



**HORSE RACING COMMITTEE
NOTICE OF MEETING and AGENDA**

June 1, 2020

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25,
notice is hereby given of a meeting of the Horse Racing Committee.
The meeting will take place on:

**Wednesday, June 3, 2020
2:00 p.m.**


**VIA CONFERENCE CALL NUMBER: 1-646-741-5293
PARTICIPANT CODE: 111 346 6087**

1. Call to order
2. Approval of Minutes – May 14, 2020 - **VOTE**
3. Review of Proposed Amendment to *205 CMR 149.04: Race Horse Development Fund: Distributions; Escrow Accounts* - **VOTE**
4. Review of the criteria for calculating the distribution percentage (split) between the breeds for purposes of funding purses, breeding programs, and health and welfare benefits - **VOTE**
5. Discussion of Next Steps
6. Other business – Reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that on this date, this Notice was posted as “Horse Racing Committee Meeting” on massgaming.com and emailed to regs@sec.state.ma.us, and melissa.andrade@state.ma.us.

DATE

6-1-20


Brian Fitzgerald, Chairman

Date Posted to Website: June 1, 2020



Massachusetts Gaming Commission



Massachusetts Horse Racing Committee Meeting Minutes

Date/Time: May 14, 2020 at 11:30 a.m.

Place: VIA CONFERENCE CALL NUMBER: 1-646-741-5293
PARTICIPANT CODE: 111 129 7111

Given the unprecedented circumstances resulting from the global Coronavirus pandemic, Governor Charles Baker issued an order to provide limited relief from certain provisions of the Open Meeting Law to protect the health and safety of individuals interested in attending public meetings. In keeping with the guidance provided, the Horse Race Committee will conduct a public meeting utilizing remote collaboration technology.

Present: Brian Fitzgerald, Chair
Joe Savage, New England HBPA, Thoroughbred Representative
Peter Goldberg, Standardbred Representative
Commissioner Gayle Cameron, MGC Representative
Emily Kowtoniuk, Treasurer's Representative
Dr. Alex Lightbown, MGC Director of Racing
Todd Grossman, MGC Acting General Counsel

Call to Order

11:32 a.m. The Chair called the Horse Racing Committee ("Committee") meeting to order. He then had the Committee members introduce themselves and state their designation.

Approval of Minutes

11:33 a.m. *The Chair moved to approve the minutes from the Committee meeting of April 16, 2020. Mr. Goldberg noted his name was misspelled. The Chair moved to approve the minutes with this amendment. Commissioner Cameron seconded the motion. The motion passed unanimously.*

Discussion

The Chair called upon the Committee to discuss potentially adjusting the distribution percentages of Racehorse Development Fund (“RDF”) monies. Commissioner Cameron asked Massachusetts Gaming Commission’s (“MGC”) Acting General Counsel Todd Grossman to review the Committee’s proposed new method of distributing the RDF and clarify any legal requirements for doing so. Mr. Grossman explained that the Committee would have to propose their recommendations for distribution amendments to MGC and presented two ways they could do that. If the proposal were presented as an emergency, new RDF regulations, if approved, could take two to four weeks to be enacted. If not presented as an emergency, regulation changes, if approved, could take sixty days to enact. Mr. Grossman then reviewed what RDF distribution regulations are at present, and the HRC’s proposal of the new method. Commissioner Cameron asked Mr. Grossman if taking an emergency action would be justifiable, given that horse racing is postponed indefinitely due to the ongoing pandemic. Mr. Grossman answered that the MGC would determine whether an item is an emergency or not. He opined that a case could be made for this particular issue being an emergency.

The Chair asked the Committee whether they wanted to pursue proposing a new method of RDF distribution. Mr. Goldberg opined that they should make a final decision on a new distribution method during this meeting. Mr. Savage stated that settling on a final distribution was not on the meeting agenda, therefore could not be done at the present meeting. Commissioner Cameron agreed and asked Mr. Grossman to clarify. Mr. Grossman stated that it was his understanding that the Committee would only discuss potential new distributions at the present meeting, not make a final decision.

