



**Delaware Thoroughbred Racing Commission
Minutes of Meeting Held On
June 12, 2019**

The Delaware Thoroughbred Racing Commission held a Public meeting on Wednesday, June 12, 2019, at 10:05am at the Horsemen’s Office, Delaware Park, 777 Delaware Park Blvd., Wilmington, DE 19804

The following Commission members were present:

W. Duncan Patterson, Jr., Chairman
Henry J. Decker, Commissioner
Debra M. Killeen, Commissioner

The following individuals also were present:

John F. Wayne, DTRC, Executive Director
Andrew Kerber, Esq., Deputy Attorney General
Tony Langford, DTRC, Steward
Jean Chalk, Steward
Sarah Crane, DTRC, Inspector
Dr. Susan Botts, DTRC, Chief Veterinarian
Wayne Potts, Owner/Trainer
John E. Mooney, Executive Director of Racing, Delaware Park
Kevin DeLucia, Sr. Vice President & CFO, Racing-Administration, Delaware Park
Oliver Cleary, Delaware DOJ, Representing Stewards
Chris Sobocinski, Racing Information Coordinator, Delaware Park
Bessie Gruwell, DTHA, Executive Director
Eric Coatrieux, Safety Steward
Robert Colton, Delaware Jockeys’ Association
Rob Wilcox, Court Stenographer
Allyson Swartzentruber, DTRC, Administrative Asst. (Recording Minutes)

1. WELCOME & CALL TO ORDER

At approximately 10:04 A.M., Chairman Duncan Patterson called the meeting to order.

2. APPROVAL OF MINUTES (May 15, 2019 MEETING)

Upon a motion duly made (Decker) and seconded (Killeen), the minutes from the May 15, 2019 meeting were unanimously approved.

3. OLD BUSINESS

There was no old business to discuss

4. Report from DTRC Chief Commission Veterinarian – Health Report and Information

During the month of May, Dr. Botts reported there were a total of 3 training fatalities. Two 3 year-old horses suffered catastrophic humeral fractures, and 1 horse died suddenly during training. The postmortem report for this horse has not yet come back. 2 horses suffered left front fractures with extensive soft tissue damage, and 1 horse suffered exclusively from soft tissue damage (several ruptured tendons, etc.). Comparing our musculoskeletal fatality numbers for the month of May to previous years appear worse than they are because we started fewer horses so far this year than in the past.

Mr. Decker asked Dr. Botts for details regarding the reported 9 horses that were removed via ambulance. Dr. Botts explained that while some of horses were in fact euthanized after removal, it was not necessary for others, and they will be ready to race again after a recovery period.

Mr. Patterson asked Dr. Botts if she was seeing any patterns within the injuries on the track whether racing or training related. Dr. Botts replied that she does not think that there is a pattern. The 3 humeral fractures that she has seen to date this season have all occurred at different points on the track. The sesamoidal fractures have also occurred at different points on the track.

Ms. Killeen asked if Dr. Botts believed that these injuries were a result of the track's surface and/or weather conditions affecting the track's surface. Dr. Botts stated that to her memory, save for our most recent race day, track surface conditions have been good so far this season. She believes a number of things contribute to these fractures. Humeral fractures, for example, normally occur in older horses who have just come off of a lay-up, and the two that occurred in May were both 3 year-olds. She believes that these injuries were likely due to undiagnosed/unnoticed ongoing wear. Mr. Patterson asked if the sesamoidal fractures fit the usual pattern of there being a pre-existing condition. Dr. Botts said that yes, a couple of our postmortems showed chronic changes in the ankle fetlock.

Mr. Decker then asked Mr. John Mooney if the track has been inspected by the superintendent and if he had anything to add to Dr. Botts' evaluation of the conditions. Mr. Mooney responded that the track is in fact inspected every morning and night. There have been no holes, and no voice of dissatisfaction with the track's base. Mr. Mooney stated with certainty that these injuries are not track related. He has spoken to several practicing vets whose expressed opinions are that when these types of injuries occur in young (3 year-old) horses who are being worked for the first time, it is typically because of something like a hairline or stress fractures that happened when they were very young and went undetected.

