

MINUTES

NEW YORK STATE RACING AND WAGERING BOARD

MEETING OF NOVEMBER 20, 2001

A meeting of the New York State Racing and Wagering Board was held on Tuesday, November 20, 2001 at 11:30 a.m. at the Racing & Wagering Board's Albany Office located at 1 Watervliet Avenue Extension, Albany, New York.

The meeting was called to order at 11:35 a.m.

In Attendance Were:

Michael J. Hoblock, Jr., Chairman

Cheryl Buley, Member

Edward Martin, Executive Director

Maureen McGrath, Secretary to the Board

Robert Feuerstein, General Counsel

Thomas Casaregola, Director of Audits & Investigations

Joe Lynch, Chief of Racing Operations

Also in Attendance Were:

Dianne Landor, NYSR&WB

Stacy Walker, NYSR&WB

Sheila Osterhout

Martin Basinait, WROTBC

Peter O'Connell, WROTBC

Charles Coppola, Coppola, Ryan & McHugh

Jim Ryan, Coppola, Ryan & McHugh

Alex Betke, Wilson, Elser, Moskowitz, Edelman & Dicker

Martin Tuczinski, CROTBC

Tom Precious, Buffalo News

OPEN COMMENT PERIOD:

A. The Board approved the minutes of the Board meeting held on October 24, 2001.

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIRMAN.

1. MONTICELLO RACEWAY LIST OF SIMULCAST LOCATIONS FOR 2001

For entry into the minutes, on October 25, 2001, approval was granted for the request by Monticello Raceway to amend their simulcast plan of operation with an addendum to an existing agreement with the New Jersey Sports and Exhibition Authority, the operator of The Meadowlands Racetrack in East Rutherford, New Jersey.

This addendum covers the new late season harness meeting at The Meadowlands that will be held from November 16th through December 15, 2001.

2. NYRA REQUEST TO EXPORT TO CRYSTAL PALACE - BAHAMAS

For entry into the minutes, on October 25, 2001, approval was granted for the request by NYRA for the addition of an outlet for the Crystal Palace Casino within the Nassau Marriott Resort on West Bay Street in the city of Nassau in the Bahamas. As with other Caribbean locations, this new site will be administered by Stevenson and Associates.

This approval is effective immediately.

3. VERNON DOWNS REQUEST TO SIMULCAST VARIOUS LOCATIONS IN 2001

For entry into the minutes, on November 1, 2001, approval was granted for the request by Vernon Downs to amend their simulcast plan of operation enabling the import of the year 2001 simulcasts from Dover Downs in Delaware, Northville Downs in Michigan and from the Lebanon Raceway in Ohio.

These harness simulcasts will be utilized whenever permitted under the Racing Law.

4. NASSAU OTB REQUEST TO SIMULCAST VARIOUS LOCATIONS FOR 2001

For entry into the minutes, on November 1, 2001, approval was granted for the request by Nassau OTB to amend their simulcast plan of operation enabling the import of simulcast harness racing programs from Dover Downs in Delaware through April 25, 2002. This simulcast may be imported and wagering conducted whenever in accordance with the Racing Law.

This approval extends to Suffolk Regional OTB as well.

5. YONKERS RACEWAY REQUEST TO AMEND TRACK LICENSE - WAGERING

For entry into the minutes, on November 2, 2001, approval was granted for the request by Yonkers Raceway to amend their plan of operation enabling a second superfecta wager for each racing program during the annual “ Holiday Series” events that are contested over a four-week period from mid-November through mid-December.

Per existing applicable directive, nine horses must contest any harness race that has superfecta wagering.

6. NYRA REQUEST TO APPOINT NEW RACING OFFICIAL - KELLY

For entry into the minutes, on November 9, 2001, approval was granted for the request by NYRA to assign Timothy D. Kelly as a Category I racing official. This approval is in compliance with Board Rule 4005.1.

7. FINGER LAKES REQUEST FOR FINAL DISTRIBUTION OF THE DAILY PICK-6 POOL

For entry into the minutes, on November 14, 2001, approval was granted for the request by Finger Lakes to amend their plan of operation for a final year 2001 disbursement of the entire pick-six pari-mutuel pool on Tuesday, December 4, 2001.

8. SARATOGA HARNESS REQUEST TO INCLUDE SUNDAYS IN DECEMBER

For entry into the minutes, on November 14, 2001, approval was granted for the request by Saratoga Harness to amend their plan of operation enabling three additional live racing programs in December 2001. The additional days in December will be the 9th, 16th, and the 30th with a first post time of 12:45 p.m.

