

In the Matter Of:

INDIANA HORSE RACING COMMISSION MEETING

IHRC Meeting

October 08, 2014



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INDIANA HORSE RACING COMMISSION
MEETING

HELD ON

OCTOBER 8, 2014

9 A.M.

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INDIANAPOLIS, INDIANA

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ROBIN P. MARTZ, RPR

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APPEARANCES

Thomas Weatherwax, Chairman
Greg Schenkel, Vice-Chairman
George Pillow
Susie Lightle

Lea Ellingwood, Esq.
Holly Newell, Esq.
INDIANA HORSE RACING COMMISSION
1302 North Meridian Street, Suite 175
Indianapolis, IN 46202

AGENDA

1. Consideration of the adoption of LSA #14-230,
readoption of rules scheduled to expire 8
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information to be submitted with a registration 12

1 CHAIRMAN WEATHERWAX: If I could have your
2 attention, please. First of all, welcome to our
3 Indiana Horse Racing Commission meeting. My name
4 is Tom Weatherwax. I want to introduce to you a
5 new member of our commission before we get into our
6 protocol and the day's events. And that is Susie
7 Lightle.

8 (Audience applause.)

9 CHAIRMAN WEATHERWAX: Susie has a background
10 that's pretty darn perfect for being on this
11 commission. She's married. She has four children,
12 ten grandchildren, and ten great-grandchildren.
13 But her claim for fame is back in another time in
14 her life, she and her family had a family harness
15 racing business where they actually raised sulkies.

16 COMMISSIONER LIGHTLE: Standardbreds.

17 CHAIRMAN WEATHERWAX: And were in that
18 business as a family business. Of course, we
19 realize this is not far from being a family
20 business. But, nevertheless, she has a real
21 appreciation for what you folks do, the hard work,
22 the sacrifice. So we welcome you.

23 COMMISSIONER LIGHTLE: Thank you very much.

24 CHAIRMAN WEATHERWAX: In her spare time she
25 was the congressional district rep for Congressman

1 Burton, a Head Start coalition officer director,
2 State Attorney General's legislative liaison, which
3 I know that. And she has stories to tell about the
4 Indiana Senate, which she swore that she will not
5 repeat. She was the engrossing clerk. This is the
6 gal that made things happen behind the scenes that
7 took all of our great ideas and tried to put them
8 into law and presented them. Susan, we welcome
9 you.

10 COMMISSIONER LIGHTLE: Thank you so much. I'm
11 glad to be here.

12 CHAIRMAN WEATHERWAX: I thought today, since
13 this is my first meeting as Chairman, I thought it
14 proper that I publicly announce and maybe mention
15 some truly outstanding gentlemen. I would like to
16 recognize Chairman Bill Diener and Commissioner
17 Steve Schaefer. I would like to publicly thank
18 both of these gentlemen for their many years of
19 service and dedication to our Indiana horse racing
20 industry.

21 The heritage, the depth of understanding both
22 of these individuals brought to our commission is
23 truly outstanding. I'm sure that they both have
24 forgotten more than I will ever learn about this
25 business. I want to say thank you to both of them.

1 As a recently added member to our commission,
2 I have come to appreciate and respect what other
3 states feel and see in Indiana's horse racing
4 business. Much of this is also due to the
5 outstanding effort of our executive director, Joe
6 Gorajec, Lea, and our counsel, and all of the horse
7 racing staff because I think we are blessed to have
8 a very good staff.

9 Each member of you folks out here, the horse
10 industry, I want to say thank you for a job well
11 done. Sometimes we do not mention -- the
12 observation in my opinion is we don't thank you
13 enough for what you do. We are all guilty of not
14 recognizing people and say thank you for the job
15 you're doing.

16 As an industry you know, and you need to know,
17 that what you stand for and how you conduct
18 yourselves is very important and critical to our
19 future. Other states are trying to be better than
20 us every day. The competition is real. And we
21 must always try to improve.

22 My role as commissioner, now as your chairman,
23 is different than what I've done during the days in
24 the General Assembly. I also believe that the team
25 that Bill Diener and Steve Schaefer put together is

1 a team that I am proud to be on.

2 I welcome Susie Lightle, George Pillow, Greg
3 Schenkel to this team. We have some big shoes to
4 fill. That's my opinion. What each of you do as
5 fellow commissioners to help make our Indiana horse
6 racing community the best in the country is also
7 noticed and appreciated by our governor.