5. NEW BUSINESS

A. Appeal of Trainer Wayne Potts Regarding Stewards Ruling 101-2018

At this time Mr. Patterson asked that Mr. Kerber explain the appeal procedure to Mr. Potts before the proceedings begin. Mr. Kerber first explained the presence of the hired court reporter who would be recording all of the testimony, stressing that anything Mr. Potts said during the appeal would be recorded. He introduced Deputy Attorney General Oliver Cleary and informed Mr. Potts that he would have an opportunity to speak after each witness testimony was presented. After Mr. Cleary finishes with each witness, Mr. Potts will know that it is his turn to ask questions regarding that testimony when Mr. Kerber asks "cross-examination Mr. Potts?" He explained that Mr. Potts' time to testify will come at the end of the proceedings, after he is sworn in as a witness. After Mr. Potts has given his testimony and the record is closed, the Commissioners will deliberate in full view of Mr. Potts, after which time the session goes back on record for the recording of their decision. When Mr. Kerber asked, Mr. Potts confirmed that he understood the process as it was explained to him. Mr. Kerber then explained that it will be his job to keep the proceedings on track and running smoothly.

The appeal went on record at approximately 10:12am at which time Mr. Kerber announced the commencement of Mr. Potts' appeal of Stewards ruling 101-2018. The Stewards' decision was that there was prohibited claiming practice and breaking of DTRC rules 13.13 and 13.13.4. Mr. Kerber

asked Mr. Potts if it was correct that though he had the right to obtain an attorney, he was going to be representing himself. Mr. Potts did not wish to be representing himself, he had attempted to retain Mr. Gary Katz as counsel, but stated that he received his appeal date on 6/5/19, not giving him enough time to do so. Mr. Potts called Mr. John Wayne on 6/11/19 (Notice mailed on May 10, 2019) requesting a continuance on the basis that he was unable to obtain counsel. Mr. Kerber reminded Mr. Potts that per DTRC rules, a continuance must be requested at least 96 hours before the scheduled appeal date and time.

At this time Mr. Cleary was asked to present his first witness. Before he began he wished to make a note for the record that Mr. Pott's appeal notice letter was mailed on 5/10/19, giving adequate time for Mr. Potts to obtain counsel and for any out-of-state counsel to file for pro hoc vice status to represent him.

Mr. Cleary then called Steward Tony Langford to testify. Mr. Langford was then sworn in by court reporter Rob Wilcox, explained his pertinent witness credentials, and stated his familiarity with the Stewards' previous ruling against Mr. Potts which resulted in his being fined \$1,500 and suspended for 30 days. The Stewards reached their decision based on DTRC claiming rules 13.13.1 and 13.20. Verbatim testimony was taken by court reporter Wilcox and may be requested at any time.

At this time Mr. Cleary presented evidence in the form of the video recording of Mr. Jeffrey Englehart's hearing in which Mr. Englehart was found guilty of conspiring with Mr. Potts to sidestep DTRC claiming rules in order to purchase horse "Sky Chaparral." Mr. Englehart accepted his penalty and did not appeal the Stewards' decision. Content of this video was not recorded by the court reporter due to logistical issues. The responses and questions to the video's contents were however recorded by the court reporter. The video remains on file and may be reviewed for its information at any time.

At the conclusion of the video Mr. Patterson called for a brief recess beginning at 11:05am and ending at 11:13am. At this time the session went back on record. Mr. Patterson asked how this video evidence correlated with Mr. Pott's hearing and appeal, as it appeared to him that it did not directly impact this case. Mr. Langford stated that Mr. Peter Wasiluk and Mr. Joe Englehart's testimony during Mr. Jeffrey Englehart's hearing implicated Mr. Potts as an accomplice in the prohibited claiming practices.