9. NYRA REQUEST TO APPOINT NEW RACING OFFICIAL - THOMSON

For entry into the minutes, on November 16, 2001, approval was granted for the request by the New York Racing Association to appoint Dr. Heather L. Thomson to a position as one of the Association’ s examining veterinarians. This approval is in compliance with Board Rule 4005.1.

10. CATSKILL OTB REQUEST TO RELOCATE BRANCH - WALLKILL

For entry into the minutes, on November 16, 2001, approval was granted for the request by Catskill OTB to relocate the branch located on Route 211 in Middletown to a new location within the Plaza at Crystal Run, also on Route 211 in the Town of Wallkill.

A certificate of occupancy will be filed with the Board upon the opening of this relocated branch.

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

1. IN THE MATTER OF JOHN C. KING

For entry into the minutes, on November 6, 2001, the Board granted approval of the summary suspension of the thoroughbred groom license of John C. King upon a finding that the public safety and welfare imperatively require this emergency action. The suspension will remain in effect pending further disposition by the Board after a hearing.

2. IN THE MATTER OF BRUCE MASTROBATTISTA

For entry into the minutes, on November 16, 2001, the Board granted approved of the request to summarily suspend the harness groom license of Bruce Mastrobattista upon a finding that the public safety and welfare imperatively require this emergency action. The suspension will remain in effect pending further disposition by the Board after a hearing.

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

1. IN THE MATTER OF FRED WHITE, JR.

The Board approved Hearing Officer Baller' s recommendation that decision of the

Presiding Judge at Buffalo Raceway, which suspended Mr. White' s license for eight (8) days for sitting down in front of a horse in violation of Board Rule 4117.4(i) during the seventh race on August 25, 2001, be affirmed.

2. IN THE MATTER OF CHARLES BACON

The Board approved Hearing Officer Baller' s recommendation that the decision of the

Presiding Judge at Buffalo Raceway, which suspended Mr. Bacon' s license for eight (8) days for taking back quickly and causing confusion in violation of Board Rule 4117.4(e) during the seventh race on August 25, 2001, be affirmed but stayed the suspension with the provision that it will be discharged provided that respondent does not commit any additional violation of Board driving rules during the next year (on or before November 29, 2002).

3. IN THE MATTER OF JOHN G. INGRAM

The Board approved Hearing Officer Baller' s recommendation that the license of thoroughbred general services licensee John G. Ingram be revoked based upon the finding of the drug marijuana in a urine specimen provided by him on September 20, 2001 at Belmont Park in violation of Board Rule 4042.5 and Mr. Ingram' s Consent to Conditions for Reinstatement dated September 20, 2001.

4. IN THE MATTER OF GEORGE McCORD

The Board approved Hearing Officer Baller' s recommendation that the license refusal of harness owner license applicant George McCord be affirmed based upon the finding that Mr. McCord' s experience, character and general fitness are such that his participation in racing is inconsistent with the public interest, convenience and necessity or with the best interests of racing generally.

5. IN THE MATTER OF PHILIP SCACCHETTI

The Board approved Hearing Officer Baller' s recommendation that the decision of the judges to deny the protest involving the placement of the horse ALBANY at Saratoga Raceway on August 14, 2001 be affirmed.

6. IN THE MATTER OF CURTIS STUBBS

The Board approved Hearing Officer Baller' s recommendation that the license refusal of harness general services license applicant Curtis Stubbs be affirmed based upon the finding that Mr. Stubbs' experience, character and general fitness are such that his participation in racing is inconsistent with the public interest, convenience and necessity or with the best interests of racing generally.

7. FINGER LAKES REQUEST FOR NEW CONSTRUCTION

The Board issued a permit in accordance with Section 239 of the New York State Racing, Pari-Mutuel Wagering and Breeding Law for the construction of a swimming facility for horses on the backstretch of Finger Lakes Racing Association, Inc. The permit was issued pursuant to a September 28, 2001 request.

8. FINGER LAKES REQUEST TO WITHDRAW FROM CIF - \$32,177.98

The Board approved \$29,139.18 of the request by Finger Lakes Racing Association, dated October 16, 2001, to withdraw \$32,177.98 from their Capital Improvement Fund for reimbursement of capital improvement expenditures.

