



Delaware Thoroughbred Racing Commission  
Minutes of Public Meeting  
January 11, 2012

The Delaware Thoroughbred Racing Commission held a public meeting on Wednesday, January 11, 2012, at 10:30 a.m., in conference room 1 at The Department of Agriculture Office, 2320 S. DuPont Highway, Dover, Delaware 19901

The following Commission members were present:

Bernard J. Daney, Chairman
W. Duncan Patterson, Jr., Secretary/Commissioner
Debbie Killeen, Commissioner
Edward J. Stegemeier, Commissioner
Henry James Decker, Commissioner

The following individuals also were present:

Ed Kee, Delaware Secretary of Agriculture
Andrew Kerber, Esq., Deputy Attorney General, Commission Counsel
John F. Wayne, DTRC, Executive Director
Joe Strug, Laboratory Director, Dalare Associates, Inc.
John E. Mooney, Delaware Park, Executive Director of Racing
Michael Vild, Esq., Delaware Park, Sr. Vice President of Racing/General Counsel
Jeff Ganc, Delaware Park, Assistant Director of Security President
Madeline Locke, Owner, DTHA
Paul Trapani; Owner, DTHA Board Member
John T. Peters, D.V.M., DTRC, Chief Veterinarian
Kathleen Picciano, D.V.M., DTRC, Associate Veterinarian
Jane Teichner, V.M.D; DTRC, Associate Veterinarian
Susan Botts; V.M.D, Associate Veterinarian
Francis J. Swift, Jr., DTRC, Inspector
Ramon L. Rodriguez, DTRC , Inspector
Michael McCarthy, Jockey Agent
Bessie Gruwell, DTHA Executive Director
Richard Abbott, Esq. DTHA Counsel
Robert E. Colton, Director, Delaware Jockey's Association
Heriberto Rivera, Jr., Regional Manager, Jockey's Guild

1. **WELCOME AND CALL TO ORDER**

At 10:30 a.m., Chairman Daney called the meeting to order and welcomed those in attendance.

2. **APPROVAL OF MINUTES**

Upon a motion duly made by Debbie Killeen and seconded by H. James Decker the minutes of the October 18, 2011 meeting were approved as submitted.

Upon a motion duly made by Debbie Killeen and seconded by H. James Decker the minutes of the November 3, 2011 were approved as submitted.

3. **OLD BUSINESS**

There was no old business to discuss.

4. **NEW BUSINESS**

**Salix Discussion**

W. Duncan Patterson reported on the ARCI Board meeting in Tucson, Arizona, on December 9, 2011. The classification of Kentucky Red (Carbazochrome) as a class 4 drug. He explained that in the future, a practicing veterinarian will no longer be permitted to administer Salix. Salix administration under the new rule would have to be administered by regulatory veterinarians that are not practicing veterinarians at the track. In addition, no adjunct medications will be allowed. Commissioner Patterson continued that 11 out of 36 jurisdictions allow adjunct medications with Delaware being one of those. The practice of allowing adjunct medications on race day will be eliminated during 2012 and beyond.

Mr. Wayne recommended that the Commission consider hiring a veterinary service mirroring what the Delaware Harness Racing Commission does at Dover Downs and Harrington Raceway. Both of those facilities use the services of Dr. Jay Baldwin who is contracted by the DHRC to provide Salix on race days. Hiring the Veterinarian service would be a turn-key operation with supplies and billings being handled by the service. Mr. Decker asked about the proposed rule changes and action on Salix. If there's going to be a rule change it has to be 90 days. Mr. Wayne added that the proposed rule language would be worked on with the help of Mr. Kerber and ready for the Commission to review at their February meeting. Mr. Stegemeier also offered to help in the drafting of the language for the proposed rule.

**ADOPTED CHANGES IN ARCI**

Commissioner, Ed Stegemeier had a question about Model Rules Committee for ARCI; he asked for clarification that ARCI adopted some changes on the jockeys scale weight to allow more flexibility of the rules when three year olds compete against lower class horses. Commissioner Patterson explained the three year olds running against older horses based on the way the conditions could be written. The weights would really get low below 115 where the majority of the riders can't make those weights.

## **JOCKEY INSURANCE**

Commissioner Stegemeier also asked who is requiring disclosure to, what is the purpose and what powers does this group have regarding the track jockey insurance?

Commissioner Patterson related that the reason for it is, some tracks do not make it known what the track insurance is. In some cases the insurance has been modified and jockeys were not made aware of what the insurance was if any modification were made. Mr. Stegemeier stated that it would be only fair that they have this information.