The Chair called on MGC Director of Racing Dr. Alex Lightbown to update the Committee on any new information about the postponed racing season. Dr. Lightbown stated that the racing season was postponed indefinitely due to the pandemic. Commissioner Cameron asked Dr. Lightbown to confirm that there are no Standardbred tracks open in the country at present, but that there are Thoroughbred tracks open in some states. Dr. Lightbown confirmed. Commissioner Cameron asked Dr. Lightbown to elaborate on the reason for that. Dr. Lightbown explained the paddock time differences that allow thoroughbred racing to safely take place during the pandemic but prevent Standardbred racing from doing so. Dr. Lightbown mentioned the possibility of adjusting Standardbred racing conditions to allow for races to take place at the Massachusetts track at

Plainridge Park Casino. Mr. Goldberg informed the committee that several Standardbred tracks are planning to open across the country within the next few weeks. Mr. Savage asked if the Massachusetts Standardbred track opening was tied to the rest of the gaming facility being opened. Dr. Lightbown informed that it was not, but that it could change. Commissioner Cameron asked if the racing staff employed by the casino was furloughed, which Dr. Lightbown answered that they were, and that the casino racing staff would also need to be given some time's notice before the racing season starts. Mr. Savage inquired about who would authorize the track to open, to which Dr. Lightbown explained that after the governor, MGC and Penn National would likely make the business decision together. The Chair asked about the earliest possible opening date for the track, and Dr. Lightbown opined that even if the governor moved to open, the earliest likely start date would be towards the middle of June. Commissioner Cameron asked Dr. Lightbown to confirm that under the governor's' four-phase reopening plan for the Commonwealth, gaming facilities and race tracks were to be among the last to do so. Dr. Lightbown confirmed that this was indeed the case. The Chair inquired about state legislation around live racing and whether the deadline to approve live racing was July 31. Dr. Lightbown tentatively answered that the deadline may actually be July 15.

The Chair moved the conversation to the proposed new method of RDF distribution and whether the Committee wanted to propose it to the Commission. Commissioner Cameron suggested the Committee start the discussion around the health and wellness portion of the RDF distribution. Mr. Goldberg expressed his concern about the Committee making the final decision too late in the year for the new distribution to apply to the current year's racing season, and suggested making final decisions on the distributions before the start of the racing season.

Commissioner Cameron proposed the Committee make final decisions on each distribution category individually. The Chair suggested the Committee work on the language for their distribution proposal. Mr. Goldberg asked Mr. Grossman if they should start drafting new regulations. Mr. Grossman opined that there was no reason the Committee needed to wait until they had confirmed a date to present to the Commission, and that the Committee could start making final proposals about each distribution category. Ms. Kowtoniuk opined that the Committee should start discussing the criteria specifics ahead of their proposal to the Commission. Mr. Savage agreed that they should start discussing. Mr. Grossman opined that the Committee did not need to vote on whether or not to change the distribution criteria, that verbal consensus was enough to start discussions. Mr. Goldberg

reiterated the urgency with which he thinks the Committee should act, lest state legislature reallocate the RDF.

The Chair asked if the Committee should write a proposal to the Commission or if they need to schedule another meeting in order to vote on the proposal. Commissioner Cameron suggested that Mr. Grossman draft a letter proposal to the Commission regarding adjusting the distribution methods, and that the Committee schedule another meeting to finally approve it. Mr. Grossman also suggested that the Committee could draft the proposed distribution regulation changes at the same time. Commissioner Cameron suggested that the representatives from each breed group write an executive summary of their recommendations for regulation changes. Mr. Savage cautioned that before drafting executive summary papers, the Committee should have a meeting to thoroughly understand how both breeds' health and welfare programs funded by the RDF operate.

The Chair confirmed that the plan is to propose amending the RDF distribution to the Commission, hold a meeting to establish the specific criteria for distribution, then to hold a second meeting to review executive summaries and to vote on final recommendations for distribution.

Discussion of Next Steps

Mr. Grossman will draft a proposal to the Commission for amending the RDF distribution methods and present the proposal draft to the Committee for review. The other Committee members, in order to preserve open meeting rules, will not submit specific criteria recommendations to the whole Committee, but submit recommendations to Shara Bedard, MGC Paralegal, Dr. Lightbown, or Mr. Grossman for Committee consideration. The Committee agreed to meet June 3, 2:00 p.m. The Chair confirmed that after the next meeting, the breed representatives will have executive summaries submitted to the Committee towards the end of June to be considered by the Committee for final decisions at the following meeting on July 8th.

1:08 p.m. *With no further topics for discussion, the Chair adjourned the meeting.*

List of Documents and Other Items Used

1. Massachusetts Horse Racing Committee, Notice of Meeting and Agenda, dated May 14, 2020

2. Meeting minutes of the April 16, 2020 Horse Racing Committee meeting
3. Racehorse Development Fund report dated March 2020
4. Thoroughbred and Standardbred Full Accounting and Reconciliation report

/s/ Tania Perez
Secretary

DRAFT

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 149.00: RACE HORSE DEVELOPMENT FUND

149.04: Race Horse Development Fund: Distributions; Escrow Accounts

(4) (a) The commission shall make distributions from the race horse development fund, or from a race horse development fund escrow account created under 205 CMR 149.03, **in the distribution percentage(s) approved by the commission upon a recommendation of the horse racing committee** ~~because of a harness racing association~~ **between thoroughbred and standardbred racing** as follows, in accordance with M.G.L. c. 23K, § 60 and 205 CMR 149.00:

