Hearing none, Chairman Borst asked for a motion and a second. Vice Chairman Schenkel moved to approve Hoosier Park's 2020 Standardbred racing official list, and amended his motion to grant the Executive Director the authority to approve any changes to the list that occurs during the 2020 race meet. Commissioner McCarty seconded the motion. The vote, by roll call, was unanimous 4-0.

9. Approval of Indiana Grand's 2020 Thoroughbred & Quarter Horse racing official list pursuant to 71 IAC 3.5-1-3. Introduction of new Indiana Grand VP and General Manager of Racing.

Eric Halstrom, Indiana Grand VP and General Manager of Racing, addressed the Commission about his return to Indiana after working in Indiana in the mid-90s. Mr. Halstrom discussed the paddock paver project being finished and upgrades to the Quarter Horse barn. Mr. Halstrom talked about Indiana Grand having a fantastic opportunity with the Indiana Derby and Indiana Oaks nationally due to the delay of the Kentucky Derby and Kentucky Oaks.

Mr. Jackson respectfully requested the Commission approve Indiana Grand's 2020

Thoroughbred and Quarter Horse racing official list and grant the Executive Director the authority to approve any changes to the list that occurs during the 2020 race meet.

Chairman Borst asked for a motion and a second. Commissioner McCarty moved to approve Indiana Grand's 2020 Thoroughbred and Quarter Horse racing official list, and amended his motion to grant the Executive Director the authority to approve any changes to the list that occurs during the 2020 race meet. Vice Chairman Schenkel seconded the motion. The vote, by roll call, was unanimous 4-0.

10. Indiana Grand request for promotional takeout reduction on Pick 5 wagering to stimulate wagering at off-track locations.

Deena Pitman, IHRC Executive Director, stated that the takeout, or Picking bets, are typically a popular wager, with bettors usually very aware of the higher takeouts in the twenty to twenty-five percent range. Therefore by Indiana Grand reducing the Pick 5 takeout to 11.99%, it could become one of the most popular wagers in the United States. The increase in popularity of the reduced takeout wager in many cases offsets the decreased revenue from lowering the takeout and can lead to an actual increase in purse money.

Mr. Halstrom stated he had submitted a letter with the cooperation of the HBPA, Quarter Horse group, and ITOBA. Further, 11.99% allows them to tell everyone the Pick 5 is the most attractive wager in the country.

Chairman Borst asked if there were any Commission questions, and hearing none, he asked for a motion and a second. Vice Chairman Schenkel moved to approve. Commissioner Pillow seconded the motion. The vote, by roll call, was unanimous 4-0 for conditional approval of Indiana Grand request for promotional takeout reduction on Pick 5 wagering to stimulate wagering at off-track locations.

11. Approval of RMTC certified split sample laboratories for 2020 and beyond pursuant to 71 IAC 8-4-3 and 8.5-3-3.

Ms. Pitman explained an updated list is submitted each year showing the group of certified laboratories used by the IHRC. The primary laboratory for the IHRC is Industrial Laboratories. The list also contains the approved split laboratories that will aid the Commission and the horsemen in doing a split sample should the horseman so choose. The laboratories are accredited through the RMTC. Ms. Pitman requested the Commission approve all of those laboratories.

Ms. Pitman explained a waiver pursuant to 71 IAC 8-4-3 and 8.5-3-3 is necessary for the two split laboratories (University of California Davis and University of Kentucky) on cobalt because few laboratories can test for cobalt, there is no current cobalt certification, and it limits our laboratory choices.

Vice Chairman Schenkel asked if last year's experience with testing was pretty favorable. Ms. Pitman replied our laboratory did a really good job last year. There was some backlogs with hair testing, which was new for 2019. Commission Staff expects the issue to be resolved this year.

Chairman Borst asked if there were any further questions, and hearing none, asked for a motion and a second for the approval of RMTC certified split sample laboratories for 2020 and beyond pursuant to 71 IAC 8-4-3 and 8.5-3-3, along with a waiver pursuant to 71 IAC 8-4-3 and 8.5-3-3 for the cobalt split laboratories. Vice Chairman Schenkel moved to approve. Commissioner McCarty seconded the motion. The vote, by roll call, was unanimous 4-0 for approval of RMTC certified split sample laboratories for 2020 and beyond pursuant to 71 IAC 8-4-3 and 8.5-3-3, along with a waiver pursuant to 71 IAC 8-4-3 and 8.5-3-3 for the cobalt split laboratories.

12. Review of commission rulings – November 26, 2019, through May 10, 2020.

Mr. Jackson explained the rulings were presented for the Commission's information and no vote was required. Mr. Jackson asked if there were any questions. There were none.

