

## **NORTH DAKOTA RACING COMMISSION**

**Live and Telephone Meeting  
Tuesday, March 11, 2008  
1:00 p.m. (central time)  
500 North 9<sup>th</sup> Street, Bismarck, ND**

### **Call to Order:**

Chairman, James Clement, called the meeting to order at 1:01 p.m. Roll call was taken by Director Blaseg. Chairman Clement and Commissioner Secrest were in attendance. Commissioners: Frederick, Pladson, and Weir attended by phone.

### **Present:**

Commissioners: James Clement, Mandan; Clarence Frederick, Belcourt; DeAnn Pladson, Fargo; Tom Secrest, Hettinger; and Patrick Weir, Medora; Director of Racing, Randy Blaseg; Legal Counsel, Bill Peterson; and Administrative Staff Officer, Helen Tessmann.

**Others Present:** Roger Thompson and John Bubel.

### **1. Approval of Minutes – February 11, 2008 Meeting**

Chairman Clement asked to have a statement added to the February 11<sup>th</sup> minutes regarding item #9 – Purse Fund where the Director made reference to a document received from Legal Counsel regarding the rules. Chairman Clement stated the century code referred to as 53-06.2-04.1 is incorrect and asked the Director what document was he was referring to. Legal Counsel stated that section does mention the supplementation of purses by the Breed Fund.

Director Blaseg retrieved the written document which he had received from Legal Counsel that included the statement “Breed Fund may be used to supplement purses”. (53-06.2-04.1)

**A motion was made** to approve the minutes by adding a statement to item #9 that the Director had read the statement “Breed Fund may be used to supplement purses” (53-06.2-04.1) from a written document that Legal Counsel had provided. (Pladson/Weir/unanimous) The motion passed.

### **2. Outdoor Recreation Development Association’s (ORDA) Amended Live Race Dates**

A written request was received from Doug DeMontigny of ORDA to correct the 2008 live race dates which were submitted on the Live Race Meet application. Correct dates are: June 6, 7, & 8, 14 & 15, 21 & 22

**A motion was made** to approve the corrected live race dates of June 6, 7 & 8, 14 & 15, and 21 & 22, 2008 for Outdoor Recreation Development Association. (Secrest/Frederick/Clement-Y, Pladson-Y, Secrest-Y, Weir-Y, Frederick-Y. The motion passed.

### **3. ORDA’s 2007 ND Bred Race Results Report**

Director Blaseg read a statement from the April 2007 minutes where “Doug DeMontigny stated he felt that ORDA’s bookkeeping system would be compatible with Horse Race ND’s” in tracking ND

bred runners. This report could have a printout which shows only the North Dakota bred horses which placed First, Second or Third, and also provide the owners, and the sire and the dam of the runners. This information could then be provided in a spreadsheet for the Administrator of the Breeders' Fund.

Director Blaseg continued that since ORDA was unable to provide the necessary computerized 2007 ND Bred Race Results report and because of the time factor the Director made arrangements with the bookkeeper from the Fargo race track to provide the report. The bill for Merle Newton's services was \$300.

Commissioner Pladson made the motion to seek reimbursement from ORDA for payment of that bill. Commissioner Weir seconded the motion.

In discussion it was suggested that in the future that it would be simpler for ORDA to work with Fargo since Fargo's system is already in place than to change ORDA's current bookkeeping system but this all would be ORDA's decision. After discussion both Commissioners Pladson and Weir amended their motion and second.

**A motion was made to pay \$300** to Merle Newton for services of providing the 2007 ORDA ND Bred race results but that ORDA be put on notice that any future expenses in conjunction with record keeping is going to be ORDA's responsibility. The Commission would not be paying any more of these types of accounting bills. (Pladson/Weir/Clement-Y, Pladson-Y, Secret-Y, Weir-Y, Frederick-Y) The motion passed.

**4. Commissioner Secret's report on insurance availability with WSI**

Commissioner Secret reported that anyone working for Horse Race ND and being paid wages are automatically covered under Workmen's Comp. It appears that the \$50,000 insurance expense was for liability coverage for the public in case someone gets hurt on the grounds. Discussion was held as to why the high premium cost. Commissioner Secret added that another issue was the Jockey Insurance and since the owners hires the jockey that would be the owners' responsibility but since they don't pay wages to the jockeys they can't be covered under Workers Comp so that problem needs to be worked out. Commissioner Secret recommended the item of jockey's insurance needs to be looked into. Maybe blanket coverage for the jockeys could be paid for by the owners. Director Blaseg stated that Horse Race ND covers a separate accident policy on the jockeys.

