

## **MINUTES**

### **NEW YORK STATE RACING AND WAGERING BOARD**

#### **MEETING OF JUNE 5, 2006**

**A meeting of the New York State Racing and Wagering Board was held on Monday, June 5, 2006 at 2:00 p.m. at the Racing & Wagering Board's Schenectady Office located at 1 Broadway Center, Suite 600, Schenectady, New York.**

The meeting was called to order at 2:16 p.m.

#### **In Attendance Were:**

Cheryl Buley, Chairwoman

Michael J. Hoblock, Jr., Member

John Cansdale, Executive Director

Robert Feuerstein, General Counsel

Thomas Casaregola, Director of Audits & Investigations

Joseph Lynch, Director of Racing Operations

Gail Pronti, Secretary to the Board

Rick Goodell, Assistant Counsel

William Sekellick, Assistant Counsel

Pat Wade, Audits & Investigations

#### **Also in Attendance Were:**

Daniel Toomey, NYSR&WB

Anthony Durinn

Vivian Davis, NYSR&WB

Rick Papa, HHACNY

Kristen Buckley, NYSR&WB

George C. Tackley, VDHHA

Madeline Bailey

Thomas Spring, Capital OTB

Janice Connor, STHHA

Jeffrey Allen, Lottery

Judy Lanpher, VDHHA

Dan Wray, NYC OTB

Paul D'Onofrio, Monticello Raceway

Jim Pablowski

Robert Brooks, NYSHHB

Gary Greenberg

Joe Camerino, HHACNY

Jim Crane, GPCV

Carol Okusko, HH of NY

Charles Coppola, Coppola Ryan

William Andrew, HH of NY

**OPEN COMMENT PERIOD:** Comments began at 2:14 p.m.

Gary Greenberg , shareholder of Vernon Downs, expressed his support for Jeff Gural and the opening of Vernon Downs. He stated that the horsemen at Vernon are the ones who have suffered more than anyone else and everyone at Vernon is ready to put the past behind them and move on and support the track's opening. He also asked that the Board encourage the Legislature and the Governor to increase the allotment on the video lottery terminals.

Rick Papa thanked the Board for considering the Vernon Downs' Track and Simulcast applications.

Comments ended at 2:16 p.m.

**A. There were no minutes for Board approval.**

**B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIR.**

**1. BUFFALO RACEWAY - REQUEST TO AMEND PLAN OF OPERATION**

For entry into the minutes, on May 10, 2006, the NYS Racing and Wagering Board approved the Buffalo Raceway request to amend its plan of operation by offering additional racing dates at 6:35 p.m. on the final three Thursdays during May. These dates are May 11, 18 and 25, 2006.

**2. BUFFALO RACEWAY - REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on May 16, 2006, the NYS Racing and Wagering Board approved the Fairgrounds Gaming and Raceway (Buffalo Raceway) request to amend its simulcast plan of operation enabling the import of thoroughbred simulcasts from MEC-Lonestar Park in Grand Prairie, Texas from April 13, 2006, to July 23, 2006.

3. **CAPITAL DISTRICT REGIONAL OTB - REQUEST TO OFFER PROMOTION & MARKETING-ANNUAL SUMMER CHALLENGE**

For entry into the minutes, on May 16, 2006, the NYS Racing and Wagering Board approved an application by the Capital District Regional Off-Track Betting Corporation to conduct a promotion providing for an annual handicapping contest at all branches on Saturday, June 24 and Sunday, June 25. If the contest is fully subscribed, \$6,000 will go to the winner, \$3,000 to the 2<sup>nd</sup> place finisher, \$1,800 to the 3<sup>rd</sup> place finisher, \$1,200 to the fourth place finisher, and \$500 to the 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> place finishers.

The leader after Saturday's race will receive Capital OTB's box seats for four (4) people on a given day at Saratoga along with Clubhouse admission, a program and a \$100 gift certificate.

The overall winner of this contest will receive a trip for two (2) people to Churchill Downs and the 2006 Breeders Cup. This package will include seats for two along with airfare and hotel accommodations.

