



**Delaware Thoroughbred Racing Commission
Minutes of Meeting Held On
January 13, 2016**

The Delaware Thoroughbred Racing Commission held a meeting on
Wednesday, January 13, 2016, at 11:15 a.m., at the Department of Agriculture,
2320 South DuPont Highway, Dover, DE. 19901

The following Commission members were present:

W. Duncan Patterson, Jr., Chairman
Edward J. Stegemeier, Secretary/Commissioner
Henry J. Decker, Commissioner
Debra M. Killeen, Commissioner (via teleconference)
Richard A. Levine, Esq., Commissioner

The following individuals also were present:

John F. Wayne, DTRC, Executive Director
Andrew Kerber, Esq., Deputy Attorney General, Commission Counsel
Kevin DeLucia, Sr. Vice President & CFO, Racing–Administration, Delaware Park
John E. Mooney, Delaware Park, Executive Director of Racing
Chris Sobocinski, Delaware Park, Racing Information Coordinator
Jeff Ganc, Delaware Park, Assistant Director of Security, Delaware Park
Jerome Doro, Racing Secretary, Delaware Park
Bessie Gruwell, DTHA Executive Director
Robert E. Colton, Delaware Jockey's Association, Director
Pedro Lizarzaburu, DJH&WBB
Heriberto Rivera, Jr., Jockey's Guild Regional Manager
Francis J. Swift, Jr., DTRC, Inspector
John T. Peters, D.V.M., DTRC, Chief Commission Veterinarian
Fritz Burkhardt, DTRC, Steward
Pam Rash, DTRC, Administrative Asst. (Recording Minutes)

1. WELCOME & CALL TO ORDER

At approximately 11:19 a.m., Chairman Duncan Patterson called the meeting to order.

2. APPROVAL OF MINUTES

Upon a motion duly made (Decker) and seconded (Stegemeier) minutes of December 16, 2015 were approved.

3. OLD BUSINESS

A. Decision and Order for Ramon Preciado Appeal (ASR100-2015 & ASR 109-2015)

DAG Andrew Kerber presented the Decision and Order to the Commission for Signature. Commissioner Killeen will review electronically and provide Mr. Wayne an email stating she is in agreement. The Commissioners present signed the Decision and Order.

B. Claiming Rule – Voiding of Claims

Bessie Gruwell shared information she has gathered and indicated the horse men have discussed it. Maryland had an issue early on with having the one hour time after a horse was vanned off the track but they have not had any issues since then. Their rule has been in effect for two years. Maryland's claiming slip has a box to check if someone wants to automatically void the claim if the horse is vanned off; however, the person has the one hour to submit a void if they did not check the box.

The Commission asked for input and discussed the topic with Dr. Peters, John Mooney, Fritz Burkhardt and Bessie Gruwell after which a motion was made (Stegemeier) and seconded (Decker) and unanimously agreed upon to propose a new rule stating: "In the event that a horse dies during a claiming race or is euthanized on the race track during a claiming race, any claim made on that horse will be declared void." DAG Andrew Kerber will develop a draft of the rule to be published in the Registrar of Regulations.

C. Worker's Compensation Insurance

DAG Andrew Kerber shared his discussions with the Deputy Attorney General for the Labor Department and the Administrator for the Industrial Accident Board regarding the open case involving the hot walker. The case is scheduled for a hearing before the industrial Accident Board the week of January 25. DAG Kerber will attend the hearing and there will likely be a ruling at that meeting. He expects there to be a ruling upholding that she was an employee. DAG Kerber will then request proof of insurance from the owner involved. The complaint before the Insurance Commissioner is still pending.

According to input from meeting attendees, the hot walker has not been treated to date and she stated that she was having her finger operated on and that it would be paid by Medicaid.

4. NEW BUSINESS

D. Exchange Wagering

Chairman Patterson indicated Terry Meyocks shared with the Commission that New Jersey has approved Exchange Wagering. The problem with Exchange Wagering is a person can bet a horse to lose among other problems that could diminish the pari-mutuel handle. Chairman Patterson was told that New Jersey would accept wagering from Delaware Park or any race track unless that race track prohibited their patrons from participating in Exchange Wagering. The Commission wanted to know Delaware Park's position.

Kevin DeLucia was not aware that they could wager on New Jersey races via exchange wagering. Mr. Mooney indicated it is not being done through the tote system and felt it was being done through the Betfair system through a foreign country. Mr. DeLucia stated there has not been any discussion about this topic. He had no information about it and had not been approached regarding it.

