Commission Members Present: Barbara Dresser, Chair, Gary Reed and Dirk Duncan.
Commissioners Absent: William McFarland

Staff Members Present: Ron Guay, AAG, Henry Jackson, Miles Greenleaf, and Carol Gauthier.

ADJUDICATORY HEARINGS:

1., 2 & 3 Commissioner Dresser stated that they would reopen the race date hearing to take action from HC Bangor LLC d/b/a Bangor Raceway and Davric Maine Corp., d/b/a Scarborough Downs for the assignment of makeup dates. Attorney Guay was the hearing officer. He asked for a motion to reopen the race date hearing. Commissioner Duncan made a motion to reopen the race date hearings for Bangor Raceway and Scarborough Downs. Commissioner Reed seconded. Commissioner Dresser asked for the vote. Vote 3-0. Attorney Guay asked Mr. Jackson if notice was given to all the intervenors by right and the parties. Mr. Jackson stated yes. He entered 4 exhibits. Exhibit 1, Request from Bangor to reopen the race date hearings for makeup dates; Exhibit 2, Request from Scarborough Downs to reopen the race date hearings for makeup dates; Exhibit 3, Notice of Hearing Ad in the 5 major newspapers and Exhibit 4, Notice of Hearing that went to all the parties of the proceedings. Attorney Guay asked if there were any parties wishing to intervene. There were none. Mr. Jackson has asked for admission of Exhibits 1 through 4. There were no objections to the exhibits being entered. Testimony was provided by Mr. Jackson. Bangor was requesting August 10 and 11; September 8; and, November 17, 2015. All are 4:00 PM post times. Scarborough Downs was requesting August 6, 10 and 24; September 10; October 15, 22 and 29; November 11, 23 and 30 and, December 4, 2015. Mike Hopkins of Bangor stated that they would like to change August 10 to September 9 because the track would not be race ready on August 10 because of a demolition derby being held there on August 8. Mr. Jackson stated that the Department would support that change. Attorney Guay asked if there were any questions for Mr. Hopkins. There were none. Attorney Guay asked to hear from Scarborough Downs. Attorney Guay asked Steven Cobbett of Scarborough Downs if they had any problems with what he just heard from Bangor. Mr. Cobbett stated no they do not. Attorney Guay asked if any intervenor wished to speak to the request. Seeing none he closed the hearing. The Commissioner members went into deliberations. Commissioner Dresser stated that this is something new. She hopes they would use these makeup dates in case there is a cancelation. She asked for a motion. Commissioner Duncan made a motion to approve the requested makeup dates for Bangor and Scarborough Downs as presented. Commissioner Reed seconded. Commissioner Dresser asked for the vote. Vote 3-0.