4. **CAPITAL DISTRICT REGIONAL OTB - REQUEST TO OFFER PROMOTION  
—  
PLAYER REWARDS PROGRAM**

For entry into the minutes, on May 18, 2006, the New York State Racing and Wagering Board approved the Capital District Regional Off-Track Betting request to amend its simulcast plan of operation to reflect the authorizations by the Meadowlands, Monmouth Park, Emerald Downs, Delaware Park, Beulah Park, River Downs, Mountaineer Park, Woodbine and Mohawk for wagering on their races to be included within the Capital Rewards Program.

5. **FINGER LAKES RACEWAY - REQUEST TO SIMULCAST VARIOUS  
LOCATIONS**

For entry into the minutes, on May 10, 2006, the New York State Racing and Wagering Board approved an amendment to the Finger Lakes simulcast plan of operation enabling the import of the Louisiana Downs simulcast signal throughout the 2006 meeting of Louisiana Downs.

6. For entry into the minutes, on May 16, 2006, the NYS Racing and Wagering Board approved the Finger Lakes request to import simulcast thoroughbred racing programs from the New York Racing Association racetracks of Belmont Park, Saratoga Racecourse and Aqueduct Racetrack through a new contract that extends the terms of the current agreement through December 31, 2007.

7. For entry into the minutes, on May 16, 2006, the NYS Racing and Wagering Board approved an amendment to the Finger Lakes simulcast plan of operation enabling the import of the Suffolk Downs simulcast signal throughout the 2006 meeting of Suffolk Downs.

8. [Duplicate of # 5.](#)

9. **MONTICELLO RACEWAY - REQUEST TO SIMULCAST VARIOUS  
LOCATIONS**

For entry into the minutes, on May 10, 2006, the New York State Racing and Wagering Board approved the Monticello Raceway request to simulcast its live racing to Arlington Park Racecourse, and its thirty-one (31) included sites. This approval is good through December 31, 2006.

The receiving sites and any secondary sites are prohibited from accepting account or Internet wages from New York residents.

10. For entry into the minutes, on May 16, 2006, the NYS Racing and Wagering Board approved an amendment to the Monticello Raceway simulcast plan of operation for the simulcast of NYRA races (Aqueduct Racetrack, Belmont Park and Saratoga Racecourse) during the remainder of 2006 and again during 2007 through December 31, 2007.
  
11. For entry into the minutes, on May 22, 2006, the New York State Racing and Wagering Board approved the requested change in the Monticello Raceway plan of operation enabling the import of the year 2006 harness simulcasts from Colonial Downs in Virginia through November 4, 2006.
  
12. **NASSAU REGIONAL OTB - REQUEST TO SIMULCAST VARIOUS LOCATIONS**  
For entry into the minutes, on May 22, 2006, the NYS Racing and Wagering Board approved an amendment to the Nassau Regional OTB simulcast plan of operation enabling the import of simulcasts from the year 2006 race meeting conducted at Indiana Downs through 2006.

13. **NEW YORK CITY OTB - REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on May 10, 2006, the New York State Racing and Wagering Board approved the simulcast operation amendments for all six OTB's in New York State to simulcast [the Woodbine Entertainment Group (including Woodbine and Mohawk Raceway)]. This approval extends to Capital District, Catskill Regional, Nassau Downs, Suffolk Regional and Western Regional OTB's in addition to the New York City OTB.

Approvals were granted as well for River Downs in Ohio, Delaware Park and Harrington Park, both in Delaware, for New York City, Nassau and Suffolk OTB's.

14. For entry into the minutes, on May 22, 2006, the NYS Racing and Wagering Board approved the amendments to the New York City OTB simulcast plan of operation enabling the import of simulcasts from the year 2006 initial race meeting conducted at the Bay Meadows Racing Association through the date of June 30, 2006, and at Freehold Raceway through the end of 2006.

Continuing import of the Bay Meadows simulcast after June 30, 2006, or the Freehold Raceway simulcasts in 2007, necessitate that new federally required simulcast permission letters from the representative horsemen's association and the relevant racing commissions must be filed with the Board. These approvals extend as well to the other New York State Off-Track Betting Corporations.