Commissioner Decker questioned how a person could be prevented from betting through Exchange Wagering. Consensus was they cannot be prevented. Mr. DeLucia understands that Delaware residents can open an ADW account.

Chairman Patterson felt this topic should be monitored and advised Mr. DeLucia to find any additional information about this and asked him to provide any additional information he obtains at the March Meeting.

E. Live Racing Schedule and Approval of 2016 Live Racing License

Mr. Wayne advised the Commission that the check for the 2016 License Fee was received. He distributed the 2016 license for the Commissioners' signatures. Upon a motion duly made (Decker) and seconded (Levine) the racing season consisting of 81 live racing days, opening May 21 and running through October 15 was unanimously approved.

5. REPORT FROM DTRC EXECUTIVE DIRECTOR

Executive Director John Wayne submitted his written report to the Commission for the period November 1 to December 31, 2015. Points of interest read into the record included:

Summary of Activities Report for November and December, 2015

	<u>Nov/Dec 2015</u>	<u>Year-To-Date</u>
Number of Persons Fingerprinted	0	132
Fingerprint Fees Collected	\$0	\$10428
DTRC Licenses Issued	238	4,839
Fines & Appeal Fees Collected	\$2,550	\$33,550
License Fees Collected	\$12,695	\$185,005

Other Statistics During April

ARCI National Surveys answered	9
Contacts from Police Agencies	37
Contacts from Video Lottery Enforcement	10
Freedom of Information Act Request for Info	0
National Racing Compact Reviews	3
National Racing Compact Applications Rec'd	164
Contacts from Racing Industry Groups	35
Contacts from other Racing Commissions	59
Contacts from other Race Associations	29
Contacts from the General Public	24
Contacts from Horsemen	20
Media Contacts	6
Contacts from Racing Officials Accreditation Program (ROAP)	13

Commissioner Killeen asked if there were any outstanding fines not collected from the past year. Mr. Wayne indicated there were two (Donald Roberson and Julio Cartagena) with penalties and interest fees accumulating. These are extreme cases that do not happen often. There was discussion around penalties and fines and extending the suspension from the time the fine is paid. Chairman Patterson felt it should be in the Stewards ruling that if such fine is not paid within 48 hours the suspension is continued for "X" period of time once the fine has been paid. John Mooney expressed concern that such a ruling could discourage people from racing in Delaware. Mr. Wayne indicated those two were Class 1 penalties and were not common. Chairman Patterson felt it could be on a case-by-case basis.

Mr. Wayne shared there were 12 investigations with one issue that resulted in a letter being sent to the Secretary of Agriculture and the Commission Chairman about a verbal threat being made to a trainer inferring retaliation with a .45 caliber handgun. Mr. Wayne and Security performed a dormitory inspection. The occupant was not there at the time. A hot plate was confiscated. It was the same subject that had an earlier incident with an investigator in reference to the mail monitoring.

Mr. Wayne wanted to share an incident where a horse was injured at another track and was vanned back to Delaware Park where the horse was then euthanized. He spoke with the trainer to obtain an explanation as to why they would make an injured horse travel back to Delaware Park. The trainer stated she did not get a clear explanation from the veterinarian at Charlestown as to the condition of the horse. She spent the entire evening with the horse after it returned to Delaware Park. The trainer was distraught with the injury that was sustained by her horse. Mr. Wayne felt there was no negligence or intentional mistreatment. This death does not count in Delaware's statistics as it was not a horse injured at Delaware Park.

There were two Shock-Wave Therapy treatments done in November with eligibility to resume breezing in early December.

Mr. Wayne received notification from the Thoroughbred Owners and Breeders Association about changes to their 2016 Equine Drug Testing Protocols. It indicated they want 10% of the horses in graded stakes or listed stakes be tested for Cobalt. Horses were tested last year and no significant findings of Cobalt were

found, but to retain graded status in the TOBA offices, 10% of horses must be done. Out-of-competition testing will also continue. Mr. Wayne notified Dr. Hester at Truesdail of this change and Dr. Hester thanked him as no other jurisdiction had notified him of this new TOBA policy.