4. Commissioner Dresser stated that they will take testimony and act upon the request from Pioneer Gaming LLC to change its Off-track Betting operations from 9 Renaissance Way to the Sanford Plaza on Maine Street in Sanford. She turned the hearing over to Attorney Guay. Attorney Guay asked for a motion to reopen the hearing. Commissioner Reed made a motion to reopen the hearing pertaining to the license of Pioneer Gaming LLC Off-track betting facility. Commissioner Duncan seconded. Commissioner Dresser asked for the vote. Vote 3-0. Mr. Jackson presented the following exhibits. Exhibit 1, Pioneer Gaming LLC application; Exhibit 2, Notification from the City of Sanford; Exhibit 3, Ad in the newspaper; Exhibit 4, Notice of Hearing to the parties of the
proceedings; Exhibit 5, Letter from the Sanford Institution; Exhibit 6, Letter from Rick Stanley; Exhibit 7, Letter from Mary Blood; Exhibit 8, Letter from the Trafton Senior Center; and Exhibit 9, Letter from Philip Tracey. Exhibit 10 for information purposes which is the rules pertaining to Off-Track Betting licenses. Attorney Guay stated that the purpose of this hearing is to change the location of the facility. He asked if there was any request for intervention. Maura Herlihy asked to intervene and offer testimony. Attorney Guay allowed Ms. Herlihy as an intervenor. Attorney Guay asked if anyone objected to Ms. Herlihy being an intervenor. There was no objection. The state has admitted the 9 exhibits. Attorney Guay stated that Mr. Barberino submitted a letter from Kenneth Ray as Exhibit A-1 for the proposed location. Exhibit A-2 as the overhead photograph of the proposed location. Exhibit A-3 a floor plan of the proposed location. There were no objections. The three exhibits were admitted. Attorney Guay gave the oath to the following people: Henry Jackson, Don Barberino, Payton Scribner, Ms. Herlihy and Diann Perkins. Mr. Barberino testified saying that there was a public hearing in Sanford and no one attended. Ms. Scribner read into the record a letter from Mr. Ray the landlord. Ms. Herlihy testified regarding the parking issue. Commissioner Dresser asked Ms. Herlihy if she was testifying as a personal capacity or professional capacity. Ms. Herlihy stated as both. Commissioner Duncan referred to exhibit 2 stating to Ms. Herlihy that there was a public hearing and no one was against. Ms. Herlihy stated that no one ever goes to public hearings. Commissioner Reed stated to Ms. Herlihy that the council unanimously approved this request. Was prior notice given to the public hearing where this matter was discussed? Ms. Herlihy stated yes, no one ever comes to the public hearings. Attorney Guay asked if there were any more questions. Mr. Jackson asked Ms. Herlihy if she objects to the facility moving to 890 Main Street because it is going to affect her as an abutting land owner. Ms. Herlihy said “no”. Attorney Guay asked if the Commissioner’s had any questions. They responded with a no. Attorney Guay stated that one of the issues is the parking. Ms. Herlihy stated that the move of the facility is still contingent upon the code enforcement approval. Attorney Guay asked for any more testimony. Ms. Perkins stated she does visit the Sanford OTB quite often. She did go to the public hearing in Sanford and there were a couple of people there. She stated that she didn’t think that the Off-Track Betting Facilities have a negative impact on a community. Attorney Guay asked for any other questions or testimony. There were none. Mr. Jackson stated that he visited the site and there was a parking issue. If the Commission goes forward with this application that they do place some conditions as it relates to either from the municipality or patrons as an issue to be referred back to the Commission for review. Mr. Barberino asked if there should be further issues to come back to the Commission. Mr. Jackson stated yes if there are any issues with either the municipality or patrons trying to find a parking space. Attorney Guay asked the Commissioners if they have any questions. Commissioner Duncan stated that everything is contingent on the code enforcement that he complies. Mr. Jackson stated yes. Attorney Guay stated that he suggests that Title 8, Section 275D-5 for the Commission members to make a finding relating to 6A 5 that the facility has adequate parking because in the hearing today that was raised as an issue and a challenge. Attorney Guay closed the hearing. Commissioner Reed stated that there was public notice of the hearing on this situation that no one attended so there wasn’t an overwhelming public outcry against this move. Commissioner Dresser stated that she trust Mr. Barberino is going to make this work. The finding the Commission members need to make as to the parking is their approval of this license. Attorney Guay stated that they have not heard evidence that there is inadequate parking. In the future, if there is indication that parking is an issue then that knowledge brought here could be the basis for action on Mr. Barberino’s license. Commissioner Dresser asked for a motion. Commissioner Reed made a motion based on the evidence presented today that they have made a finding that Pioneer Gaming LLC proposed move to 890 Main Street in Sanford, Maine is in compliance with 8 MRS Section 275D and all applicable rules and statutes. Commissioner Duncan seconded. Vote 3-0.
UNFINISHED BUSINESS:
1. Commissioner Dresser stated that they would take action on the proposed rule changes to Chapter 11. Mr. Jackson presented the rule with corrections and with testimony. Commissioner Duncan made a motion to accept the proposed changes for adoption to MSHRC rule Chapter 11 subject to the non-substantive corrections that have been outlined on the public comment sheet that they received. Commissioner Reed seconded. Vote 3-0.

2. Commissioner Dresser stated that they would take action on the proposed rule changes to Chapter 17. Mr. Jackson presented the rule with corrections and with testimony. Commissioner Reed made a motion to accept the proposed changes for adoption to MSHRC rule Chapter 17 as presented which include the non-substantive corrections that were pointed out during the public hearing. Commissioner Duncan seconded. Vote 3-0.