In addition, the Board denied without prejudice \$3,038.80 of this request for the reimbursement of the construction of a Finger Lakes Racetrack sign on Rt. 332. However, since this disbursement qualifies for reimbursement as advertising and promotion expenditures, this item may be resubmitted for consideration as such.

Backstretch (41%)

Nozzle Sprays - Water Truck \$ 655.01

Floats that attach to tractor for grooming track 3,494.62

Utility Pole - Replace in barn area 4,628.82

Security Guard Watch System for Barns 2,116.88

Sand Analysis Equipment 1,189.14

Subtotal - Backstretch \$12,084.47

Other (59%)

1988 Ford Pick up Truck \$ 802.50

Quick Talk Out Post Call Boxes 872.05

Paint Perimeter Fencing 9,750.00

Carpet & Tile Main Office 2,339.37

Video Distribution System 2,399.48

13 inch Television Monitors 891.31

Subtotal - Other \$17,054.71

Total Recommended Approval \$29,139.18

9. MONTICELLO RACEWAY REQUEST TO WITHDRAW FROM CIF - \$50,000

The Board denied without prejudice the request by Monticello Raceway, dated August 16, 2001, to withdraw \$50,000 from its Capital Improvement Fund for reimbursement of Tote System expenses.

The Board determined that expenditures for backstretch improvements and other budgeted CIF items for 2001 must be increased substantially before this request will be reconsidered.

During its review of Monticello Raceway' s past requests for reimbursement, the Board noted that a majority of expenses were for other than backstretch expenses. While the Board will consider any request submitted to it, Monticello should be reminded of their responsibility to maintain a suitable facility for the horsemen as well as patrons.

10. SYRACUSE MILE REQUEST TO WITHDRAW FROM CIF - \$3,056.40

The Board approved the request from The Syracuse Mile to withdraw \$3,056.40 from its Capital Improvement Fund.

Costs

10 – 27” TV’ s

\$ 3,056.40

Total

\$ 3,056.40

11. SYRACUSE MILE REQUEST TO WITHDRAW FROM CIF - \$2,787.93

The Board approved the request from The Syracuse Mile to withdraw \$2,787.93 from its Capital Improvement Fund for advertising and promotional expenses.

Costs

Print

\$ 5,555.48

Radio

5,420.00

Television

6,040.00

Total

\$17,015.48

2001 On-Track Handle

Regular and Multiple On-Track Handle \$557,586

1/2/ of 1% .005

2001 Maximum Advertising & Promotional

Reimbursement \$2,787.93

12. VERNON DOWNS REQUEST TO WITHDRAW FROM CIF - \$53,481.21

The Board approved the request from Vernon Downs to withdraw \$33,774.27 from its Capital Improvement Fund for capital improvement expenditures and \$12,893.80 from its Capital Improvement Fund for advertising and promotional expenses.

Capital Improvement Expenditures

Backstretch (9%)

Horsemen' s Building

\$3,107.02

Total: Backstretch \$ 3,107.02

Other (91%)

Simulcast Area

\$29,057.46

Marketing Office

875.74

Gold Cup Room

735.05

Total: Other \$30,667.25

Total Recommended Approval \$33,774.27

Advertising and Promotional Expenditures

Expenditures Amount

Sign \$ 19,706.94

2001 On-Track Handle

Regular and Multiple On-Track Handle \$2,578,760.00

½ of 1 % x 0.005

Maximum Advertising & Promotional

Reimbursement 12,893.80

Less: Prior approvals in 2001 _____ -0-____

Balance Available 12,893.80

Less: Current Request Dated October 3, 2001 9,706.94

Remaining Balance for 2001 -0-____

13. YONKERS RACEWAY REQUEST TO WITHDRAW FROM CIF - \$200,000.00

The Board approved the request from Yonkers Raceway to withdraw \$200,000 from Yonkers'

Capital Improvement Fund account, as requested in the letter of October 16, 2001.

This application was for expenses, previously approved by the Board related to the demolition of the Grandstand and the relocation of racing related services to the Clubhouse.

14. CAPITAL OTB REQUEST TO ADD E-Z BET LOCATION - MASSENA

The Board approved the request by Capital OTB, dated June 28, 2001, to conduct wagering and display simulcasts at the Bowlmor Lanes in Massena, New York (St. Lawrence County) located at 277 East Orvis Street. At this new E-Z Bet location, all wagering is self-service and initiated using a winning ticket or voucher only. The amount limit for the issuance of any voucher to a customer at any one time will be five hundred dollars (\$500).