At 11:15am Mr. Cleary played the video evidence of Mr. Potts' initial hearing which resulted in Stewards Ruling 101-2018 against Mr. Potts. The session went back on record at 11:22am at which time Mr. Cleary submitted into evidence the related, subsequent ruling against Mr. Jeffrey Englehart. Mr. Decker asked Mr. Langford what led him to believe that Mr. Potts had participated in prohibited claiming practices if Mr. Potts did not sell "Sky Chaparral" to Mr. Englehart until after 31 days had passed. It is Mr. Langford's belief that it is not a mere coincidence that "Sky Chaparral's" eventual owner (Jeffrey Englehart) would transfer \$6,600 into Mr. Potts' horsemen's account on the day that Mr. Potts claimed the horse. Mr. Langford also noted that the three other gentlemen tied to Mr. Potts concerning "Sky Chaparral" having accepted the Stewards' ruling against them for false claiming is incriminating for Mr. Potts. Verbatim testimony was taken by court reporter Wilcox and may be requested at any time.

Mr. Potts was now sworn in by the court reporter. The Commission then heard the testimony of Mr. Potts. Stated transfer of \$6,600 from Mr. Jeffrey Englehart was not necessary to enable him to claim "Sky Chaparral," that he already had sufficient funds in his horsemen's account to claim. Also stated that he is very active in the claim box, claiming 5 to 7 horses per week. He then added that he frequently sends horses to the Finger Lakes when they are not working here, that his frequent claims make stable space limited. Mr. Potts then submitted as evidence an invoice for 2 horses that he had previously sold to Mr. Englehart, stating that the \$6,600 transfer in question was for the remaining balance of that sale. Mr. Potts maintains that he did not claim the horse for Mr. Englehart, but for his own purposes.

Mr. Kerber then introduced and played the video of the Stewards hearing of Mr. Jeffrey Englehart on the false claiming of "Sky Chaparral." The video remains on file and may be reviewed for its information at any time.

At the completion of the video Mr. Cleary was asked to submit into evidence Mr. Jeffrey Englehart's M&T Bank record showing the transfer of \$6,660 dollars into his horsemen's bookkeeper's account on July 10, 2018. This was followed by a July 11th email from Mr. Englehart to horsemen's bookkeeper Cindy Houghton giving permission for the wired money to be transferred to the Wayne Potts account. Mr. Cleary then submitted the statement of account of Mr. Potts, the bill of sale between Mr. Potts and Mr. Englehart regarding "Sky Chaparral," and the bills of sale between Mr. Potts and Mr. Englehart regarding "Kinder" and Lithium Z."

Investigator Sarah Crane was then sworn in by the court reporter. Ms. Crane testified that the Stewards did ask investigator Applebee and herself to look into the false claiming practices surrounding "Sky Chaparral," but that she and Ms. Applebee were excused from the room while the Stewards deliberated on the matter. Investigators were not asked to give a recommendation regarding penalties. All individuals involved cooperated fully with the investigation, receiving the bills of sale from Mr. Potts was a lengthy process.

Mr. Potts then submitted a copy of his bank records showing a deposit of \$10,000 made on September 16, 2018 to coincide with the submitted bill of sale for "Sky Chaparral," dated September 14, 2018, which was previously submitted.

Ms. Killeen asked and the rule was confirmed that one may sell a claimed horse after a 30 day period.

Mr. Cleary and Mr. Potts then gave their closing arguments.

The Commissioners went off record for deliberations at approximately 1:06pm.

The Commissioners reached their decision and went back on record at approximately 1:24pm. Motion by Ms. Killeen, second by Mr. Decker to modify the ruling of the Stewards from a \$1,500 fine and a 30 day suspension, to a \$5,000 fine and a 5 day suspension. Killeen and Decker aye, Patterson opposes. Motion passes. Hearing is closed at 1:25pm.

6. Report from DTRC Executive Director

A. Summary of Activities Report for April 2019

At this time, Mr. Wayne presented his Summary of Activities report for the month of May, 2019.

