

THE STATE HORSE RACING COMMISSION MEETING MINUTES

March 21, 2023

A Special Public Meeting (HISA/HIWU) of The State Horse Racing Commission was held at the following date, place and time: In-Person, PDA Room 309 and Via Telephonic Conference Call on Tuesday March 21, 2023, at 1:00 P.M.

Commissioners in attendance: Chairman Redding, Darryl Breniser, C. Edward Rogers, Michele Ruddy, Corinne Sweeney, and Tom Ellis were present in Room 309. Salvatore DeBunda, Dr. John Egloff, Robert Lark, and Russell Jones were present remotely via TEAMS. Bureau Directors Salerno and Chuckas were in attendance, as was Commission Counsel Augusto.

ANNOUNCEMENTS

A quorum of the Commission being present, Chairman Redding called the meeting to order. Chairman Redding noted that the meeting was properly advertised in accordance with the Sunshine Law. By way of notice, the Commission conducted an executive session to engage in quasi-judicial deliberation to be adjudicated at the public meeting and engaged in attorney client privilege communication.

Chairman Redding welcomed everyone.

PUBLIC MEETING:

HISA/HIWU PRESENTATION

Director Chuckas updated the Commission on the status of the three HISA/HIWU agreements listed below. This has been an ongoing process for the last 18 months. As directed by the Commission, the staff attempted to work cooperatively with HISA/HIWU. The Commission believes it's in the best interest of all racing participants in Pennsylvania, the horsemen, the tracks, the breeders, and the Commission to work cooperatively with HISA/HIWU.

Director Chuckas also stated that the Commission had instructed staff to do their best to eliminate or mitigate the costs associated with HISA's assessment to Pennsylvania, which for the nine-month period of 2023 is a little over \$6 million. The projected assessment to Parx is \$3,499,000, Penn National is \$1,491,00 and Presque Isle is \$1,000,066.

The goal today is to address the three agreements. If the Commission approves the agreements, funds that are currently being paid out of the Racehorse Development Trust Fund to the Testing Program will continue to be used to address those costs. If the Commission does not approve the agreements with HISA/HIWU, the entire \$6 million assessment will become the responsibility of the racetracks and horsemen.

A final point is even with Commission approval, the agreements must be submitted to the Office of General Counsel and the Attorney General's office for final approval and signature.

1. HISA Racetrack Safety Program Review:

The Commission entered into a letter of agreement with HISA in July of 2022. As previously reported, the Commission's racing staff was already performing 95 percent of what HISA had directed. This process had worked well with limited issues. An agreement was reached with HISA that the letter of agreement would be utilized for 2023 only modifying the dates. The dates were changed and made retroactive to January 1, 2023. The letter agreement terminates on December 31, 2023. Under this agreement, the Commission staff will continue to perform the Race Track Safety Program duties and the program costs will be paid from pari-mutuel taxes and licensing fees like the last 6 months of 2022.

2. HISA/HIWU Intergovernmental Cooperative review:

The next agreement is the Intergovernmental Agreement (IGA) for the Anti-Doping Medication Control Program (ADMC). This agreement covers Out of Competition Testing (OOCT) program, test barn operations and personnel costs, supplies and shipping.

This agreement will expire in 9 months on 12/31/2023. Two key points of this agreement were getting the proper credits back to the racing industry for the work that's being done and maintain continuity in Commission personnel/staffing. From a financial perspective, simply stated, the goal is to make sure that every dollar that is spent on OOCT, in the test barn and related costs is properly credited back to the industry. During the negotiations, the staff insisted on a reconciliation at the end of the year, so that both sides would be protected. The Commission's racing staff will continue to do what they have been doing but will be operating under the HISA/HIWU policies, procedures, and regulations. The staff will remain Commonwealth employees, not HISA/HIWU employees. The Thoroughbred Bureau Director will act as a Liaison with HISA/HIWU.

3. HISA/HIWU Laboratory Services Agreement review:

The Lab Services Agreement addresses forensic testing, research, rental of the facility, equipment costs and other related expenses associated with the Commission's lab. It is an agreement between the Commission and HISA/HIWU. Director Chuckas explained how the Lab Services Agreement is going to work. Currently, the samples are sent from the test barn to PETRL. All the information for the race day's testing is entered in the Sample Manager System and sent along to PETRL. All data entry is entered by barcodes and sample numbers, no names of horses, trainers, or owners are entered, basically the samples are blind. The samples are then analyzed, and results are sent to the Bureau Directors. If there is a Lab finding, the Bureau Director will call the positive. Under HISA/HIWU's procedures, the samples will still go directly to PETRL, but the Data and Information will go to HIWU. HIWU will then send the data to PETRL. PETRL will analyze the samples but will no longer respond to the Bureau Director. Instead, all analytical results will go directly to HIWU. HISA/HIWU will be handling all the positives, as well as the hearings and adjudications.

In summary, it's fair to say that over the last couple of years, the Commission has made major strides with enhancing integrity, implementing plans to improve equine health, safety, and welfare. The Commission believes that maintaining a role is advantageous to the Pennsylvania racing and the breeding industry, both from a financial and operational

perspective. Financially, HISA assessed \$6 million to the industry. The agreements provide for \$4.8 Million in credits which will reduce the assessed balance to HISA to \$1.2 million. The balance of \$1.2 million will be assumed by the racetracks and horsemen.

