

Memorandum of the Regular Meeting of the
Indiana Horse Racing Commission

March 21, 2023

Harrah's Hoosier Park Racing & Casino
4500 Dan Patch Circle,
Anderson, IN 46013

Commission members present: Philip C. Borst, Chairman; William McCarty (via telephone), member; Bill Estes (via telephone), member; George Pillow, member; and Gus Levengood, member.

Commission Staff members present: Deena Pitman, IHRC Executive Director; David Rothenberg, IHRC General Counsel; Dale Lee Pennycuff, IHRC Staff Attorney; Matt Eggiman, IHRC Deputy General Counsel; Jessica Barnes, IHRC Breed Development Director; Wendi Samuelson-Dull, IHRC Chief Financial Officer; Dr. Kerry Peterson, IHRC Equine Medical Director; Tom Linkmeyer, IHRC Assistant Executive Director.

Speakers from the audience: Brian Elmore, Executive Director of IHBPA; Tony Renz, Executive Director of ISA; Joe Morris, SVP of Racing for Caesars; Rick Moore, VP and GM of Racing Harrah's Hoosier Park; Eric Halstrom, Vice President and General Manager of Racing at Horseshoe Indianapolis; Dr. Michael Mann, DVM; Jeff Hendricks, Assistant General Counsel for Caesars Entertainment; Dianne Bennett, Executive Director, Quarter Horse Racing Association of Indiana.

I. Call to Order

Chairman Borst called the meeting to order at approximately 10:50 a.m. A quorum was present.

II. Approval of the meeting memorandum and executive session memorandum from the December 1, 2022, Commission meeting.

Chairman Borst asked for a motion for approval of the meeting memorandum and executive session memorandum from the December 1, 2022, Commission Meeting. The roll call vote was unanimous 5-0 for approval. See IHRC Transcript 3/21/2022 at <https://www.in.gov/hrc/>

III. Agenda

Note: All items on the agenda were transcribed by a court reporter from Stewart Richardson. Transcripts are available at www.in.gov/hrc.

1. Consideration of the default order in the case between Indiana Horse Racing Commission Staff and Erik N. Esqueda.

Mr. Eggiman introduced the Order that was issued by administrative Law Judge Michael Buker. Mr. Esqueda was not present. The Order resulted in a \$500 fine and a 12-day suspension.

Chairman Borst asked the Commission if there was a motion and a second regarding

approval of the Default Order. Commissioner Estes moved to entertain the motion. Commissioner McCarty seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. *See* IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

2. Consideration of the Settlement Agreement between the Indiana Horse Racing Commission Staff and Dr. Nicole Wettstein.

Mr. Eggiman introduced the Agreement which resulted in a 60-day suspension and a fine of \$5,000.

Chairman Borst asked the Commission if there was a motion and a second regarding approval of the Settlement Agreement. Commissioner Levensgood moved to entertain the motion. Commissioner McCarty seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. *See* IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

3. Consideration of the Settlement Agreement between the Indiana Horse Racing Commission Staff and Melanie Wrenn.

Mr. Eggiman introduced the Agreement which resulted in a 75-day suspension and a conditional 2023 license.

Chairman Borst asked the Commission if there was a motion and a second regarding approval of the Settlement Agreement. Commissioner Estes moved to entertain the motion. Commissioner Pillow seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. *See* IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

4. Consideration of the readoption of rules set to soon expire.

Mr. Rothenberg presented LSA Document Nos. 23-17 and 23-91, which listed the administrative rules which needed to be readopted. He noted that administrative rules need to be readopted every seven years. Additionally, he noted that these rule notices had been posted by LSA in the Indiana Register for the required amount of time to allow public notice and they had been circulated to the various horsemen's associations and Caesar's for comment. In addition, he requested the Commission to delegate the authority to Executive Director Pitman to approve and sign the documents once the appropriate time had elapsed for document approval.

Chairman Borst asked the Commission if there was a motion and a second regarding approval of the readoption of administrative rules. Commissioner Pillow moved to entertain the motion. Commissioner McCarty seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. *See* IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

5. Consideration of the adoption of Administrative Emergency Rules.

Mr. Rothenberg presented the emergency administrative rules as noted in the public document. He also noted they these suggested rules had been circulated among horsemen associations and Caesar's for feedback, with none received.