	<u>Year-To-Date</u>
Number of Persons Fingerprinted	170
Fingerprint Fees Collected	\$12,956.00
DTRC Licenses Issued (734 + 3 duplicates this month)	2,277
Fines & Appeal Fees Collected	\$6,206.58
License Fees Collected or Billed	\$80,120.00

8 National Surveys from ARCI
12 Horsemen Contacts
3 Video Lottery Enforcement Unit (VLEU) Contacts
11 Contacts from other Commissions
4 Police & Law Enforcement Contacts
6 ROAP Contacts
0 Review of National Racing Compact Application
50 Total National Racing Compact Applications Received (Delaware)

4 Industry Contacts
6 Racing Association Contacts
0 Media Contacts
0 FOIA Request
11 Public Contacts

7. Report From Thoroughbred Horsemen's Association

A. Delaware Certified Thoroughbred Program Report

At this time, Mrs. Gruwell presented the Delaware Certified Thoroughbred Program Report. The Program received (19) applications from April 1st to May 31st bringing the year-to-date total to (30).

There was \$158,295 in bonuses paid to certifiers and owners for 1st, 2nd, 3rd, and 4th place finishes during the month of May.

The Program now has a beginning balance of \$1,356,156.91 after May interest of \$1,219.48.
Note: balance does not reflect the \$158,295 in bonus payouts.

The carryover from 2018 was \$400,662.13.

Ms. Gruwell believes we should not be concerned that we only have 30 horses through May, as the bulk of the new horses come the last couple months of the year. Mr. Patterson noted that around 20% of our starters are Delaware certified. Ms. Gruwell believes that this is because of the positive influence of the program, adding that we have horses coming in from Texas for the first time. Many owners are keeping their horses here past the requisite 90 days.

Ms. Gruwell touched briefly on the subject of uncoupling same-owner entries. Many other tracks in the area have done this to increase their field sizes. Mr. Patterson voiced his support for the concept and indicated Stewards' support would be integral, and that they have not given it in the past. Discussion is tabled for now while Ms. Gruwell gathers information on other states' rules on uncoupling. Whatever decisions are made on the subject will not go into effect until 2020.

Ms. Gruwell has also received inquiries about our waiving claim rule. Ours is currently 180 days. Others in our region 120 days. The void claim rule is also not uniform. She has compiled data on the waver claim rule for consideration at a later meeting.

8. PUBLIC COMMENT

There was no public comment at this time.

9. EXECUTIVE SESSION

The Commission did not enter into Executive Session during this meeting.

10. ADJOURNMENT

Upon a motion duly made (Decker) and seconded (Killeen), public session was adjourned at approximately 1:47 pm.

**DELAWARE PARK
2019 BREAKDOWN/INJURY STATISTICS**

2007	2006	2005	2004	2003	2002
8536	9318	10100	9967	10,184	10,962
171	185	210			
53	76	90			
37	27	31			
63	71	69			
18	11	20			
44	55	52			
38	45	46			
6	10	6			
11	12	15	10	17	18
10	9	15			
0	2	0			
1	1	0			
1.17	0.97	1.49	1	1.67	1.56
5	8	7			
5	7	6			
0	0	1			
0	1	0			
5	8	9			
0	2	2			
1	3	1			
2	0	0			
0	0	0			
0	0	0			
2	3	6			

Bessie's DCTP Report July 1 , 2019
Yearly Stats and Amounts

2019 DCTP Applications	Weanlings	Yearlings	Total
Jan - Mar	2	9	11
Apr - Jun	4	34	38
July - Sept			
Oct - Dec			
Total Applications			49

2018 DCTP Applications	Weanlings	Yearlings	Total
Jan - Mar	1	15	16
Apr - Jun	3	26	29
July - Sept	21	39	60
Oct - Dec	56	140	196
Total Applications			301

2017 DCTP Applications	Weanlings	Yearlings	Total
Jan - Mar	0	22	22
Apr - Jun	1	30	31
July - Sept	4	47	51
Oct - Dec	41	95	136
Total Applications	46	194	240