15. **SARATOGA HARNESS - REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on May 16, 2006, the NYS Racing and Wagering Board approved an amendment to the Saratoga Gaming and Raceway plan of operation enabling the import of the simulcasts from Suffolk Downs and Rockingham Park during the 2006 seasons at both tracks.

16. For entry into the minutes, on May 22, 2006, the NYS Racing and Wagering Board approved the Saratoga Gaming and Raceway request, to amend its plan of operation enabling the receipt for the first time of the New York Racing Association's Saratoga

Racecourse signal at the Saratoga Gaming and Raceway. This approval is effective for the 2006 Saratoga Race meeting.

17. **WESTERN REGIONAL OTB - REQUEST TO ADD NEW BOARD OF DIRECTORS - GARNER**

For entry into the minutes, on May 19, 2006, the New York State Racing and Wagering Board approved the addition of Maurice Garner as a member of the Board of Directors representing the City of Buffalo for the Western Off-Track Betting Corporation. This approval was effective immediately.

**C. ITEMS PREVIOUSLY APPROVED, DENIED OR DEFERRED BY THE BOARD**

None.



**D. ITEMS TO BE APPROVED, DENIED OR DEFERRED BY THE BOARD**

**1. SARATOGA HARNESS - REQUEST TO WITHDRAW \$57,579.22 AND \$27,001.06 FROM CIF**

The New York State Racing and Wagering Board approved the Saratoga Harness request to withdraw \$57,579.22 from its Capital Improvement Fund for reimbursement of Capital Improvement Expenditures. The Board denied without prejudice the Saratoga Harness request to withdraw \$27,001.06 for advertising and promotional expenditures as a result of not being able to verify that the advertising and promotional expenditures were for racing as opposed to video gaming.

**2. SUFFOLK REGIONAL OTB – REQUEST TO APPOINT NEW VICE PRESIDENT -**

**SEAMAN**

The New York State Racing and Wagering Board approved the requested plan of operation amendment to reflect the appointment of Marietta Seaman as the new Vice-President for Suffolk Regional Off-Track Betting.

**3. CAPITAL DISTRICT REGIONAL OTB – REQUEST TO REOPEN AND AMEND OWNERSHIP E-Z BET FACILITY - ALBANY**

The NYS Racing and Wagering Board approved the simulcast plan of operation amendment with revised ownership for the Side Door Café in the City of Albany off-track betting simulcast facility conditioned on satisfactory follow-up by Board staff concerning two specific items.

In addition, it is expected that Capital District Regional OTB, using its own personnel, will occasionally inspect the Side Door Café remote wagering facility and certify that all rules and laws concerning the conduct of wagering in New York State are being followed.

Furthermore, the Secretary to the Board is to be notified in writing in a timely manner should a change in procedure be implemented that affects the operation of this

approved Capital District Regional OTB remote wagering facility. The simulcast license fee of five hundred dollars is immediately due.

**4. NEVADA GOLD - TIOGA DOWNS, INC. – TRACK LICENSE APPLICATION FOR 2006**

The New York State Racing and Wagering Board took the following actions relating to the track and simulcast license applications of Nevada Gold-Tioga Downs Inc:

Track License Application

The Board assigned live race dates for June 9, June 10 and June 11, 2006 only to Nevada Gold-Tioga Downs, Inc. pending receipt of a letter from the New York State Department of Taxation and Finance approving the totalizator system, and a satisfactory final inspection by Board staff on Wednesday, June 7, 2006. Tioga must demonstrate the following during the inspection:

- All employees are licensed
- The totalizator board is operational
- The facility is “race ready”

The Board also approved Tioga's request for takeout rates. The rates, as requested by Tioga, are 18% for regular wagers, 20% for multiple wagers and 25% for exotic wagers. The Board also approved Tioga's request for the Grand Slam wager, in addition to those set forth in the license application.

