



**Delaware Thoroughbred Racing Commission
Minutes of Public Hearing and Commission Meeting
September 22, 2009**

The Delaware Thoroughbred Racing Commission held a Public Hearing and Commission Meeting on Tuesday, September 22, 2009, at 10:00 AM, in the second floor conference room of the Horsemen's Office, located on the grounds of Delaware Park, 777 Delaware Park Boulevard, Wilmington, Delaware 19804.

The following commission members were present:

| |
|--|
| Bernard J. Daney, Chairman |
| W. Duncan Patterson, Jr., Secretary/Commissioner |
| Debbie Killeen, Commissioner |
| Edward J. Stegemeier, Commissioner |

The following commission members were excused:

| |
|----------------------------------|
| Henry James Decker, Commissioner |
|----------------------------------|

The following individuals also were present:

| |
|--|
| John F. Wayne, DTRC, Executive Director |
| Andrew Kerber, Esq., Deputy Attorney General, Commission Counsel |
| Bessie Gruwell, DTHA, Executive Director |
| G. Jack Houghton, Jr., DTRC, Chief Steward |
| Kimberly Hurley, Wilcox & Fetzer, Certified Court Reporter (excused at 10:31 AM) |
| Madeline Locke, Owner and DCTP Certified Farm |
| John E. Mooney, Delaware Park, Executive Director of Racing |
| Scott Peck, DTHA, President, Owner/Trainer, and DCTP Certified Farm |
| Shelley Perkins, DTRC, Paralegal I, Recording Minutes |
| John T. Peters, D.V.M., DTRC, Chief Veterinarian |
| Kathleen Picciano, D.V.M., DTRC, Associate Veterinarian |
| Ramon Rodriguez, TRPB, Agent |
| Joseph Rudisill, Delaware Park, Senior Vice President of Compliance |
| Harland W. Sanders, Assistant Trainer for Tom Greene |
| Mark Schaeffer, Georgetown, Delaware, owns land in Georgetown, Delaware (msg@delaware.net / 302-423-4801) |
| Joseph Strug, Dalare Associates, Inc., Laboratory Director |
| Francis J. Swift, Jr., DTRC, Inspector |
| Michael Vild, Esq., Delaware Park, Vice President and General Counsel |

1. **WELCOME & CALL TO ORDER**

Chairman Daney called the meeting to order at 10:03 AM, and welcomed those in attendance.

2. **APPROVAL OF MINUTES**

Upon a motion duly made (Patterson) and seconded (Killeen), Minutes of August 18, 2009, were approved as submitted.

3. **OLD BUSINESS**

A. **Delaware Jockey's Health & Welfare Benefit Board – Edward J. Stegemeier, Chairman**

1. **Wellness Center**

Chairman Stegemeier, acting upon the advice of Commission Counsel Kerber, ordered the DJH&WBB to re-convene at 9:30 AM on Tuesday, October 20, 2009, to consider whether funding of the Wellness Center is in accordance with the Board's statutory powers.

2. **Injured Jockey**

Chairman Stegemeier advised the Commission that Mr. Eugene Olmo, Jr., is recovering from injuries sustained during the running a race at Delaware Park in September 2009.

B. **4mm Toe-Grab Emergency Rule**

As stated to the Commission at it's August 18, 2009 Commission meeting, Delaware Park adopted the Commission's "**EMERGENCY REGULATION 1.0 – Toe Grabs**" (enacted June 23, 2009) as a Delaware Park house rule. House rule changes are enacted immediately.

4. **NEW BUSINESS**

A. **Public Hearing on Proposed Rule Change – Rule 11.4.1**

The Thoroughbred Racing Commission, in accordance with 3 Del.C. §10103(c) proposes changes to its Rules & Regulations. The proposal amends **Rule 11.4.1 Mutuel Entries** by striking the last sentence to allow trainer-owned horses to be uncoupled, different owner entries.

At 10:20 AM, Commission Counsel, Andrew Kerber, called the public hearing to order. Verbatim testimony recorded by Wilcox & Fetzer.