Robert Colton discussed the insurance issue and if you don't know what the track policies and procedures are if you get hurt. He gave an example about PARX (Philadelphia Park) and explained that up until five years ago, PARX didn't even have insurance. They would tell you that you were covered when in fact the riders were not.

Heriberto Rivera said there were a lot of places that he has asked for a copy so they would have it in their office (Jockey's Guild in Lexington, Kentucky), but he was denied. Robert Colton also stated that he made his participating jockeys carry the insurance card because a lot of Doctor's offices would not make an appointment without verification of insurance.

## **Annual Structural Engineer's Safety Inspection of Public Areas**

The DTRC received a report from Delaware Park of an inspection conducted by MacIntosh Engineers certifying the safety of public areas. The report, dated 12-20-11 for project number 464.013 was submitted to the Commission for review. Mr. Decker asked John Mooney and Michael Vild if they knew what the conditions were in the Steward's stand. Mr. Vild answered and said he did not know if the engineers were actually in that room or not. Mr. Decker said he had not heard of any complaints about pigeon droppings or stuff scattered about. Mr. John Mooney replied that it was refurbished last year with new carpets and new furniture. He doesn't believe there have been any more complaints.

## **CAPITAL IMPROVEMENT BUDGET**

Commissioner Decker had several questions for Michael Vild. He asked how the capital Improvement budget is, what was allocated and is the total amount determined by the negotiations with the horseman? Mr. Vild advised that the allocation to racing and non-racing is if the improvement is something that is directly related to the racing operation, then 100% is dedicated to that project. If a project is something that supports or improves both, then it is allocated between racing and non-racing. Mr. Decker asked what mechanism is used to determine how much that will be. Mr. Vild responded saying that there was a contractual obligation with the horsemen to spend 2.5% of slot revenue on racing related capital improvements. The obligation is always the view that Delaware Park has exceeded that obligation by many millions of dollars over the years. Mr. Vild also explained that the 2.5% was the track's take of slot revenue and not total revenues and that the contract expired at the end of last year (2011). Mr. Decker asked Mr. Vild how critical it was to have certain items and their need for racing; such as spray tank truck and John Deere tractor for the main track. Mr. Vild explained that the tractors they have now working on the track, have exceeded their useful life. They are still functioning, but the recommended number of hours on those machines have been exceeded. "It's our expectation that we'll have new tractors this year," Mr. Vild advised. Mr. Vild continued that they deferred the purchase of a John Deere tractor last year and that it is included in the 2012 Capital budget.

### **CAPITAL IMPROVEMENT BUDGET (continued)**

Both Mr. Vild and Mr. Mooney advised that work is being done on the track; drainage of the track, the ditches on the inside rail and the purchase of the tractor is an important item. There is also major repairs scheduled for the training track which was heavily damaged during the flooding and hurricane that hit Delaware Park last fall. The storms and rainfall contributed to a lot of the silt being removed from the surface of the race track according to Mr. Mooney. Mr. Mooney added that the main track will be ready to resume service by April, 2012. Mr. Decker stated that there were a lot of complaints about the main track.

### **LIVE RACING SCHEDULE:**

Mr. Vild said that the negotiations are ongoing. Chairman Daney asked if they were close to an agreement, but Mr. Vild and Ms. Madeline Locke did not offer an answer. Commissioner Stegemeier asked if they will know before the next meeting?

Mr. Vild indicated that he could not answer that. Chairman Daney stated "the law says 100 days." Mr. Vild responded that for them to retain their slot license, they must comply with the law.

Ms. Bessie Gruwell commented that management wanted to reduce the number of days but they could not agree on the amount. She said they are facing the hardest negotiation they have ever had. They are working towards a solution, but it's not an easy solution.

Mr. Decker said that when the commission comes in every January, they are expecting some recommendations on agreed days. He said it seems that they are drifting into a pattern of pushing that back. He doesn't want them to think that February or March is ok, when we expect it to be settled by January.

Mr. Vild advised that they were not in disagreement with this, as John Mooney has been fielding calls from horsemen about stalls, start date, and purses. It is not good for Delaware Park not to be able to answer those questions.

## **5. REPORT FROM EXECUTIVE DIRECTOR**

### **A. Summary of Activities Report**

Executive Director Wayne presented Summary reports for November and December, 2011. Year end statistics are included in this report. The annual report will be completed before the end of January and will be posted on the internet on the DDA/DTRC web page.