2016 DCTP Applications	Weanlings	Yearlings	Total
Jan - Mar	1	20	21
Apr - Jun	2	24	26
July - Sept	14	33	47
Oct - Dec	38	93	131
Total Applications	55	170	225

2015 DCTP Applications	Weanlings	Yearlings	Totals
Jan - Mar	0	15	15
Apr - Jun	0	28	28
Jul - Sept	14	40	54
Oct - Dec	33	65	98
Total Applications	47	148	195

Bessie's DCTP Report July 1, 2019

Yearly Stats and Amounts

2019	Certifier Bonus		Owner Bonus	Total for Month
May	\$ 79,147.50	\$	79,147.50	\$ 158,295.00
June	\$ 82,955.00	\$	82,955.00	\$ 165,910.00
July				
Aug				
Sept				
Oct				

Total

<u>2018</u>	Certifier Bonus		Owner Bonus	Total for Month
May	\$ 10,145.00	\$	10,145.00	\$ 20,290.00
June	\$ 98,835.00	\$	98,835.00	\$ 197,670.00
July	\$ 107,297.50	\$	107,297.50	\$ 214,595.00
Aug	\$ 98,092.50	\$	98,092.50	\$ 196,185.00
Sep	\$ 214,852.50	\$	114,852.50	\$ 329,705.00
Oct	\$ 62,120.00	\$	62,120.00	\$ 124,240.00

Current Total \$ 1,082,685.00

Special Acct - Monthly	Balance - 2019	
January	\$ 1,000,000.00	\$ 1,400,662.13
January - 5%	\$ (50,000.00)	\$ 1,350,662.13
January interest	\$ 991.87	\$ 1,351,654.00
February Interest	\$ 1,032.13	\$ 1,352,686.13
March interest	\$ 1,143.64	\$ 1,353,829.77
April interest	\$ 1,107.66	\$ 1,354,937.43
May Interest	\$ 1,219.48	\$ 1,356,156.91
May Bonus	\$ 158,295.00	\$ 1,197,861.91
June Bonus	\$ 165,910.00	\$ 1,031,951.91
June Interest	\$ 1,035.56	\$ 1,032,987.47

Bessie's DCTP Report July 1, 2019
Yearly Stats and Amounts

Year June	# of Starter:	# of Starts	1st	2nd	3rd	4th	5th	25% Cert	25% Owner	Totals
2019	206	245	33	32	34	33	38	\$ 162,102.50	\$ 162,102.50	\$ 324,205.00
2018	292	694	104	100	119			\$ 591,342.50	\$ 491,342.50	\$ 1,082,685.00
2017	229	625	87	71	89			\$ 431,127.50	\$ 351,502.50	\$ 782,630.00
2016	204	631	73	86	93			\$ 376,033.12	\$ 322,783.12	\$ 698,816.24
2015	240	709	97	106	115			\$ 446,250.00	\$ 499,500.00	\$ 945,750.00
2014	271	779	105	105	112			\$ 478,120.75	\$ 531,371.57	\$ 1,009,492.32
2013	270	713	97	99	102			\$ 416,504.00	\$ 470,722.00	\$ 887,226.00
2012	318	943	138	140	146			\$ 437,340.00	\$ 409,503.00	\$ 846,843.00
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	\$ 1,096,192.50
2008	210	690	94	82	109			\$ 367,963.60	\$ 433,265.20	\$ 801,228.80
2007	271	608	90	87	102			\$ 331,809.00	\$ 355,609.00	\$ 687,418.00
2006	139	476	68	61	72			\$ 201,286.80	\$ 214,936.80	\$ 416,223.60
2005	99	366	52	49	53			\$ 179,690.00	\$ 193,340.00	\$ 373,030.00
2004	56	134	20	19	19			\$ 44,947.00	\$ 44,947.00	\$ 89,894.00
2003	9	17	7	3	2			\$ 13,505.00	\$ 13,505.00	\$ 27,010.00
										\$ 13,040,831.18