Chairman Borst asked the Commission if there was a motion and a second regarding approval of the emergency Rules. Commissioner Estes moved to entertain the motion. Commissioner McCarty seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. *See* IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

6. Review of Commission Rulings from November 22, 2022, through March 13, 2023.

Mr. Pennycuff presented the Commission rulings which occurred since the last presentation of rulings in the December meeting. Chairman Borst asked if there were any questions from the Commissioners. There were none.

7. Overview of Thoroughbred Breed Development program for 2023.

Ms. Barnes presented an overview of the program for 2023, commenting that it mirrored the 2022 program with a few minor changes. This included the creation of a sliding-base purse throughout the year, which has benefited the racetrack in meeting the needs of Indiana-bred races.

Secondly, Ms. Barnes noted the change in our stakes' race names and minor procedures in order to fit in under the HISA rules.

Finally, she presented the fact that all of the raced modified by the second point are set up as money races, which will benefit the Indiana Breed Development horses who will compete throughout the year.

Chairman Borst asked the Commission if there was a motion and a second regarding

approval of the changes made to races as listed above. Commissioner Estes moved to entertain the motion. Commissioner Pillow seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. *See* IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

8. Overview of the 2023 Quarter Horse Breed Development Advisory Committee.

Ms. Barnes Reviewed the changes from the 2022 program, including changes that would accommodate the fact that there has been a slight decline in the number of mares being bred and foals being born in Indiana. These include adjusting the number of races and increasing the breeder's award percentage from twelve and one-half to seventeen and one-half.

Chairman Borst asked the Commission if there was a motion and a second regarding approval of the changes made to the program as listed above. Commissioner Estes moved to entertain the motion. Commissioner Pillow seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. *See* IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

9. Approval of Harrah's Hoosier Park 2023 Standardbred racing official's list.

Rick Morse presented to the Commission that there have been no changes from the approved list last year. He also noted that last year, they set a record handle of \$117 million.

Chairman Borst asked the Commission if there was a motion and a second regarding approval of the official's list. Commissioner Estes moved to entertain the motion. Commissioner McCarty seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. *See* IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

10. Approval of Horseshoe Indianapolis 2023 racing official's list.

Eric Halstrom presented to the Commission that there have been very few changes from the approved list last year. He also noted that last year the handle was a record of \$235 million. Their goal for 2023 is \$250 million.

Chairman Borst asked the Commission if there was a motion and a second regarding

approval of the official's list. Commissioner Estes moved to entertain the motion. Commissioner Pillow seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. *See* IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

11. Ratification of the Executive Director's interim approval of Caesars debt financing.

Mr. Eggiman presented to the Commission the proposal and approval by Executive Director Pitman which Caesar's made regarding the refinancing of debt. Statutorily, due to the amount being refinanced, the Commission must approve the transaction.

Jeff Hendricks, assistant general counsel to Caesars, reviewed the transaction, stating that it will relieve upcoming debt commitments and put the company in a better position financially.

Chairman Borst asked the Commission if there was a motion and a second regarding approval of the ratification of the Executive Director's interim approval. Commissioner Estes moved to entertain the motion. Commissioner Pillow seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. *See* IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

12. Ratification of Executive Director's interim approval of petition to amend Churchill Downs Technology Initiatives Company.

Mr. Pennycuff reviewed the petition submitted by Churchill Downs Technology Initiatives Company to the Commission in February 2023. He noted that the company sought approval of the DK Horses brand. Executive Director Pitman had given interim approval on this and it was up to the Commission to ratify that approval.

Chairman Borst asked the Commission if there was a motion and a second regarding ratification. Commissioner Estes moved to entertain the motion. Commissioner Pillow seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. *See* IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

13. Approval of split sample laboratories for 2023.

Mr. Pennycuff presented the list of laboratories that would be approved for split samples. He noted that this approval would require three separate votes. The first to adopt the list,

the second to issue a waiver for the 2023 cobalt laboratories because the Kentucky Veterinary Diagnostic lab is not an accredited laboratory through the RMTC for cobalt, and the third to approve the University of Kentucky Veterinary Diagnostic Lab as the primary cobalt laboratory.