Mr. Wayne received a request from the Racing Association as to how to handle horses that are shipped in and do not have their foal papers on file and whether they will be allowed to race. They may be subject to a fine for not having foal papers on file, but the information available through Incompass is pretty comprehensive with tattoo number as well as verbatim statements from the Jockey Club foal certificate as to markings and the foal papers would be required within 48 hours of the race. Upon a motion duly made (Stegemeier) and seconded (Decker) DAG Andrew Kerber will prepare a proposal to add foal papers must be in office within 48 hours of the race.

Commissioner Decker questioned the concerns raised by the Department of Technology and Information regarding the positing of administrative rulings and what changes were made to the process that make it safer and how it relates to identity theft. Mr. Wayne shared that DTI indicated listing the last four digits of an individual's social security number is a security breach. All rulings now have the individual's date of birth and RCI identification number which is something maintained in the offices of the Association of Racing Commissioners International. This information is linked into the database used at Delaware Park as well as other jurisdictions. The ARCI number is only identifiable to that person and has no relation to the Social Security Number.

Commissioner Decker questioned the need to spend \$20,000 to join the state network. He felt that money should not be expended without the Commission's approval and the Commission has no information about this. Upon a motion duly made (Decker) and seconded (Stegemeier) it was proposed that no money be expended for duplicate networks unless approved by the Commission. Mr. Wayne stated they have done the survey and the costs were underestimated. The Department of Agriculture will pick up \$3,800 of the cost and will charge the Commission \$20,000. They want all state computers at Delaware Park to be under the state umbrella so they can monitor websites and activities. Chairman Patterson questioned if there is information on these computers that should not be accessed? Mr. Wayne indicated that there is data on the database that DTI does not have access to. The FBI indicated that DTI cannot access this information through the network. Commissioner Levine is not in favor of the motion until there is more information and explanation about the expenditure. Commissioner Decker withdrew his motion. He feels the fact that the process has not be done correctly and gone through the Commission for approval is consequential. Fran Swift indicated there are issues with the automatic updates that happen as part of the State network that causes problems to the database. Upon a motion duly made (Levine) and seconded (Decker) the Department of Agriculture and/or Department of Technology and Information will be asked to present an explanation to the Commission for the need to make changes to the network at a meeting on February 9, 2016 at 9:15 a.m. The Commission will also review resumes for the Steward's position

6. REPORT FROM DTRC CHIEF COMMISSION VETERINARIAN

Health Report

There was no report from the Commission Vet's office for November or December. Dr. Teichner has resigned and the position will be posted when the Secretary of Agriculture furnishes approval.

7. DELAWARE THOROUGHBRED HORSEMEN'S ASSOCIATION

Delaware Certified Thoroughbred Program Report

DTHA Executive Director, Bessie Gruwell filed their final report at the November meeting. She reported that there were 193 applications for 2015. The Legislative Reception hosted by the Delaware Thoroughbred Horsemen's Association will be held on January 20 in the Kent Room at Dover Downs from 5:30-8:00 p.m.

8. PUBLIC COMMENT

Robert Colton began a discussion on a helmet and vest replacement program for damaged helmets. He would like to propose new vest and helmet rule changes that would make Delaware's rules consistent with the mid-Atlantic rules by Spring. Only standard-based helmets and vest can be used. Under the current rules a minimum basis of British Rating #5 is stated. Mr. Colton indicated there has never been such a rating. The

current rules state that each jockey must wear a safety helmet approved by the Commission and a safety vest approved by the Commission. He indicated there has never been approved equipment or an approved list even though it cites it in the rules. He proposed that "...minimum British rating of number 5" be stricken from Rule 8.11.4 and that "approved by the Commission" for both helmet and vest be stricken from Rule 8.13.1. In addition, he proposed that a new rule stating safety items (helmet and vests) safety standards, product markings, alterations, damage, lifespan and the actual safety standards that are used around the world. The Australian standard conforms to the European standard and the United States does have some separate standards to that.

Upon a motion duly made (Levine) and seconded (Stegemeier) the proposed new rule be implemented with the exception of the heading "Altered, Damaged, Lifespan" be changed to "Altered, Lifespan" and the 4th paragraph beneath that heading be deleted. DAG Andrew Kerber will prepare this rule for publication in the Registrar of Regulations. All Commissioners voted in favor of this rule.

9. EXECUTIVE SESSION

None

10. ADJOURNMENT

Upon a motion duly made (Levine) and seconded (Decker) the meeting was adjourned at approximately 1:10 p.m.