8 I just want to welcome Susie and thank each of
9 you commissioners for your role, as I believe that
10 I have a lot to learn. And I look forward to the
11 challenge.

12 With that, any other comments?

13 COMMISSIONER SCHENKEL: I'd offer just a
14 general comment. I think this is the first time
15 that there has been a commission meeting without a
16 Schaefer or a commission without a Schaefer. So
17 there's no question it's not just Steve Schaefer
18 but his family. His dad was the original chairman.
19 And so the Schaefer family have made valuable
20 contributions.

21 There is no question I would echo your
22 comments about the contributions that Bill Diener
23 has made to this organization and to racing in
24 general. I have never known anybody -- I knew him
25 in the utility business and some other ways

1 previous. I guess, Robin, you would say he's a
2 lawyer's lawyer.

3 MR. BABBITT: Absolutely.

4 COMMISSIONER SCHENKEL: I don't think I have
5 ever known a legal mind quite like Bill Diener.
6 It's been a pleasure to serve with both of them. I
7 agree with you, Mr. Chairman, it's going to be big
8 shoes to fill. And we will try to carry on.
9 Thanks to all of you for making this what it is.
10 We will, hopefully, move forward together.

11 COMMISSIONER PILLOW: I'd just like to say
12 that all you veterans out there, you know we are
13 new so we don't want any shenanigans. That's why
14 we have Susie here to help guide us along.

15 COMMISSIONER SCHENKEL: How long will that
16 word new last?

17 COMMISSIONER PILLOW: We are still new. I am
18 anyway. Thanks everybody for all your support and
19 just doing the right things that will make Indiana
20 a great, great racing state. Thank you.

21 CHAIRMAN WEATHERWAX: If we could call the
22 meeting to order, first on the agenda is approval
23 of the minutes from September 4th.

24 COMMISSIONER SCHENKEL: Move acceptance.

25 COMMISSIONER PILLOW: Second.

1 CHAIRMAN WEATHERWAX: Moved and second. All
2 those in favor say "aye."

3 THE COMMISSION: "Aye."

4 CHAIRMAN WEATHERWAX: Okay. Next we have the
5 reason that we're here today. That is to go
6 through the renewal of many, many rules. I think
7 counsel has told me over 900 that were subject to
8 be expiring this year. Lea, would you give us the
9 update for the benefit of the Commission, sort of
10 tell us the process you went through and the
11 hearings and all the work that you have done and
12 your staff to get us where we are.

13 MS. ELLINGWOOD: Sure, Mr. Chairman. Thank
14 you. For those of you who don't know, very
15 generally speaking, an administrative rule expires
16 seven years after it's adopted by the Commission.
17 At the end of 2003, it seemed to be a big year for
18 us. Of the thousand or so administrative rules
19 that we have, 900 of them were scheduled to expire.
20 The fact that they hadn't been amended or changed
21 means those rules have been relied upon for seven
22 years with essentially no issue.

23 We began, I began the process of readopting
24 those 900 administrative rules. During the course
25 of that process, we received a request to treat

1 about 83 of them separately. The result of that
2 was that we had to adopt those rules through a
3 regular or lengthier rule-adoption process. That
4 process includes me putting together a number of
5 fiscal analysis on the impact of the rule, holding
6 a public hearing, summarizing written comments, and
7 making any changes or making changes that were
8 appropriate to the text of the rule.

9 You have been provided with a copy of the
10 written comments we received. In addition to those
11 requests or including, rather, the request to treat
12 those rules separately, there was a total of about
13 79 pages of written comments. In addition to that,
14 you have been provided a copy of the transcript of
15 the meeting that was held late last week, a summary
16 of the written comments that we had received, and a
17 copy of the fiscal impact statements that were done
18 on the proposed rule.

19 As a result of the comments that we received,
20 I made some changes to 15 of the 60-some rules we
21 would be readopting. Those changes are primarily
22 technical in nature. Staff would recommend that,
23 assuming there are no issues with the changes that
24 we made, that you readopt these rules as you find
25 them in your proposed rule in front of you, at

1 which point I will submit them to the Attorney
2 General's office and to the Governor's office for
3 approval. The goal is these rules will become
4 effective by the end of the year so we have them
5 for 2015.