13. Consideration of Caesars request to amend 2020 CapEx for alternative 2020 purchases.

Ms. Pitman stated the racetracks came to her shortly after the start of the new year and wanted to switch some of the items that they were required to replace through the CapEx. They want to switch out casino and shuttle vans for additional tractors and lawnmowers that will aid in caring for the racetrack properties. The new request increases CapEx for 2020 beyond that required in the IHRC Final Order dated July 10, 2018. Ms. Pitman recommended approval.

Rick Moore, Vice President and General Manager of Racing for Harrah's Hoosier Park, stated it was a slight alteration on Hoosier Park's end. Hoosier Park found better equipment, a John Deere mower and a Ventrac tractor with attachments, which will actually do a better and safer job.

Ms. Pitman stated Indiana Grand had some specific items they wanted to switch out. Indiana Grand wants to switch out some items to purchase a generator for the track

lighting and tote board, plus some tote board additions. The switch would be about a \$90,000.00 addition.

Mr. Halstrom stated they were scheduled to buy eight shuttles, but two of the shuttles did not need to be replaced. Instead they wanted to replace two generators for track lighting and upgrade the tote board for a better presentation.

Chairman Borst asked if there were any questions. Hearing none, Chairman Borst asked for a motion to approve and second. Commissioner McCarty moved to approve. Vice Chairman Schenkel seconded the motion. The vote, by roll call, was unanimous 4-0 for approval of Caesars request to amend 2020 CapEx for alternative 2020 purchases.

14. Amendment to TVG's SPMO license.

Mr. Jackson stated TVG requests approval of an amendment to the advance deposit wagering operation plan for the secondary pari-mutuel organization ("SPMO") license granted to ODS Technologies, doing business as TVG Network for calendar year 2020. TVG has requested to amend its SPMO application to create a new entity known as FanDuel Racing, in order to build interest in a racing product through a familiar brand name. The back end of FanDuel Racing will still be under the complete control of TVG. Further, there have not been any changes to the behind-the-scene operation presented previously to the Commission. Mr. Jackson, on behalf of Commission Staff, respectfully requested approval to amend TVG's license.

Chairman Borst asked if there were any Commissioner questions. Hearing none, Chairman Borst asked for a motion to approve and second. Vice Chairman Schenkel moved to approve. Commissioner McCarty seconded the motion. The vote, by roll call, was unanimous 4-0 for approval of the amendment to TVG's SPMO license.

15. Review and consideration of 2020 Secondary Pari-Mutuel Organization license for PENN ADW, LLC, a subsidiary of Penn National Gaming, Inc.

Mr. Jackson explained the Commission Staff had undertaken a review of the PENN ADW SMPO application; had contracted with the Thoroughbred Racing Protective Bureau to review daily wagering data provided by each SPMO; and has also been in close contact with the Oregon Racing Commission, which has set itself up as a foremost authority on ADW operations, including conducting yearly audits and maintaining strict licensure requirement for each SPMO. PENN ADW is considered to be in good standing with the Oregon Racing Commission and Commission Staff respectfully requested approval of PENN ADW's application.

Chairman Borst asked if there were any questions by Commission members. Vice Chairman Schenkel asked if the Commission approved the request today would the authorization for PENN ADW be effective immediately. Mr. Jackson replied PENN ADW had been granted a probationary license, much like what was done with the original SPMO group licensed in December 2019 to allow PENN ADW to begin operations. They would be authorized as a full licensee immediately upon Commission approval.

Chairman Borst asked for a motion and a second. Vice Chairman Schenkel moved for approval of the 2020 Secondary Pari-Mutuel Organization license for PENN ADW, LLC, a subsidiary of Penn National Gaming, Inc. Commissioner McCarty seconded the motion. The vote, by roll call, was unanimous 4-0 for the approval.

16. Consideration of Indiana Grand's request for modification of previously approved live racing dates for 2020 pursuant to IC 4-31-5-9, IC 4-31-5-10, IC 4-31-5-10.5, and 71 IAC 11-1-7 due to the COVID-19 pandemic.

Mr. Jackson explained the Commissioners originally approved Indiana Grand's requested race dates as part of the operational plan at the December 3, 2019, meeting. As a result of the late start to the racing season due to the effects of the COVID-19 pandemic, Indiana Grand has requested a change in the approved race dates for 2020. Mr. Jackson, on behalf of Commission Staff respectfully requested Commission approval.