3. Commissioner Dresser stated that the Commission will take action on the proposed consent agreement between the Commission and Donna Sprague. Mr. Jackson stated that he offered a consent agreement to Ms. Sprague and she has not accepted the terms at this time. Donna Sprague was present. Attorney Guay suggested that since Ms. Sprague was not at the commission meeting when this was discussed, he suggest that the Commission hear from her. Mr. Jackson stated that when he sent out the consent agreement to Ms. Sprague, he did not state that the purse for the second violation would be returned and the second violation would be continued to March 2016. If there were no violations within that timeframe that at the March 2016 meeting the Commission would dismiss that charge. Attorney Guay, Commissioner Dresser and Mr. Jackson had a discussion concerning Ms. Sprague’s consent agreement. They decided to negotiate the same consent agreement or at the next Commission meeting they would have a hearing on the matter. Attorney Guay stated that the request by Donna Sprague to reconsider the offer for a consent agreement was declined by the Commission.

4. Commissioner Dresser stated that they have three decisions and orders to review and approve. Commissioner Reed made a motion to approve the decision and order for Jon Chenard. Commissioner Duncan seconded. Vote 3-0. Commissioner Duncan made a motion to approve the decision and order for James Smallwood. Commissioner Reed seconded. Vote 3-0. Commissioner Reed made a motion to approve the decision and order for Joseph Douglas. Commissioner Duncan seconded. Vote 3-0.

NEW BUSINESS:
1. Commissioner Dresser stated that they will review and take action on approving the list of judges for the 2015 racing year. She asked how this differs from last year. Mr. Jackson stated that the Commission have lost a few judges and have 2 new ones. Commissioner Dresser asked for a motion for approval. Commissioner Reed made a motion to approve the 2015 Judges list as presented. Commissioner Duncan seconded. Vote 3-0.

2. Commissioner Dresser stated that they will review the Maine Harness Horsemen’s Association’s budget and establish the assessment rate from the various funds identified in 8 MRS Section 272-B. Linwood Higgins and Mr. Gravel were present to answer any questions. Commissioner Dresser asked for a motion. Commissioner Reed made a motion to establish the assessment rate as 2.2837 as presented. Commissioner Duncan seconded. Vote 3-0.
REPORTS:
1. Commissioner Dresser stated that they would hear the executive director’s report. Mr. Jackson stated that Mr. Andrew submitted a letter for their review. Mr. Jackson also stated that there were complaint nos. (2014 MSHRC 08, 09, 010, 013, 014 and 026) that were filed and have not come before the Commission because those complaint numbers were withdrawn by the executive director due to the split sample analysis results indicating that the level of testosterone was less than our parameters in our rules. Mr. Jackson talked with Dr. Sams from LGC and Dr. Sams stated that the lab received a new machine and were establishing the standards; therefore, Mr. Jackson withdrew those cases.

OTHER BUSINESS:
1. Commissioner Dresser asked Mr. Greenleaf how the $140,000.00 would be disbursed from the Sire Stakes Program. Mr. Greenleaf stated that as soon as everyone has submitted their vendor form, they would receive a check.

PUBLIC COMMENT:
Commissioner Dresser asked for public comment. Mr. Higgins wanted to know how much it cost to have the samples done again. Mr. Jackson stated that the samples he sent out for analysis to Industrial Labs were $600 each and the caffeine samples were $700 and the DNA analysis were $375 at Maxxam Analytical in Canada.

Mr. Jackson stated that the commission may be doing human drug testing using salvia swabs or spit rather than human urine. He has to find a lab to do it and it could be cost effective.

Mr. Gravel asked when Chapters 11 and 17 would be published on the website. Mr. Jackson stated that now that the proposed rules have been approved by the Commission they need to be reviewed by the Attorney General’s Office.

Ms. Perkins stated that Valerie Grondin is the top trainer in the United States. She also asked about the judge’s school. Ms. Perkins wanted to know if they were accredited and critiqued. Mr. Jackson stated that the judges would need to be accredited in 2016. Ms. Perkins asked about the funding in Chapter 9. Mr. Jackson stated that that has been done and that it will be advertised for 30 day written comment period.

EXECUTIVE SESSION:
None.

The meeting adjourned at 1:12 p.m.

Respectfully submitted by:
Henry W. Jackson
Executive Director