Commissioner Stegemeier asked for an update on DCTP farm verifications. Mr. Wayne reported that one farm of interest, "Rlington Farm" located in Greenwood, Delaware was visited several times and found to be of concern. The farm or fields, was nothing more than a property that had several disabled vehicles on it, old tires strewn about and brush and grass about four feet high. This farm did not appear to be a place where someone would stable their thoroughbred in the program. Photos of the farm and concerns were expressed to program director, Ms. Jane Walters. DTRC concern is that the farm was listed on the DCTP web site as a "Delaware Certified Farm" which implies that it has met some standards to stable or house thoroughbreds. An out of state investor that may contact the farm owner, may get the false impression with a charming presentation that

## **REPORT FROM EXECUTIVE DIRECTOR (continued)**

the farm is more than what is really is. If an owner/investor did not do the due diligence personally, they would be subject to an unfavorable experience. Such an unfavorable experience would then subject the program and probably the Commission to some criticism.

Previously there was some concern that the Commission was verifying farms listed as Delaware Certified, however there have been instances where this practice has protected not only the Commission, the Department of Agriculture, but the horsemen's association and Delaware Certified Program as well. All information gathered by Mr. Wayne has been offered for examination to Ms. Walters if concerns develop. Commissioner Stegemeier commended the work done by Mr. Wayne on this project.

Ms. Locke advised that there were no horses on this farm (Rlington Farm) and that they will establish minimum standards for farms and believes that this is a good idea. Basic minimum standards should be a requirement, but owners really have to do their homework when they select a farm. Ms. Locke indicated that this could prove very embarrassing.

Commissioner Patterson said that he has brought this up before that they should have a minimum standard. There should be a minimum standard with the fencing, turnout sheds particularly with the publicity you're getting with the abuse of horses now. We should have some standards that you back up. Ms. Locke said that they have been reluctant to get involved with the farm operations. She also said that there is a reluctance of government to get involved in private enterprise and this committee was concerned about their getting involved in the business of the farm and they will make the necessary changes.

Mr. Decker concurred with the approach that Mr. Patterson related, but added that it might be wise to consider adopting the same philosophy of the commission, "Safety and Health of the horses and Individuals connected with riding is paramount to all other issues." Mr. Patterson raised an issue on a farm where there are no run-in sheds and where there is no shade. Especially in the Sussex County area where the climate may particularly difficult on animals that have no chance to get out of the direct sunlight. There should be concern from the DCTP and verifying the farms that participate in this program.

Bessie Gruwell commented to Commissioner Decker that they do inspect the horses, and observe the health of the horses. She continued that she did not think they ever had a horse on the farm that Mr. Wayne was referring to. They inspect every horse that goes through the program and they see the health of horses when they go to the farms. Some people that participate in the program may choose to pay the basic minimum and may choose another trainer that could cost them less money.

Agriculture Secretary, Ed Kee commented that this department has a responsibility for the wellbeing of animals and that's companion animal's pets, cows, chickens, horses and sheep. He stated that he understood the position of the horsemen. The News Journal puts in their headline stories about horses showing up somewhere and there's a problem. The News Journal is on it, and we are put on the defensive. Secretary Kee continued that

## **REPORT FROM EXECUTIVE DIRECTOR (continued)**

he could guarantee with one incident they would be dealing with PETA, USHS and a whole bunch of people that would not be good for the industry. "Having said that, I totally respect the Delaware Certified Program to run on their own and we would be glad to help with respect to your program" Secretary Kee concluded. Commissioner Patterson said that he would be glad to volunteer his time to participate. *(It was reported on 1-17-12 to the DTRC Executive Director via Ms. Walters that DTHA President, Madeline Locke, had contacted the owner of Rlington Farm and removed them as a Delaware Certified Farm and from their web site).*

## **6. REPORTS FROM CHIEF & ASSOCIATE COMMISSION VETERINARIANS**

### **A. Veterinary Health Statistical Report**

Dr. Peters gave the final report for the end of 2011 done by Dr. Picciano

Commissioner Stegemeier commented that it was not a very good year.

Dr. Peters said that it averages out to one per month more than the previous year.

Mr. Daney asked "is that because of the track?"

Dr. Peters replied, "that's part of it, I think. Part of it is fatigue of the horse. I'm not blaming the jockey but several times the horse is not doing well and they forced on when they should have pulled up, that's an opinion not a fact."

Commissioner Patterson relayed that the national average is 1.7. The previous two years we were below the national average and now we are certainly above it. That's a great concern.

Secretary, Ed Kee commented that he got significant calls over the last summer. "I am getting calls and complaints Mr. Mooney. I have something from a major Trainer with a list of horses that were injured before the hurricane, before the flood, through the summer. I worry about the condition of the horses but also negative publicity and the impact that occur outside of our community." Secretary Kee continued that he agreed with Mr. Decker, to hold a significant discussion before the next meeting. He also advised that he wanted to discuss the responsibility of all three vets that have to be on duty on any day and their communication with the horseman or anybody else about the condition of the animal or a problem with an animal. "That's on my radar screen too. I want to follow up with a meeting before February's meeting to discuss these issues and I am very serious about everything I am saying," Secretary Kee concluded.