Chairman Borst asked if there were any questions from the Commission members. Hearing none, Chairman Borst asked for a motion and a second. Vice Chairman Schenkel moved to accept Indiana Grand's request for modification of previously approved live racing dates for 2020 pursuant to IC 4-31-5-9, IC 4-31-5-10, IC 4-31-5-10.5, and 71 IAC 11-1-7 due to the COVID-19 pandemic. Commissioner Pillow seconded. The vote, by roll call, was unanimous 4-0 for approval.

17. Consideration of Hoosier Parks request for modification of previously approved live racing dates for 2020 pursuant to IC 4-31-5-9, IC 4-31-5-10, IC 4-31-5-10.5, and 71 IAC 11-1-7 due to the COVID-19 pandemic.

Mr. Jackson explained that Hoosier Park, like Indiana Grand, has lost a number of race days previously approved by the Commission at the December 3, 2019, meeting. As a result of the late start to the racing season due to the effects of the COVID-19 pandemic, Hoosier Park has requested a change in the approved race dates for 2020. Mr. Jackson, on behalf of Commission Staff respectfully requested Commission approval.

Chairman Borst asked if there were any questions from the Commission members. Hearing none, Chairman Borst asked for a motion and a second. Commissioner McCarty moved to accept Hoosier Park's request for modification of previously approved live racing dates for 2020 pursuant to IC 4-31-5-9, IC 4-31-5-10, IC 4-31-5-10.5, and 71 IAC 11-1-7 due to the COVID-19 pandemic. Vice Chairman Schenkel seconded. The vote, by roll call, was unanimous 4-0 for approval.

18. Request the Indiana Horse Racing Commission delegate authority to approve any 2020 race matters prior to next commission meeting to Executive Director pursuant to 71 IAC 11-1-12.

Mr. Jackson explained race matters often come up between Commission meetings that need to be resolved before the next scheduled meeting. In order to maintain flexibility and to work with the horsemen and racetrack, it is sometimes necessary for the Executive Director to make decisions that may require action prior to the next scheduled meeting. Mr. Jackson, on behalf of Commission Staff, respectfully requested the Executive Director be delegated the authority to approve any 2020 race matters that are submitted.

Chairman Borst asked if there were any questions from the Commission members. Vice Chairman Schenkel asked if a motion was needed since the action was authorized under a statute. Chairman Borst answered that a motion was required. Vice Chairman Schenkel moved the Commission delegate authority to approve any 2020 race matters prior to a scheduled Commission meeting to the Executive Director pursuant to 71 IAC 11-1-12. Commissioner McCarty seconded. The vote, by roll call, was unanimous 4-0 for approval.

III. Old Business

There was no old business.

IV. New Business

Director Pitman stated horse racing has been experiencing some difficult times these past years, and how the industry collectively has come to the realization that horse welfare and safety should be a top priority in racing. One of the ways to accomplish this is through medication reform and regulation. The Association of Racing Commissioners International ("ARCI") is adopting tougher rules on nonsteroidal anti-inflammatory medication, intra-articular joint injections, and has kept open the possibility for further limits on phenylbutazone. Commission Staff has meet with IHBPA, ITOBA, QHRAI,

and ISA to begin a dialogue regarding the forthcoming rules so everyone is aware they are coming. Commission Staff's next step will be to post the rules on its website and add the rules to its monthly newsletters. Commission Staff plans to ask for industry feedback by later summer and ask the Commission to consider the proposed rules at the fall or end of the year 2020 Commission meeting.

Next Chairman Borst stated there have been phone calls and contacts from some of the horse owners about not being allowed on the backside of the track before racing has started. While empathizing with the owners, Chairman Borst stated the Commission is trying to keep number of people on the backside down to make it as safe as possible. Chairman Borst stated that Director Pitman had work hard with the Governor's office, track officials, and staff to make it possible to open on June 14th.

Chairman Borst thanked Director Pitman, Ms. Barnes, Ms. Arszman, and staff for making the Commission's first virtual meeting a reality.

V. Adjournment

The meeting was adjourned at approximately 2:25 p.m.

Memorandum of the Executive Session of the
Indiana Horse Racing Commission

May 28, 2020

Virtual Meeting via Microsoft Teams

Pursuant to public notice issued in compliance with IC 5-14-1.5-1 et seq., the Indiana Horse Racing Commission (the “Commission”) met in executive session at 12:30 p.m. on Thursday, May 28, 2020, in a Virtual Meeting. Commission members present were Philip C. Borst, Chairman; Greg Schenkel, Vice Chairman; George Pillow, member; Bill McCarty, member; and Deena Pitman, Executive Director. The Commissioners met pursuant to IC 5-14-1.5-6.1(b)(5).

No subject other than that authorized by IC 5-14-1.5-6.1 and identified in the public notice was discussed during the executive session.