Upon a motion duly made (Patterson) and seconded (Stegemeier) the proposed rule change is approved as submitted and the attached Final Order submitted to the Registrar for publication in Register of Regulation. (Attached document #1)

B. **2009 Live Racing Dates and proposed modification of schedule**

In a letter, dated September 9, 2009, (Attached document # 2) Delaware Park requested that the number of live racing dates be reduced from 116 days to 109 days.

Chairman Daney inquired, and DTHA Executive Director, Ms. Bessie Gruwell, confirmed the DTHA's agreement with Delaware Park's request.

Upon a motion duly made (Patterson) and seconded (Killeen) the proposed modification is approved as submitted.

C. Letter from Del Pointe Resort to DTRC

Executive Director, John F. Wayne, read into the record the attached letter (**Attached document # 3**), dated September 3, 2009, from Mr. Ronald Lankford of Del Pointe Resort & Casino.

- Commission Counsel, Andrew Kerber, confirmed that a license to conduct harness racing had been granted to Del Pointe Resort & Casino by the Delaware Harness Racing Commission. Secretary/Commissioner Patterson advised Mr. Kerber of an impromptu conversation at a social gathering held several weeks ago, between Mr. Patterson and a lobbyist for Del Pointe.
- Executive Director Wayne suggested, and the Commission agreed, Del Pointe should submit their business plan to the Commission for formal review.

Upon a motion duly made and seconded, Commission Counsel Kerber is directed, together with Executive Director Wayne, to schedule a meeting with Del Pointe, for the purpose of obtaining a formal business plan for submission and review by the DTRC.

5. REPORT FROM EXECUTIVE DIRECTOR

A. Summary of Activities Report

Executive Director Wayne presented the Summary of Activities Report for the period August 1 – 31, 2009.

6. REPORT FROM CHIEF COMMISSION VETERINARIAN

A. Veterinary Health Statistical Report

Chief Commission Veterinarian, Dr. John Peters, submitted the report for the period ending August 31, 2009.

B. Shock Wave Therapy Report

Dr. Peters reported 48 treatments delivered off-track.

As directed by the Commission on August 18, 2009, Delaware Park Chief Counsel, Mr. Michael Vild, submitted changes to Delaware Park's house-rule policy. (**Attached document # 4**)

7. REPORT FROM DELAWARE THOROUGHBRED HORSEMEN'S ASSOCIATION (DTHA)

A. Delaware Certified Thoroughbred Program Report

DTHA Executive Director, Bessie Gruwell, reported the following through August 31, 2009. (**Attached document # 5**)

| | |
|-------------------------------------|----------------------------------|
| 238 = # of Starters | \$357,152 = 25% DCTP Earnings |
| 652 = # of Starts | \$429,725 = 25% Certifier Awards |
| 74 = 1 st Place Finishes | \$786,878 = Total Annual Awards |
| 80 = 2 nd Place Finishes | |
| 87 = 3 rd Place Finishes | |

8. EXECUTIVE SESSION

At 11:03 AM, upon a motion duly made (Patterson) and seconded, the Commission was entered into Executive Session to discuss personnel issues.

At 11:17 AM, the Commission was returned to Public Session.

9. ADJOURN

At 11:20 AM, upon a motion duly (Killeen) and seconded (Stegemeier) the meeting was adjourned.

DEPARTMENT OF AGRICULTURE

THOROUGHBRED RACING COMMISSION

Statutory Authority: 3 Delaware Code, Section 4815(b)(3)(C)(3) (3 Del.C. §10005; 29 Del.C. §4815(b)(3)(c)(3))
3 DE Admin. Code 1001

FINAL ORDER

Pursuant to 29 Del.C §10108(c) and 3 Del.C §10103, the Delaware Thoroughbred Racing Commission issues this Order adopting proposed amendments to the Commission's Rules. Following notice and a public hearing on September 22, 2009, the Commission makes the following findings and conclusions:

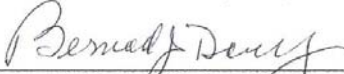
Summary of the Evidence

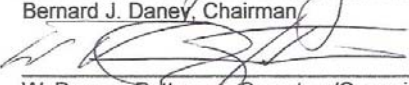
1. The Commission posted public notice of the proposed amendments in the September 1, 2009 *Register of Regulations* and for two consecutive weeks in *The News Journal* and *Delaware State News*. The Commission proposed to amend Section 11.0 Entries, Subscriptions, Delegations by amending existing Rule 11.4.1 Mutuel Entries by striking the last sentence to allow trainer-owned horses to be uncoupled, different owner entries.
2. The public was given notice and an opportunity to provide the Commission with comments in writing and by testimony on September 22, 2009, at the public hearing on the proposed amendments to the Commission's Rules.