6 CHAIRMAN WEATHERWAX: So are these the rules
7 that you had to get an extension on --

8 MS. ELLINGWOOD: Yes.

9 CHAIRMAN WEATHERWAX: -- because they are so
10 voluminous you couldn't do them all?

11 MS. ELLINGWOOD: Right. What happens is every
12 administrative agency receives communication from
13 the Legislative Services Agency every year that
14 tells them which rules are scheduled to expire at
15 the end of the year. The agency then begins the
16 process of readopting those rules without changes,
17 which is usually a fairly short process. It takes
18 maybe a total of 60 days to do.

19 When you get a request to treat a rule
20 separately, that causes problems because the
21 regular rule adoption process is approximately six
22 months shortest to get done. For that reason, when
23 I received a request in 2013, we asked the
24 governor's office to extend the expiration date for
25 these rules. So these rules will expire at the end

1 of this year if they're not approved by you today.

2 CHAIRMAN WEATHERWAX: Do we have questions
3 from the Commissioners? You can see there's a
4 great deal of work and time that's gone into
5 getting these rules before us. That's what you
6 referred to as 14-230?

7 MS. ELLINGWOOD: Yes.

8 CHAIRMAN WEATHERWAX: Is there any other
9 people that would like to speak on this today? I
10 guess I should ask for a volunteer and invite the
11 public to be aware of this. Hearing none, what is
12 the wish of the Commission?

13 COMMISSIONER SCHENKEL: I would move
14 acceptance.

15 COMMISSIONER LIGHTLE: Second.

16 CHAIRMAN WEATHERWAX: We have a motion to
17 approve these rules as reviewed. And all due
18 process and public hearings have gone forward. All
19 those in favor say "aye."

20 THE COMMISSION: "Aye."

21 CHAIRMAN WEATHERWAX: Those opposed?

22 (No response.)

23 CHAIRMAN WEATHERWAX: The rules are adopted.

24 MS. ELLINGWOOD: Thank you.

25 CHAIRMAN WEATHERWAX: Thank you for your hard

1 work.

2 Now, there's an emergency rule regarding
3 information to be submitted with registration.
4 That's separate. And can you explain that to us?

5 MS. ELLINGWOOD: Sure. In 2013, the
6 legislature changed Indiana Code 4-35-7-12, which
7 is the statutory provision regarding the
8 distribution of slot funds. The change in that
9 cite, the change that the legislature made amended
10 some of the cites in that statute.

11 And we have, I ran across an administrative
12 rule that refers to that statute, but because the
13 statutory cites had been changed, our rule needed
14 to be updated to refer to the appropriate cite.
15 This is not a substantive change at all. This is
16 simply a technical correction to make sure that
17 when we have a licensee or member of the public
18 reading the rule, they are referred to the correct
19 statutory cite.

20 I think this rule is appropriate for our
21 emergency rule writing, under our rule writing
22 policy as a housekeeping matter so we can get this
23 rule filed with the Legislative Services. And it
24 will become effective immediately.

25 CHAIRMAN WEATHERWAX: So this is not -- it's a

1 technical change?

2 MS. ELLINGWOOD: It is a technical change.
3 There is no substantive change in this emergency
4 rule. It simply refers to the correct statutory
5 cite.

6 CHAIRMAN WEATHERWAX: Any questions from our
7 Commissioners? Any comments from the public?
8 Okay. There is no comments. What is the wish of
9 the Commission?

10 COMMISSIONER SCHENKEL: Move approval.

11 COMMISSIONER PILLOW: I second.

12 CHAIRMAN WEATHERWAX: Motion approved and
13 second. Question?

14 All those in favor say "aye."

15 THE COMMISSION: "Aye."

16 CHAIRMAN WEATHERWAX: Those opposed, same.

17 (No response.)

18 CHAIRMAN WEATHERWAX: Motion is passed
19 unanimately. So this was a brief meeting
20 obviously, and it's probably good because yours
21 truly is new at this job. And it's a nice way to
22 break into the process. I have a gut feeling in
23 the future these meetings will not be this simple.

24 In fact, old business, Counsel, could you tell
25 us of brief coming attractions?

1 MS. ELLINGWOOD: Sure. By September 1st,
2 every application, horsemen's association applicant
3 is required to submit their application for
4 approval to receive slot funds under that statute
5 that I referenced 4-35-7-12. We have received
6 applications from all of the applicants now. The
7 applicants are the same from the previous year. We
8 will begin a very intensive review of those
9 applications to ensure that they meet all of our
10 standards.

11 In the past we have, as you may know, had some
12 issues with horsemen's associations either not
13 providing all the information at the time that the
14 material was required or some issues with
15 distribution and use of some of the slot proceeds.
16 So for that reason, we are taking this opportunity
17 to be very careful, very conscientious, and very
18 thorough with respect to review of the
19 applications.