Prior to the 2008 race season, Director Blaseg was instructed to obtain from ORDA and Horse Race ND a detailed insurance report explaining: is a bid process used and how are these policies being purchased, who is covered and who is not, the type of insurance coverage, the amount of coverage, the insurance company with which the policies are written and the premium amount of each policy. The Director should also seek out what other companies might have to offer the tracks in insurance coverage.

**5. Breeders Fund – Chapter 9 Update**

Legal Counsel stated that judging from the minutes of your last meeting you haven't decided what to recommend to the Administrative Rules Committee and that is what you need to do today. A previous memorandum had been sent to the commissioners by Legal Counsel addressing the legal issues.

Legal Counsel explained that there are several proposed amendments which implement legislation passed in the 2007 Legislative Session and if the Committee voided such proposed amendments, the rules would conflict with the law.

**A motion was made** by Commissioner Secret to change the wordage in 69.5-01-09-10 to "In races restricted to certified North Dakota bred horses, where the purse for such race is supplemented by the breeder's fund, no points will be paid to the owners of runners in such

racers. The owners of runners, which would otherwise have received points, that money would be paid to the Breeder.” Commissioner Weir seconded the motion.

Director Blaseg explained that as it is set now the owner of the runner receives 60%, the owner of the broodmare receives 30% and the owner of the sire receives 10%. In changing this, the owner of the runner receives his money in the purse because it is being supplemented by the Breeder's Fund, the breeder would now receive 90% and the owner of the sire still would receive 10%.

Chairman Clement thought there would be considerable opposition by the runners and breeders in the state. Commissioner Weir asked the Chairman to explain why there would be considerable opposition from the breeders.

Chairman Clement asked John Bubel as a breeder to address or comment on the issue. John Bubel stated the Breeder Fund should be left as is. John explained that people are not going to buy colts if all they will get is a chance to run for the purse because the purses are going down. Everybody we talk to wants the Breed Fund left alone. John stated he saw no reason to change the 60-30-10.

Director Blaseg stated he had letters from the ND Thoroughbred and the Harness Racing Association and both of them want to use Breed Fund money to supplement the purses.

Commissioner Weir stated he thought this was in the interest of what the Legislature intended and long term interest for the many people who bred.

Chairman Clement stated he thought Mr. Bubel's comments pretty much reflects the breeders and owners in the state. There was no one who came from those ranks who actually wanted to change this rule. The conversations that I had with Tom Fisher, who is Chairman of the Rules Committee, said if we don't reach a compromise with the horsemen or those parties that have objection to the Breed Fund rules as re-written that they will throw them all out and we will just have to start over.

Commissioner Weir stated he was looking at the Attorney General's opinion and if I read the Attorney General's opinion correctly what the commission did is legal. It is consistent with the Century Code. With the history of the legislation it does not violate any policy. It is not arbitrary or capricious.

**(Secrest/Weir) Clement-N, Frederick-N, Pladson-Y, Secrest-Y, Weir-Y. The motion passed.**

Legal Counsel explained the other issue to act on is whether or not to require that broodmare be registered as a broodmare at the time of foaling in order for foal to be registered which is the issue in the Peach case.

*At 2:00 p.m. the time period for the reserved phone calls ended. The three commissioners (Pladson, Weir and Frederick) were all reconnected by other phone lines at 2:10 p.m.*

**A motion was made to** leave the rule as proposed at the present time that a broodmare be registered as a broodmare at the time of foaling in order for foal to be registered. (Weir/Pladson) Clement-N, Frederick-N, Weir-Y, Pladson-Y, Secrest-Y. The motion passed.

Chairman Clement stated he intends be at the hearing tomorrow but doesn't intend to speak in favor of and I will speak on my own and I am on side of the horsemen. I have always been opposed to this rule.

Chairman Blaseg explained he had two letters and that means the Thoroughbred Industry and the Harness Association Industry are in support of the rule. There are people out there who support what the Racing Commission is intending to do.

Legal Counsel explained the commission has decided what your recommendations will be to the Administrative Rules Committee on the issues they raised.

6. **Any other business which may properly come before the commission**

No other business.

7. **Adjournment**

**A motion was made** to adjourn the meeting by Commissioner Secret. Commissioner Clement seconded the motion. All voted aye. The meeting was adjourned at 2:20 p.m.