Findings of Fact and Conclusions

1. The public was given notice and an opportunity to provide the Commission with comments in writing and by testimony on September 22, 2009, at the public hearing. No comments were received by writing. Comments received by testimony held in favor of the amendments.
2. The Commission concludes that the proposal to amend Section 11.0 Entries, Subscriptions, Delegations by amending existing Rule 11.4.1 Mutuel Entries by striking the last sentence to allow trainer-owned horses to be uncoupled, different owner entries should be adopted.
3. The effective date of this Order will be ten (10) days from the publication of this Order in the *Register of Regulations* on October 1, 2009.

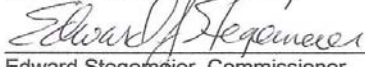
IT IS SO ORDERED this 22nd day of September 2009.


Bernard J. Daney, Chairman


W. Duncan Patterson, Secretary/Commissioner

Henry James Decker, Commissioner


Debbie Killeen, Commissioner


Edward Stegemeyer, Commissioner

DELAWARE  PARK®
RACING ♦ SLOTS ♦ GOLF

September 9, 2009

VIA HAND DELIVERY

Bernard J. Daney
Chairman
Delaware Thoroughbred Racing Commission
777 Delaware Park Blvd.
Wilmington, DE 19804

RE: Live Racing Dates for 2009 Meet

Dear Mr. Daney:

By this letter, Delaware Racing Association (“Delaware Park”) respectfully requests that the Delaware Thoroughbred Racing Commission (the “Commission”) amend the license for Delaware Park’s 2009 live racing meet. In particular, Delaware Park requests that the number of live racing dates be reduced from 116 days to 109 days.

To date, the 2009 live racing meet at Delaware Park has been very successful. We have experienced a marked increase in the number of entries per race. In addition, despite handle decreases across the country, our handle is up substantially this year over last year. Nevertheless, in order for Delaware Park to maintain its current daily purse structure, a reduction of race days is necessary. The primary reason for the shortfall in the purse account is that the purse subsidy from video lottery revenue is significantly lower than expected. The reduction in the purse subsidy from video lottery revenue is a consequence of both the economic downturn and of the change in the video lottery revenue allocation, which reduced funds earmarked for purses by 10%.

Based upon the foregoing factors, Delaware Park and the Delaware Thoroughbred Horsemen’s Association met and agreed to amend our agreement to reduce the number of race days for the 2009 live meet from 116 to 109. If the Commission approves the change, the live race meet will end on Monday, October 26. Delaware Park respectfully requests that the Commission approve the change and amend Delaware Park’s license.

Respectfully yours,


Michael L. Vild

Cc: John F. Wayne
Bessie Gruwell
D. Scott Peck
Joseph C. Schoell
William M. Rickman, Jr.
William Fasy
John Mooney



September 3, 2009

Mr. John Wayne, Executive Director
Delaware Thoroughbred Racing Commission
777 Delaware Park Blvd
Wilmington, DE 19804

Dear Mr. Wayne:

Del Pointe, LLC currently holds a license with conditions to operate a harness racing track from the Delaware Harness Racing Commission. It is our intent to construct a one-mile track in Millsboro, Delaware for the purpose of conducting harness racing in the July-August period of 2010 at the earliest and 2011 at the latest.

In our construction plans for the one-mile track, it has been suggested that we include the infrastructure for a 7/8 mile turf track just inside of the harness track to accommodate the possibility of thoroughbred racing in the future. Before we make that decision and begin the construction, it would be helpful if we could meet with the Thoroughbred Commission to discuss this possibility.

Your response from the Commission would be greatly appreciated.