1. 80% of the funds approved by the commission shall be paid weekly ~~into a harness racing association~~ **separate, interest bearing purse accounts in accordance with M.G.L. c. 23K, § 60(c)(i)**. If there is more than one ~~harness racing association~~ **within a particular breed**, ~~such~~ **the funds allocated to that breed** shall be divided between the ~~harness racing associations~~ at the discretion of the commission. ~~Such funds shall be paid into a separate, interest bearing purse account to be established by the harness racing association for the benefit of the harness racing horsemen.~~ The earned interest on this account shall be credited to the purse account and shall be combined with revenues from existing purse agreements to fund purses for live ~~harness~~ races consistent with those agreements, with the advice and consent of the harness racing horsemen.
2. 16% of the funds approved by the commission shall be deposited by the Commission **in accordance with M.G.L. c. 23K, § 60(c)(ii)** ~~into an account~~ for the benefit of the ~~Massachusetts Standardbred Breeding Program~~ **respective breeding programs** authorized by the commission.
3. 4% **of the funds approved by the commission** shall be used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers ~~at the harness a horse racing association's race track facility~~ for the benefit of the organization's members, their families, employees and others under the rules and eligibility requirements of the organization, as approved by the commission **in accordance with M.G.L. c. 23K, § 60(c)(iii)**, provided, however, that if there is more than one horsemen's organization **within a particular breed**, **the funds allocated to that breed shall be divided at the discretion of the commission**, ~~the commission shall divide the amount available under 205 CMR 149.04 evenly between the horsemen's organizations.~~ This amount shall be deposited by the Commission within five business days of the end of each month into a separate account to be established by each respective horsemen's organization at a banking institution of its choice. Of this amount, the commission shall determine how much shall be paid annually by the horsemen's organization to the **thoroughbred jockeys or standardbred drivers' organization** at the ~~harness horse racing associations race track facility~~ for health insurance, life and/or accident insurance or other benefits to active and disabled **thoroughbred jockeys or standardbred drivers** under the rules and eligibility requirements of that organization.

~~(b) The commission shall make distributions from the race horse development fund or a race horse development fund escrow account created under 205 CMR 149.03 because of a horse racing association as follows, in accordance with M.G.L. c. 23K, § 60 and 205 CMR 149.00:~~

- ~~1. 80% of the funds approved by the commission shall be paid weekly to a horse racing association. If there is more than one horse racing association such funds shall be divided between the horse racing associations at the discretion of the commission. Such funds shall be paid into a separate, interest-bearing purse account to be established by the horse racing association for the benefit of the horse racing horsemen. The earned interest on this account shall be credited to the purse account and shall be combined with revenues from existing purse agreements to fund purses for live horse races consistent with those agreements, with the advice and consent of the horse racing horsemen.~~
- ~~2. 16% of the funds approved by the commission shall be deposited by the Commission into an account for the benefit of the Massachusetts Thoroughbred Breeding Program authorized by the commission.~~
- ~~3. 4% shall be used to fund health and pension benefits for the members of the horsemen's organizations representing the owners and trainers at the horse racing association's race track for the benefit of the organization's members, their families, employees and others under the rules and eligibility requirements of the organization, as approved by the commission provided, however, that if there is more than one horsemen's organization, the commission shall divide the amount available under 205 CMR 149.04 evenly between the horsemen's organizations. This amount shall be deposited by the Commission within five business days of the end of each month into a separate account to be established by each respective horsemen's organization at a banking institution of its choice. Of this amount the commission shall determine how much shall be paid annually by the horsemen's organization to the standardbred drivers' organization at the horse racing association's race track for health insurance, life and/or accident insurance or other benefits to active and disabled standardbred jockeys under the rules and eligibility requirements of that organization. **RESERVED**~~

(c) The commission may distribute less than the entire amount of the funds in 205 CMR 149.04(4)(a)1. ~~and (b)1.~~ if the commission determines in its sole discretion that such distribution shall be beneficial or if a lesser amount is requested by the harness racing association or the horse racing association. Funds under 205 CMR 149.04(4)(a)1. ~~or (b)1.~~ that remain after payment by the commission under 205 CMR 149.04 shall remain in the race horse development fund and shall be available for payment in future years in the commission's discretion, after applying the **distribution percentage recommendation determination** of the race horse racing committee regarding allocation between harness racing and horse racing.

CHAPTER 23K, SECTION 60 - CRITERIA OUTLINE FOR EXECUTIVE SUMMARIES

2019 Revenues to RHDF - \$18,085,444.63*

* figures are not confirmed and need to be confirmed by both the Gaming Commission and each of the industries.

