

MINUTES

NEW YORK STATE RACING AND WAGERING BOARD

MEETING OF DECEMBER 28, 2006

A meeting of the New York State Racing and Wagering Board was held on Thursday, December 28, 2006 at 10:00 a.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 10:18 a.m.

In Attendance Were:

Daniel D. Hogan, Chairman

Michael J. Hoblock, Jr., Member

John B. Simoni, Member

John Cansdale, Executive Director

Robert Feuerstein, General Counsel

Joseph Lynch, Director of Racing Operations

Thomas Casaregola, Director of Audits & Investigations

Gail Pronti, Secretary to the Board

Also in Attendance Were:

Daniel Toomey, NYSR&WB

Vivian Davis, NYSR&WB

Kristen Buckley, NYSR&WB

Paul Onyon, Assistant Director of Racing Operations

Rick Goodell, Assistant Counsel

Ira Block, NYC OTB

Tim Rooney, Yonkers Raceway

Robert Hemsworth, Capital OTB

George Penn, Crane Vacco

OPEN COMMENT PERIOD: Comments began at 10:11 a.m.

George Penn of Crane Vacco spoke on behalf of Monticello Raceway in opposition to the Board's approval of a 6-day race week at Yonkers Raceway as it would greatly effect the financial state of Monticello Raceway taking away over 1 million dollars in revenue. In particular the matter of direct conflict on Tuesday afternoons was raised.

There was some discussion by the Board to clarify the questions of whether a "head-to-head" had been done in the past and the Board suggested that a review of the proposed race dates for both Yonkers and Monticello be conducted. The Board also asked if either track had any solutions to this problem. None was offered.

Comments ended at 10:18 a.m.

A. No minutes were presented for approval.

B. ITEMS PREVIOUSLY APPROVED OR DEFERRED BY THE CHAIR.

1. FINGER LAKES RACETRACK – REQUEST TO IMPORT VARIOUS LOCATIONS IN 2007

For entry into the minutes, on December 14, 2006, the New York State Racing and Wagering Board approved the Finger Lakes Racing Association request to amend its simulcast plan of operation enabling the import of simulcast signals from Beulah Park in Ohio.

2. For entry into the minutes, on December 14, 2006, the New York State Racing and Wagering Board approved an amendment to the Finger Lakes Racing Association simulcast plan of operation to authorize the simulcast for wagering purposes of races from Buffalo Trotting Association Inc. in New York during 2007.

3. FINGER LAKES RACETRACK – REQUEST TO EXPORT TO VARIOUS LOCATIONS IN 2006

For entry into the minutes, on December 12, 2006, the New York State Racing and Wagering Board approved the Finger Lakes Racetrack request to amend its simulcast plan

of operation enabling the export of simulcast signals to Georgian Downs in Ontario, Canada.

** (See below.)

4. **MONTICELLO RACEWAY – REQUEST TO IMPORT VARIOUS LOCATIONS IN 2007**

For entry into the minutes, on December 14, 2006, the New York State Racing and Wagering Board approved an amendment to the Monticello Raceway simulcast plan of operation to authorize the simulcast for wagering purposes of races from Buffalo Trotting Association Inc. in New York during 2007.

5. **NASSAU DOWNS REGIONAL OTB – REQUEST TO AMEND PLAN OF OPERATION – PALACE POWER PLAY PROMOTION**
For entry into the minutes, on December 14, 2006, the New York State Racing and Wagering Board approved the amendment to the Nassau Regional Off-Track Betting Corporation simulcast plan of operation enabling a “Power Play” contest involving three Yonkers Raceway races and the three periods of the December 19, 2006 game between the New York Rangers and the New York Islanders in accordance with the rules submitted.
6. **NEVADA GOLD – TIOGA DOWNS, INC. – REQUEST TO IMPORT VARIOUS LOCATIONS IN 2006**
For entry into the minutes, on December 12, 2006, the New York State Racing and Wagering Board approved an amendment to the Tioga Downs simulcast plan of operation to authorize the simulcast for wagering purposes of races from Boyd Racing L.L.C. d.b.a. Delta Downs Racetrack and Casino in Louisiana.
7. **NEVADA GOLD – VERNON DOWNS, INC. – REQUEST TO IMPORT VARIOUS LOCATIONS IN 2006**
For entry into the minutes, on December 12, 2006, the New York State Racing and Wagering Board approved an amendment to the Vernon Downs simulcast plan of operation to authorize the simulcast for wagering purposes of races from Boyd Racing L.L.C. d.b.a. Delta Downs Racetrack and Casino in Louisiana.
8. **WESTERN REGIONAL OTB – REQUEST TO APPOINT NEW MEMBER TO BOARD OF DIRECTORS - ORSINI**
For entry into the minutes, on December 13, 2006, the New York State Racing and Wagering Board approved an amendment to the Western Regional Off-Track Betting Corporation plan of operation to reflect the appointment and qualification of Anthony Orsini as a Member of the Board of Directors representing Erie County for the Western Regional Off-Track Betting Corporation.
9. **YONKERS RACEWAY – REQUEST TO ADD ONE RACE DATE**
For entry into the minutes, on December 12, 2006, the New York State Racing and Wagering Board approved the Yonkers Raceway request to amend its plan of operation with the addition of a racing program on Thursday, December 21, 2006.
10. **YONKERS RACEWAY – REQUEST TO IMPORT VARIOUS LOCATIONS IN 2006**
For entry into the minutes, on December 12, 2006, the New York State Racing and Wagering Board approved an amendment to the Yonkers Raceway simulcast plan of operation to authorize the simulcasts for wagering purposes of races from the following:

Plainridge Racecourse in Massachusetts
Western Fair Association in Ontario, Canada
Woodbine Entertainment Group in Ontario, Canada
Churchill Downs in Kentucky
Hoosier Park, L.P. in Indiana

Calder Racecourse, Inc. in Florida
Bay Meadows Racing Association in California
Hollywood Park Racing Association in California.