Kind Regards,

A handwritten signature in black ink that reads "Ronald E. Lankford".

Ronald E Lankford
Del Pointe Principal

DELAWARE RACING * SLOTS



September 16, 2009

VIA HAND DELIVERY

Bernard J. Daney
Chairman
Delaware Thoroughbred Racing Commission
777 Delaware Park Blvd.
Wilmington, DE 19804

RE: Shock Wave Therapy

Dear Mr. Daney:

The purpose of this letter is to advise the Delaware Thoroughbred Racing Commission (the "Commission") of a change to the house rule of the Delaware Racing Association ("Delaware Park") relating to the use of shock wave therapy on the Delaware Park grounds.

Delaware Park's new house rule is as follows:

- Shock wave therapy machines will be permitted on the Delaware Park grounds only in the possession of a Commission licensed veterinarian who has registered the machine with the Commission in accordance with Commission rules. No person other than a Commission licensed veterinarian may operate a shock wave therapy machine on the grounds.
The practicing veterinarian administering the treatment shall report all shock wave therapy treatments to the Commission veterinarian on the appropriate treatment form.
No horse treated with shock wave therapy (whether on or off Delaware Park grounds) may race, breeze, or work for a minimum of 10 days following treatment.
The Commission veterinarian must be present during treatment to verify the identity of the horse to be treated. All treatment records will be entered into the Encompass system.

The new house rule is effective immediately.

As always, I am available at your convenience if you or the Commission has any questions or concerns.

Respectfully yours,

[Handwritten signature of Michael L. Vild]

Michael L. Vild

- Cc: John F. Wayne
Bessie Gruwell
D. Scott Peck
Joseph C. Schoell
William M. Rickman, Jr.
William Fasy
John Mooney

ROUTING - REQUEST
Please
[] READ
[] HANDLE
[] APPROVE
and
[] FORWARD
[] RETURN
[] KEEP OR DISCARD
[] REVIEW WITH ME
Date 9-18-09
To: DTRC
Cc: STEWARDS
F. SWIFT
J. PETERS
R. PICCOLANO
J. TEICHNER
From: JFWayne

DELAWARE CERTIFIED THOROUGHBRED PROGRAM
Tuesday, September 22, 2009

| 2007 | DCTP Applications | Foals | Yearlings | Totals |
|------|--------------------|-------|-----------|--------|
| | Jan - Mar | 1 | 29 | 30 |
| | Apr - Jun | 5 | 49 | 54 |
| | Jul - Sept | 19 | 51 | 70 |
| | Oct - Dec | 55 | 88 | 143 |
| | Total Applications | 80 | 217 | 297 |

| 2008 | DCTP Applications | Foals | Yearlings | Totals |
|------|--------------------|-------|-----------|--------|
| | Jan - Mar | 0 | 17 | 17 |
| | Apr - Jun | 10 | 51 | 61 |
| | Jul - Sept | 31 | 68 | 99 |
| | Oct - Dec | 38 | 157 | 195 |
| | Total Applications | 79 | 293 | 372 |

| 2009 | DCTP Applications | Foals | Yearlings | Totals |
|------|--------------------|-------|-----------|--------|
| | Jan - Mar | 0 | 20 | 20 |
| | Apr - Jun | 9 | 66 | 75 |
| | Jul - Sept | 3 | 76 | 79 |
| | Oct - Dec | 0 | 0 | 0 |
| | Total Applications | 12 | 162 | 175 |

Total DCTP Applications to date: 1828

2009 DCTP Horses of Racing Age: 1575

374 (2 yr. olds), 296 (3 yr. olds), 293 (4 yr. olds), 612 (older horses)

| Year | # of Starters | # of Starts | 1st | 2nd | 3rd | 25% DCTP Earnings | 25% Certifier Awards | Total Annual Awards |
|----------------------|---------------|-------------|-----|-----|-----|-------------------|----------------------|---------------------|
| <u>thru Aug. 31.</u> | | | | | | | | |
| 2009 | 238 | 652 | 74 | 80 | 87 | \$ 357,152.50 | \$429,725.00 | \$786,878 |
| 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

Current Delaware Farms enrolled: 74