THOROUGHBRED ALLOCATION: \$7,095,010.45* (39%)

STANDARDTBRED ALLOCATION: \$10,990,434.18* (61%)

I. 80% - Purse Account

2019 Thoroughbred Allocation: \$5,676,008.36*

2019 Standardbred Allocation: \$8,792,347.34*

Criteria per Chapter 23K, Section 60(b):

(i) the average purses awarded at thoroughbred and standardbred racing facilities;

How many live races were conducted by each industry in 2019?

Thoroughbred _____;

Standardbred _____;

How many races are proposed to be conducted by each industry in 2020?

Thoroughbred _____;

Standardbred _____;

Based upon the 2019 allocation what was the average purse race allocation?

Thoroughbred \$_____;

Standardbred \$_____;

Of the total purse allocation, how much did each industry not distribute of the above allocation in the past year?

Thoroughbred \$_____;

Standardbred \$_____.

A decision of this Committee from October 24, 2014 (“hereinafter 2014 Memo”) provides for a number of factors to be considered, some of which, include but are not limited to the following:

Pool Size for each industry;

Field Size for each industry;

Number of live race days and total races;

Number of Mass-bred starters;

Number of Mass-bred starts;

Amount of Mass-bred purses earned; and,

Number of restricted Mass-bred races.

(ii) the total employment numbers, both direct and indirect, attributable to each horse racing industry

Total Thoroughbred Employees _____

W-2 _____

1099 _____

Total Standardbred Employees _____

W-2 _____

1099 _____

Each industry may provide a summary of the number and types of occupational licenses for each industry.

(iii) the relative needs of each horse racing industry for increased purses;

Each industry may provide a summary of their needs for increased purse accounts.

Each industry may provide a summary of their respective capital expenditures to their racing facilities and/or capital improvements and/or may describe any planned proposals for the building of new racetrack facilities and the current status and/or timeline for construction of any new facilities.

(iv) the amount of live handle generated by each horse racing industry;

Each industry may provide a summary of their respective live handle

The 2014 Memo provides a factor to summarize the gross terminal revenue on live race days vs. non-live race days at the Category 2 gaming facilities.

II. 16% - Breeding and Training Farms

2019 Thoroughbred Allocation \$1,135,201.67*

2019 Standardbred Allocation \$1,758,469.47*

(v) the number of breeding and training farms of each industry that are located within the Commonwealth;

Thoroughbred _____

Standardbred _____

From the 2014 Memo, each industry can further summarize the following:

Number of stallions, mares, and foals residing in the Commonwealth;

Number of breeders registered with relevant breed organizations; and,

Number of and average sale price of MA-bred horses sold at public auction.

Each industry may provide a summary of how the allocated RHDF funds were distributed to the breeding and training farms within the Commonwealth (i.e. description(s) of any grants that were provided to any particular farm(s) and describe the process of how each industry decides to allocate and/or audit the funds that they distribute)

III. 4% -Health and Welfare Benefits

2019 Thoroughbred Allocation \$283,800.42*

2019 Standardbred Allocation \$439,617.37*

Each industry may summarize how the allocated RHDF funds were distributed for health and welfare benefits within the Commonwealth (i.e. description(s) of programs that are funded; are their programs properly funded or, are any programs that are deficient and/or are there any increased needs for H&W benefits for each industry)

\$_____ allocated for health insurance;

\$_____ allocated life insurance and disability insurance;

\$_____ allocated for other benefits (i.e. dental, pension, retirement)

RHDF 2019*

Month	Total	S (60%)	T (40%)
January	\$1,237,233.17	\$742,339.90	\$494,893.27
February	\$1,247,858.80	\$748,715.28	\$499,143.52
March	\$1,594,894.30	\$956,936.58	\$637,957.72
April	\$1,401,960.58	\$841,176.35	\$560,784.23
May	\$1,475,115.47	\$885,069.28	\$590,046.19
June	\$2,337,224.93	\$1,402,334.96	\$934,889.97
July	\$1,559,094.15	\$935,456.49	\$623,637.66
August	\$1,546,275.76	\$927,765.46	\$618,510.30
September	\$1,471,451.69	\$882,871.01	\$588,580.68
October	\$1,430,987.80	\$858,592.68	\$572,395.12
Subtotal	\$15,302,096.65	\$9,181,257.99	\$6,120,838.66
		S (65%)	T (35%)
November	\$1,408,336.33	\$915,418.61	\$492,917.72
December	\$1,375,011.65	\$893,757.57	\$481,254.08
Subtotal	\$2,783,347.98	\$1,809,176.19	\$974,171.79
Year Total	\$18,085,444.63	\$10,990,434.18	\$7,095,010.45

* figures are not confirmed
and need to be confirmed
by both the Gaming
Commission and each of
the industries.