The Board acknowledges Tioga's election on written notice to withhold 1% of regular and multiple wagers for capital improvement purposes pursuant to Section 319 of the Racing, Pari-Mutuel Wagering and Breeding Law. Tioga is authorized to begin withholding funds for capital improvement purposes on June 22, 2006.

No further action was taken on Tioga's license status. Therefore, the temporary conditional license previously approved on May 25, 2006 remains in effect pending further Board approval.

#### Simulcast License Application

The Board approved a temporary conditional simulcast license. The license conditions are the same as the track license. Both are conditioned on compliance with all applicable provisions of the Racing, Pari-Mutuel Wagering and Breeding Law, Board rules and orders and directives of the New York State Racing and Wagering Board. These include but are not limited to the following:

- a. Retransmission of your simulcast signal by authorized recipients to secondary recipients is not allowable without disclosure within the contract of the names and locations of all secondary recipients.
- b. The simulcast receiving sites and any secondary sites are prohibited from accepting account or Internet wagers from New York residents.
- c. The Board has the authority to audit the out-of-state receiving site's books and records (including all secondary sites that receive your simulcast) and must be noted in any simulcast agreement entered into for your simulcast signal. Included within the agreement must be reference that the guest shall permit inspection of the totalizator facilities at the site where guest's wagers are subject to commingling and all related totalizator books and records by a representative of the host or of the host's Board. Names and contact telephone numbers and/or

addresses of managers at all pari-mutuel "hubs" used in the course of your simulcast transactions, if not included within individual contracts, must be supplied to the Board.

- d. Any agreement which you are party to is subject to the requirements of the host and guest states with any provision mandated by either Commission or Board with such provisions specifically incorporated into contract by reference. Both parties, including any Secondary Recipients, shall comply with the provisions of all-applicable Federal, State and local laws and regulations.
- e. An SAS-70 Type II audit is to be performed for the current licensing period on the totalizator operations utilized and located at your facility. The report is to be filed with the Board no later than October 31, 2006.

The Board did not take action on Tioga's request to use United Tote's FastBet cards or Tioga's request to implement a Winner's Circle Player's Club Rewards Program. The Board will consider approval of those items at a later date pending further staff review. Until such time, Tioga is not authorized to use FastBet cards or to implement a players' reward program.

**5. NEVADA GOLD - TIOGA DOWNS, INC. – SIMULCAST LICENSE APPLICATION FOR 2006**

This item was addressed in number 4 above.

**6. NEVADA GOLD – TIOGA DOWNS, INC. – TRACK LICENSE AMENDMENT – GRAND SLAM WAGER**

This item was addressed in number 4 above.

**7. NEVADA GOLD – TIOGA DOWNS, INC. – TAKEOUT RATES AND PARTICIPATION IN CIF**

This item was addressed in number 4 above.

**8. NEVADA GOLD - VERNON DOWNS, INC. – TRACK LICENSE APPLICATION FOR 2006**

A temporary conditional track license was approved by the Board pursuant to Section 307(7) of the Racing, Pari-Mutuel Wagering & Breeding Law subject to compliance with the following conditions:

1. The applicant is to successfully demonstrate that the racing facility is in compliance with the New York State Racing, Pari-Mutuel Wagering and Breeding Law and Board Rules (Once the facility has obtained a satisfactory fire inspection, a copy of such report is to be provided to the Board. The facility will then be inspected by Board staff to ensure compliance with racing laws and rules.)
2. There shall be no material (1% or more) change to management or any beneficial interest, direct or indirect, in debt or equity related to the ownership, debt, or operation of the track, nor to the persons who are officers or directors of the applicant including affiliates, lenders, and owners unless and until Board staff has made a preliminary finding of suitability.
3. The Applicant desires 14 races per day. Should the Board approve race dates the applicant is notified that the maximum number of races per day the Board will be able to consider will be 12.