20 The applications, as a general rule, need to
21 be approved by the end of the year. So we will be
22 considering those at the next commission meeting.
23 I suspect there will just be one more. I would
24 anticipate that to be in late November. So we will
25 begin that process very shortly. That should take

1 up quite a bit of your time.

2 CHAIRMAN WEATHERWAX: This is all of the
3 horsemen's associations?

4 MS. ELLINGWOOD: Yes.

5 CHAIRMAN WEATHERWAX: This is being done,
6 correct me if I'm wrong, to try to do it thoroughly
7 and right and complete. Maybe in the past that
8 wasn't done that way.

9 MS. ELLINGWOOD: We received applications from
10 the Standardbred association, ITOBA, the
11 Thoroughbred association, and from the Quarter
12 Horse Association. And those applications, to the
13 extent they have not yet been distributed to you,
14 will be distributed to you for your review. And I
15 suspect that there will be follow-up communications
16 to the applicants by me or another staff member to
17 the extent that we need more information.

18 CHAIRMAN WEATHERWAX: So do you believe that
19 we have this meeting, you and I have talked briefly
20 about maybe the 19th or 20th, sometime before
21 Thanksgiving week?

22 MS. ELLINGWOOD: Ideally, I think that's when
23 we'll have it.

24 CHAIRMAN WEATHERWAX: That means will we have,
25 you have all this information ready for us to

1 decide upon at that time?

2 MS. ELLINGWOOD: You should have all the
3 information next week.

4 COMMISSIONER PILLOW: Lea, is there any danger
5 of any applications being turned down? I know you
6 have to request more information. But do we have
7 to look at something that might have some kind of?

8 MS. ELLINGWOOD: Well, not having looked at
9 the meat of the application, I would be hesitant to
10 say one way or another. That's always a concern
11 when you receive an application. The Commission is
12 charged with the responsibility of ensuring that
13 the applicant is the best entity to receive slot
14 proceeds and to do with those proceeds what is
15 charged under the statute. So I wouldn't be --
16 that will be a decision for you to make. The short
17 answer is certainly that is a risk.

18 COMMISSIONER PILLOW: Risk. Okay.

19 CHAIRMAN WEATHERWAX: All of the horsemen
20 associations know what you've asked. You've
21 already given this to them. They're already
22 working on them.

23 MS. ELLINGWOOD: We are in the process of
24 contacting them.

25 CHAIRMAN WEATHERWAX: They don't have it?

1 MS. ELLINGWOOD: No. Every applicant has
2 submitted their application. To the extent that we
3 need anything additionally, we may not, but to the
4 extent we need anything, we will be contacting them
5 very shortly to get that to us.

6 The Commission will also be issuing a
7 pre-hearing order that will establish deadlines for
8 submission of additional material, as well as set
9 out the time frames for each of the applicant's
10 presentations at the next Commission meeting.

11 CHAIRMAN WEATHERWAX: I don't know if there's
12 new business, if that was new business that maybe
13 got out of order, but is there anything else in the
14 way of new business we should be aware of?

15 MS. ELLINGWOOD: None that I'm aware.

16 CHAIRMAN WEATHERWAX: Any other comments from
17 the public? Thank you for being here. Look
18 forward to your cooperation in the future and
19 working together. If there's no other business to
20 come before this commission, do I hear a motion to
21 adjourn?

22 COMMISSIONER PILLOW: So moved.

23 COMMISSIONER SCHENKEL: Second.

24 CHAIRMAN WEATHERWAX: We are adjourned.

25 (The meeting adjourned at 9:18 a.m.)

1 STATE OF INDIANA
2 COUNTY OF JOHNSON
3

4 I, Robin P. Martz, a Notary Public in and for
5 said county and state, do hereby certify that the
6 foregoing matter was taken down in stenograph notes
7 and afterwards reduced to typewriting under my
8 direction; and that the typewritten transcript is a
9 true record of the Indiana Horse Racing Commission
10 meeting;

11 I do further certify that I am a disinterested
12 person in this; that I am not a relative of the
13 attorneys for any of the parties.

14 IN WITNESS WHEREOF, I have hereunto set my
15 hand and affixed my notarial seal this 16th day of
16 October 2014.

17
18 



21
22 My Commission expires:
23 March 2, 2016

24 Job No. 92630
25

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