Chairman Borst asked the Commission if there was a motion and a second regarding the approval of the list for split laboratories. Commissioner Estes moved to entertain the motion. Commissioner Pillow seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. See IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

Chairman Borst asked the Commission if there was a motion and a second regarding waiver. Commissioner Estes moved to entertain the motion. Commissioner Pillow seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. See IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

Chairman Borst asked the Commission if there was a motion and a second regarding the approval of the University of Kentucky lab. Commissioner Estes moved to entertain the motion. Commissioner McCarty seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. See IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

14. Consideration of Horseshoe Indianapolis request to approve continued takeout of 11.9% on the Pick 5 and approve reductions on Pick 4 and Pick 6 wagering.

Eric Halstrom outlined that Joe Davis, president of the HBPA and Paul Martin, president of the QHRAI are all in agreement regarding this proposal. It reflects what had been done in 2022.

Chairman Borst asked the Commission if there was a motion and a second regarding the proposal. Commissioner Pillow moved to entertain the motion. Commissioner Estes seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. See IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

15. Consideration of Horseshoe Indianapolis 2023 race date calendar alteration.

Eric Halstrom presented a program in which the race day would be moved to Monday, July 3 instead of Tuesday, July 4, to accommodate a drone show which is scheduled

during that evening. He noted that it is a good marketing event, and the track would benefit from it.

Chairman Borst asked the Commission if there was a motion and a second regarding the scheduling change. Commissioner Estes moved to entertain the motion. Commissioner McCarty seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. See IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

16. Consideration of Harrah's Hoosier Park 2023 first post time from 6:15 pm to 7 pm on Saturdays beginning April 8th, 2023.

Rick Moore stated they the track had met with the Indiana Standardbred Association who were very much in favor of this change. The change will allow a larger time gap between thoroughbred racing which takes place in the afternoon, and the first post time at the track. It will be advantageous to the races at Hoosier.

Chairman Borst asked the Commission if there was a motion and a second regarding ratification. Commissioner Estes moved to entertain the motion. Commissioner McCarty seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. See IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

17. Consideration of Horseshoe Indianapolis's request to amend expected 2023 Capital Expenditure Equipment Plan.

Eric Halstrom addressed the list and the amended plans. He stated that the initial list was put together with projected equipment life dates, which change over time.

Executive Director Pitman noted that many of these projected equipment replacement projections were included as placeholders for other unknown equipment everyone knew would be needed. Additionally, with HISA coming onboard, some of those equipment requirements have changed to allow for HISA Certification.

Brian Elmore agreed that these were needed and encouraged the commission to approve the amended list.

Commissioner Levengood stated that it is important to be sensitive to future amended lists as to whether the recommended replacement projects be considered equipment or not.

Chairman Borst asked the Commission if there was a motion and a second regarding ratification. Commissioner Estes moved to entertain the motion. Commissioner Pillow seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 5-0 for approval. See IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

18. Consideration and discussion of Quarter Horse Racing Association of Indiana's unanimous vote to support installation of camera in the barn stall area of Horseshoe Indianapolis

Dianne Bennet spoke, representing the QHRAI in Paul Martin's stead. She presented the fact that the board considered the health of the employees and the horses in the barn area as reasons to have the cameras installed.

Joe Morris explained the financing of projects at Hoosier Park, including cameras, new lighting, and barn roofing. He further stated that at Horseshoe Indianapolis they needed more grooms quarters and a Eurociser. This resulted in an additional 105 stalls and 50 dorm rooms. He noted that there were almost double the number of stalls at Horseshoe as opposed to Hoosier Park and the camera project at Hoosier Park cost approximately \$1.3 million. Joe further discussed the possibility of phasing in cameras and that this would be a topic the committee would be discussing soon.

Brian Elmore stated that the Indiana HBPA supports the proposal of additional cameras on the backside, stable gate, and around the dorm area. He also noted that investments have been made at Horseshoe Indianapolis that have resulted in spending approximately \$8 million of the allotted \$11 million with seven years to go on the agreement before more money is refunded. Brian then stated that there have been discussions about building a worship center outside the gate across the street from the race office, which would cost a million dollars.