Chairman Redding reminded everyone that we find ourselves here by no act of our own. This is a congressional action, a federal action, and now we have other parties, newly created, structured parties, working with federal agencies to include the Federal Trade Commission that are standing in judgment now of what Pennsylvania racing is doing or will do. Pennsylvania has a long and steep history in racing. There's been a lot of work done by many people to put Pennsylvania racing where it is today, and we certainly want to, as a Commission and as a Commonwealth, protect the integrity of Pennsylvania racing.

INDUSTRY COMMENT ON HISA/HIWU PROGRAMS

Jeff Matty Executive Director of the PTHA.

On behalf of myself and the PTHA Board of Directors and our association membership, we thank the Commission for their time and efforts pertaining to HISA and the challenges of implementation. The PTHA agrees and aligns with the PAHBPA, Todd Mostoller, on our genuine concerns for being granted the proper equitable credits. We support the Commission's decision to opt in and establish a collaborative agreement with HISA, so that the burden of the \$6 million isn't put on the backs of horsemen and track operators. Again, we thank the Commission and its staff for your time and efforts over the last 18 plus months. We know this is uncharted territory, but we trust your judgment and directional foresight.

Todd Mostoller Executive Director PAHBPA.

As the Pennsylvania HBPA, an affiliate of the National HBPA, we've been involved in a number of legal proceedings. We have legitimate concerns on several issues, and I'm not here to say we support or don't support HISA. Our main concern is the outstanding legal issues, and if this Commission were to move forward without those being resolved, what problems are created? While we understand the difficult position the Commission is in, we feel that until all the legal challenges are answered, which could take months if not years and these challenges could end up before the Supreme Court, we respectfully ask that the Commission consider all these legal challenges before signing any agreements.

Brian Sanfratello Executive Director of the PHBA.

I just want to make it clear that we are behind both Horsemen's groups in that we want to make sure that the allocation is fair and equitable to all. Our organization is in support of HISA.

Russell Williams President of Hanover Shoe Farms and President of USTA.

Both organization's that I represent are plaintiffs in the HISA litigation. I understand the Commission's intentions, what it's trying to bring about in today's decision. I understand that if the Commission doesn't enter into these agreements, then the assessment drops to the stakeholders and at that point, it's HISA's problem to secure its funding. That is

laudable intention and I certainly see the benefits, the positive side, but there is a negative side because by doing this, you prevent HISA from being accountable for its assessment.

I'm here to talk about a piece of legislation that we are trying to get through Congress as an alternative to HISA. We are currently negotiating with a primary sponsor, and it has already been through Legislative services. This legislation is a state administered program, so the state would form an interstate compact. They would use state authority, state experience, state funding and save millions of dollars over the HISA structure. The legislation is health and safety focused; it provides all the same benefits that HISA does.

This new legislation will be science based, so you've got state administration, science basis for making policy decisions and a funding model that can be afforded by the racing industry. I would just ask you to take that into account, as well as the litigation when you assess the uncertainty that lies behind making any sudden moves at this point.

Joe Wilson Director of Racing Parx.

I want to thank the Commission, Tom, Tony, Jorge and all the staff. I know everyone has been working hard to work through all of this.

I appreciate what Russell [Williams] is saying, and what Todd [Mostoller] is saying, I understand all the legal issues, the possible new legislation and everything else. The reality is that none of us asked for this but here it is, and we need to do everything possible to keep racing going in Pennsylvania. I care about racing in Pennsylvania, and I applaud the Commission for their efforts and fully support these agreements.

(Motion to adjourn to Executive Session).

Motion By: Commissioner Ellis
Second By: Commissioner Rogers
Decision: Passed by unanimous vote

[Off the record] Commission in Executive Session.

[On the record]

Chairman Redding reconvened the Racing Commission members and called the meeting back to order.

Administrative Actions

4. Motion to approve the HISA Racetrack Safety Program Letter.

Motion By: Commissioner Ellis
Second By: Commissioner Ruddy
Decision: Passed by unanimous Vote

5. Motion to approve HISA/HIWU Intergovernmental Agreement.

Motion By: Commissioner Ellis

Second By: Commissioner Jones

Decision: Motion passed. Commissioner Breniser voted no. Commissioner Egloff abstained.

6. Motion to address the HISA/HIWU Laboratory Services Agreement.

Commissioner Rogers: Mr. Chairman, given HISA's anticipated Anti - Doping and Medication Control Program effective date of March 27, 2023, I move that we direct the Bureau Director and staff to finalize the Laboratory Services Agreement between HISA and HIWU, and the Commission and PETRL to be ratified at the public meeting on March 28, 2023.

Motion By: Commissioner Rogers

Second By: Commissioner Ellis

Decision: Motion passed. Commissioner Sweeney abstained. Commissioner Breniser voted no.

No other Commission Administrative Action matters were on the agenda.

Motion to adjourn.

Motion By: Commissioner Ellis

Second By: Commissioner Ruddy

ADJOURNMENT

The meeting was adjourned at 2:16 pm

Respectfully submitted,

Thomas F. Chuckas Jr.
Bureau Director
Bureau of Thoroughbred Horse Racing

Anthony Salerno
Bureau Director
Bureau of Standardbred Racing