Dr. Kathleen Picciano summarized her detailed report regarding the topics and discussion that she was present for at the American Association of Equine Practitioner's (AAEP) meeting held in San Antonio, Texas during December, 2011. Commissioner Decker complimented Dr. Picciano on her report.

## **7. REPORT FROM DELAWARE THOROUGHBRED HORSEMEN'S ASSN**

Delaware Certified Thoroughbred Program (DCTP)

Ms. Gruwell went over the Delaware Certified report dated January 10, 2012. She said that the enrollment was down in 2011; with the dropping the bonus money it dropped down the enrollment. They will have to pay back what they borrowed from the horsemen's association. They hope the program can continue. They dropped down to 40% they may have to drop down to 30%, they will see as they go.

**DTHA REPORT (continued)**

Commissioner Killeen asked Ms. Gruwell how much did they borrow from the horsemen, and why they borrowed it?

Mr. Gruwell replied that it was approximately \$85,000.00. They borrowed it because they used up all of their surplus depleting their funds.

Commissioner Decker asked “are you going to get a cash flow that will meet your obligations?” M. Gruwell replied that they receive a million dollars every year. Mr. Decker asked if they get the funds all at once? And Ms. Gruwell replied that they do and receive it in February each year. They then pay it out monthly while they are racing.

**9. PUBLIC COMMENT**

There was a general discussion over national racing matters. The Commission took a break for lunch and invited guests to join them.

**10. EXECUTIVE SESSION**

**11. ADJOURN**

Meeting was adjourned at approximately 1:45 p.m.

DELAWARE CERTIFIED THOROUGHBRED PROGRAM

Tuesday, January 10, 2012

2010	DCTP Applications	Foals	Yearlings	Totals
	Jan - Mar	0	15	15
	Apr - Jun	5	78	83
	Jul - Sept	25	110	135
	Oct - Dec	46	166	212
	<b>Total Applications</b>	<b>76</b>	<b>369</b>	<b>445</b>

2011	DCTP Applications	Foals	Yearlings	Totals
	Jan - Mar	0	32	32
	Apr - Jun	3	57	60
	Jul - Sept	9	63	72
	Oct - Dec	42	105	147
	<b>Total Applications</b>	<b>54</b>	<b>257</b>	<b>311</b>

2012	DCTP Applications	Foals	Yearlings	Totals
	Jan - Mar	0	2	2
	Apr - Jun	0	0	0
	Jul - Sept	0	0	0
	Oct - Dec	0	0	0
	<b>Total Applications</b>	<b>0</b>	<b>2</b>	<b>2</b>

Total DCTP Applications to date: 2891

2012 DCTP Horses of Racing Age: 2834

333 (2 yr. olds), 452 (3 yr. olds), 476 (4 yr. olds), 1573 (older horses),

Year	# of Starters	# of Starts	1st	2nd	3rd	20% DCTP Earnings	20% Certifier Awards	Total Annual Awards
thru 2012								
2011	414	1331	166	189	181	\$ 715,099.86	\$773,251.86	\$ 1,488,351.72
2010	364	1150	142	180	146	\$ 705,631.25	\$778,203.75	\$ 1,483,835.00
2009	287	922	105	120	121	\$ 511,810.00	\$584,382.50	\$1,096,193
2008	210	690	94	82	109	\$ 367,963.60	\$433,265.20	\$801,229
2007	271	608	90	87	102	\$331,809	\$355,609	\$687,418
2006	139	476	68	61	72	\$201,286.80	\$214,936.80	\$416,224
2005	99	366	52	49	53	\$179,690.00	\$193,340.00	\$373,030
2004*	56	134	20	19	19	\$44,947.00	\$44,947.00	\$89,894
2003*	9	17	7	3	2	\$13,505.00	\$13,505.00	\$27,010

Total DCTP

- \* DCTP owners and certifiers received 10% each bonuses in 2003 & 2004
- \* DCTP owners and certifiers received 15% each bonuses in 2005 thru May 2008
- \* DCTP owners and certifiers received 20% each bonuses beginning June 1, 2008
- \* DCTP owners and certifiers received 25% each bonuses beginning April 25, 2009
- \* DCTP owners and certifiers received 20% each bonuses beginning April 30, 2011

Current Delaware Farms enrolled: 82