19. Review of Executive Director's request for exemption from the HISA Lasix prohibition

Mr. Eggiman outlined the fact that the HISA Act bans administration of foreign substances within 48 hours of racing. There is an exception created that lasts for a three-year period if the state asks for a waiver. Executive Director Pitman requested this exemption on March 1, 2023. Mr. Eggiman also pointed out that the IHBPA endorses the use of Lasix and has submitted written material to that end.

Dr. Michael Mann stated that he believes Lasix is safe and necessary in some cases, as he

has seen horses pass out on the track who have not been treated. He stated that taking therapeutic medication away would be detrimental to the horses and to the betting public.

Chairman Borst asked the Commission if there was a motion and a second regarding ratification of the Executive Directors interim approval of the Lasix waiver..

Commissioner Estes moved to entertain the motion. Commissioner Pillow seconded.

Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 4-0 for approval. See IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

20. New Business – Breeders Crown event update.

Tony Renz, Executive Director for the ISA, presented an update on preparations for the Breeders Crown. He stated that for the first time, a portion of the sponsorship will come back to the horsemen's purses as follows: Hoosier Park the first \$100,000, ISA the next \$75,000, and everything thereafter split between the two entities 50/50. Additionally, the Breeders crown committee have worked hard to secure additional sponsors such as Victory Hall, Premier Acres, Sugar Valley, and County Lane.

Mr. Renz went on to inform the commission the committee is also working to make sure operations would be running smoothly, including seating, staffing, and food service. He concluded his presentation by reminding everyone that the Hoosier sale would be occurring on the same weekend as the Breeder Crown elimination. The events will take place on October 27th and 28th.

Joe Morris added that Caesars is going to make this a party. It will be televised on Fox so it will be seen nationally. They will be using Ticketmaster for seating and as of now they have 2,150 seats, with approximately 600 walkups, for a total of approximately 2700 attendees. Tickets will go on sale in July.

Commissioner Levengood discussed the complexities of ticketing as per his background and experience, making some suggestions.

Executive Director Pitman discussed the need for a "Plan B" if ticket sales exceeded projections. Mr. Morris addressed this, citing various alternatives that were available regarding seating of people, additional food services, etc.

21. Approval of material changes to Xpressbet's Secondary Pari-Mutuel Organization License.

Mr. Pennycuff outlined Xpressbet's request to offer a new feature Quick Picks, the details of which are contained in a confidential letter through the ADW product 1/ST Bet. In addition, Xpressbet has requested an approval for them to change the Plan of Operation with the addition of Plaid to its current list of account funding vendors.

Chairman Borst asked the Commission if there was a motion and a second regarding the approval in the Plan of Operation. Commissioner Estes moved to entertain the motion. Commissioner Pillow seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 4-0 for approval. See IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

22. Delegation of authority to the Executive Director to execute HISA and HIWU Agreements.

Mr. Pennycuff requested the commission to delegate the authority to Executive Director Pitman to execute the voluntary agreement with HIWU under HISA under 71 IAC 2-2-1.

Chairman Borst asked the Commission if there was a motion and a second regarding delegation. Commissioner Estes moved to entertain the motion. Commissioner Pillow seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 4-0 for approval. See IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

23. Delegation of authority to the Executive Director to approve any 2023 racing matters prior to the next Commission meeting.

Mr. Pennycuff requested the Commission to delegate authority to the Executive Director to approve any 2023 racing matters which cannot be delayed prior to the next Commission meeting under 71 IAC 2-2-1/

Chairman Borst asked the Commission if there was a motion and a second regarding delegation. Commissioner Estes moved to entertain the motion. Commissioner Pillow seconded. Chairman Borst then asked if there were any questions. With no response, Commissioner Borst requested a vote. The roll call vote was unanimous 4-0 for approval. See IHRC Transcript 3/21/2023 at <https://www.in.gov/hrc/>

There was no other new business.

V. Adjournment

The meeting was adjourned at approximately 12:33 p.m.

DRAFT