4. A complete response must be provided to the following items as listed on the track application form:
  - a. Question 2 - The number of dates requested does not appear to satisfy the minimum number of dates required by statute in either Sections 229, 307(5-a) or 318. The applicant must attach justification for the reduced number of dates requested in order to be granted an exception from these statutory requirements.
  - b. Question 8(b) – The Applicant has not submitted many of the vendors (for various services) and their respective managers. All of them must be submitted.
  - c. Question 9 - The Applicant must provide an executed Horsemen's agreement. (See separate Board item on the June 5, 2006 agenda regarding this matter.)
  - d. Question 14 – The Applicant indicated that security guards are employed. A copy of the NYS Department of State registration for a different entity, Mid-State Raceway, was provided. The applicant must either register with the Department of State for employment of security guards or clarify the response provided.
  - e. Question 17 – The Applicant must submit appropriate inspections. In addition, Board staff will have to conduct an inspection.
  - f. Question 18 – The Applicant must demonstrate compliance with CAFO.
  - g. Question 21 – The Applicant must provide a description of controls in place to ensure that all employees are properly licensed in accordance with the Racing, Pari-Mutuel Wagering and Breeding Law.

5. Until such time as all of the conditions have been met, no race dates shall be assigned, and the applicant is not to receive regional payments until such time as racing begins.

**Simulcast License:**

The simulcast license for Nevada Gold – Vernon Downs, Inc. was deferred by the Board at the June 5, 2006 meeting pending resolution of the following items as listed on the simulcast license application:

1. Question 1 – Same issues as Track License Question 17 regarding fire inspections.
2. Question 3 - The Applicant must provide a feasibility study and pro-forma financial statements.
3. Question 4 – Same issues as Track License Question 16 regarding Security.
4. Question 5(b) – The Applicant currently has no simulcast contracts. Simulcast contracts must be submitted for Board approval, including any simulcasting agreement with Tioga Downs.
5. Question 5(e) – The Applicant must state if they are using an independent recording device for each type of wagering available.
6. Question 7 – The Applicant stated they are examining various methodologies and reporting systems used to track revenue and expenses. No specific information was provided; it must be provided.

7. Question 9 – Emergency contact number for Security needs to be provided.
  
8. Question 15 – The Applicant needs to provide the attachment indicated to document the delegation of authority for another entity to act as agent on its behalf in regard to negotiating and executing simulcast agreements.

In addition the Board requires complete cooperation as a condition of licensing during staff's financial and suitability review, and if circumstances change any time during this licensing period and the application no longer presents the correct facts, the applicant must submit to the Board an amended answer to the question affected. When doing so, the applicant is to mark the submission as "Amendment to License Application" - question number - and the change in detail, properly attested.

**9. NEVADA GOLD - VERNON DOWNS, INC. – SIMULCAST LICENSE APPLICATION FOR 2006**

This item was addressed in number 8 above.



**10. NEVADA GOLD - VERNON DOWNS, INC. – REQUEST FOR CONSIDERATION  
OF A HORSEMEN’S GROUP**

The New York State Racing and Wagering Board denied without prejudice the challenge by the Vernon Downs Harness Horsemen Association, Inc. to the incumbency of the Harness Horse Association of Central New York, Inc. The Board determined that the Vernon Downs Harness Horsemen Association, Inc had failed to sustain its burden of proof. The Harness Horse Association of Central New York, Inc. remains the representative horsemen’s organization for race meetings at Vernon Downs in 2006.

**11. NEVADA GOLD - VERNON DOWNS, INC. – TAKEOUT RATES AND  
PARTICIPATION IN CIF**

The Takeout Rates and Participation in CIF for Nevada Gold – Vernon Downs, Inc. was deferred by the Board at the June 5, 2006 meeting pending resolution of the simulcast license application.

**12. NEVADA GOLD - VERNON DOWNS, INC. - TRACK LICENSE AMENDMENT -  
GRAND SLAM WAGER**

The Grand Slam Wager for Nevada Gold – Vernon Downs, Inc. was deferred by the Board at the June 5, 2006 meeting pending resolution of the simulcast license application.

**E. ITEMS FOR BOARD INFORMATION/DISCUSSION**

None.

F. FOLLOW-UP ON ITEMS PREVIOUSLY APPROVED

None.

The meeting adjourned at 3:21 p.m.