It is expected that Capital OTB, using its own security and audit employees, will inspect the Bowlmor Lanes E-Z Bet facility and certify that all rules and laws concerning the conduct of wagering in New York State are being followed. A copy of the results of all Capital security checks involving E-Z Bet locations must be filed with the Board in a timely manner.

The Secretary to the Board must be immediately notified in writing should a change in any operating procedure become effective at this approved E-Z Bet facility.

15. CAPITAL OTB REQUEST TO ADD E-Z BET LOCATION - CORTLAND

The Board approved the request from Capital OTB, dated June 28, 2001, to conduct wagering and display simulcasts at the St. Charles Hotel in Cortland, New York (Cortland County) located at 83 Central Avenue. At this new E-Z Bet location, all wagering is self-service and initiated using a winning ticket or voucher only. The amount limit for the issuance of any voucher to a customer at any one time will be five hundred dollars (\$500).

It is expected that Capital OTB, using its own security and audit employees, will inspect the St. Charles Hotel E-Z Bet facility and certify that all rules and laws concerning the conduct of wagering in New York State, are being followed. A copy of the results of all Capital security checks involving E-Z Bet locations must be filed with the Board in a timely manner.

The Secretary to the Board must be immediately notified in writing should a change in any operating procedure become effective at this approved E-Z Bet facility.

In addition, Capital OTB is required to contact the Cortland County Legislature to determine whether or not any local ethics provision prohibit Marilyn E. Brown, who is a member of the Cortland County legislature, from participating in this transaction. Capital OTB is to report on this within the next 30 days.

16. BATAVIA DOWNS AMENDED TRACK LICENSE APPLICATION FOR 2001

The Board approved a year-2001 track license and a year-2001 simulcast license for Western Regional Off-Track Betting Corporation/Batavia Downs. Both licenses are valid through

December 31, 2001.

The simulcast license is issued pursuant to the provisions of Article X of the Racing, Pari-Mutuel Wagering and Breeding Law. All simulcasts conducted shall be subject to the supervision of, and the reasonable rules, regulations, directives and orders, from time to time prescribed by the NYS Racing and Wagering Board. The pari-mutuel betting conducted under both licenses shall also be subject to the supervision of, and the reasonable regulations from time to time prescribed by the Commissioner of Taxation and Finance.

17. BATAVIA DOWNS SIMULCAST LICENSE APPLICATION FOR 2001

See Board Item #16.

18. WESTERN OTB/BATAVIA DOWNS DISTRIBUTION OF DEDICATED PURSE FUND ACCOUNT

The Board modified and superceded its order of October 25, 2000, which directed that if no license were issued to Batavia Downs by June 1, 2001 the escrowed purse monies with accrued interest be disbursed to the purse fund at Buffalo Raceway.

The Board determined to allow the payment of the Batavia Downs dedicated purse monies in accordance with the agreement, dated September 14, 2001, between WROTB and WNYHHA provided however, that the escrow account is closed with the remaining funds being transferred to WROTB to be held for purses at Batavia Downs. In addition, \$2,632.06 shall be remitted to the Commissioner of Taxation and Finance in accordance with Section 318(1)(b)(ii).

19. WESTERN OTB TRANSFER OF BATAVIA DOWNS CIF FROM ESCROW

The Board approved Western Regional OTB's track license to operate Batavia Downs. In conjunction with said approval and pursuant to Section 319 of the Racing Law, the Board hereby directs the transfer of all funds, including interest accrued at the time of transfer, held in escrow for the purposes of Capital Improvements from the agent of DiMarco & Riley LLP to Western Regional OTB/Batavia Down's Capital Improvement Trust Fund. By statement of account, the Fund contained \$411,844.16 as of September 28, 2001.

20. JOCKEY INJURY COMPENSATION FUND ASSESSMENT FORMULA FOR 2002

The Board approved an amendment to the plan of operation of the New York Jockey Injury Compensation Fund, Inc. enabling the method of funding and assessment plan as outlined in the attachments to their application letter dated November 13, 2001.

E. ITEMS FOR BOARD INFORMATION/DISCUSSION

1. GAMES OF CHANCE – BINGO REGISTRATION NUMBERS - 09/01-09-E

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit from October 14 – November 7, 2001.

The meeting was adjourned at 1:05 p.m.