11. **YONKERS RACEWAY – REQUEST TO EXPORT TO VARIOUS LOCATIONS IN 2006**

For entry into the minutes, on December 12, 2006, the New York State Racing and Wagering Board approved an amendment to the Yonkers Raceway simulcast plan of operation to authorize the simulcasts for wagering purposes of races to the following:

Delaware Park in Delaware
Hazel Park in Michigan
Indiana Downs in Indiana
Penn National in Pennsylvania
Raceway Park in Ohio
Sports Creek Raceway in Michigan
Wonderland Greyhound Park in Massachusetts
Tioga Downs in New York
The Lodge at Belmont in New Hampshire
New York City Off-Track Betting Corporation in New York
Plainridge Racecourse in Massachusetts.

** (See below.)

12. For entry into the minutes, on December 13, 2006, the New York State Racing and Wagering Board approved an amendment to the Yonkers Raceway simulcast plan of operation to authorize the simulcasts for wagering purposes of races to Dover Downs in Delaware and The Red Mile in Kentucky.

** (See below.)

** All contracts are conditioned upon the terms of the simulcast license, and all contracts are deemed amended and approval is conditioned on 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.

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

1. **FINGER LAKES RACETRACK – REQUEST TO CONSTRUCT ADDITIONAL OFFICE SPACE**

For entry into the minutes, on December 12, 2006, pursuant to Racing, Pari-Mutuel Wagering and Breeding Law Section 239, the New York State Racing and Wagering Board approved the request by Finger Lakes Racetrack for approval of construction work associated with office space building renovations in the lower clubhouse.

The work approved is described in the December 6, 2006 Construction Permit issued by the New York State Office of General Services for Project No. S2650.

A letter requesting approval for any other construction work must be submitted to the Board (with an appropriate Construction Permit). Prior approval of the Board is required prior to the commencement of any additional related construction.

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

1. **YONKERS RACEWAY – TRACK APPLICATION FOR 2007**

The New York State Racing and Wagering Board deferred action on the Yonkers Raceway track application for 2007 pending further review by Board staff.

The Board assigned the racing programs on the dates requested by Yonkers Raceway for the month of January 2007 ONLY. The Board noted the objection made by Monticello Raceway to the assignment of Tuesday afternoon racing programs, stated to be in direct conflict with the conduct of Tuesday afternoon Monticello Raceway programs. The Board directed that both Yonkers Raceway and Monticello Raceway file reports concerning their positions on this matter, including an economic analysis, following experience with the Tuesday programs. These reports are to be filed no later than three days prior to the next Board meeting, currently anticipated to be on January 25, 2007.

The Board further required that Yonkers Raceway provide written information as soon as possible concerning the temporary structural repairs and permanent resolution of issues associated with the existing elevated walkways, as referenced in the December 27, 2006 letter of Robert J. Galterio and the December 8, 2006 site visit report of EwingCole.

The Board also stated its expectation, based upon the progress report stated at the Board meeting, that the infield tote board will be fully operation no later than the January 6, 2007.

The Board will consider further action at its next scheduled Board meeting.

Yonkers Raceway may remain operational on the basis of continuing rights. Such rights are conditioned upon the following:

- 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. All contracts for sites to receive New York simulcasts must provide that such receiving sites not rebate *in cash* on New York races.
- b. 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.
- 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, 2007.

2. NYRA – REQUEST FOR APPROVAL OF RACING OFFICIALS FOR 2007

Pursuant to Board Rule 4005.1, the New York State Racing and Wagering Board approved the November 26, 2006 New York Racing Association request to employ the 24 individuals submitted to be employed as racing officials in the capacities set forth during 2007 at tracks operated by NYRA.

3. CAPITAL DISTRICT REGIONAL OTB – REQUEST FOR APPROVAL TO CONTINUE TO USE CAPITAL CASH CARDS

The New York State Racing and Wagering Board issued approval for the general use of Capital CashCards at the Capital OTB Tele-theater facility in accordance with the previously approved plan of operation amendment, and subject to the following additional conditions:

1. CDROTB forward a copy to the Board of the anticipated FinCEN opinion within ten business of receipt by CDROTB.
2. If FinCEN finds CDROTB to be an MSB or otherwise subject to FinCEN regulations, CDROTB immediately comply with all necessary regulations, including the adoption of an AML program (if applicable) and provide prove of compliance with these requirements to the Board within 30 days of such notification.

If CDROTB intends on offering the CashCard system at other locations, an application requesting approval for each location must be submitted to the Board for approval.

4. INTERNET WAGERING - RULEMAKING

Chapter 314 of the Laws of 2006, amended Section 1012 of the Racing, Pari-Mutuel Wagering and Breeding Law §1012 (Telephone accounts and telephone wagering) by expanding the authorized methods of placing account wagers to include “all those wagers which utilize any wired or wireless communication device, including, but not limited to wireline telephones, wireless telephones, and the internet.” This amendment (by addition of a new paragraph 4-a) will become effective on January 22, 2007.

Chapter 314 of the Laws of 2006 authorized the Board to promulgate any rules necessary to implement the amendment on or before the January 22, 2007 effective date.

The Board approved adoption of a new Subchapter 5300 (Internet and Account Wagering) to 9 (E) NYCRR as an Emergency Rulemaking. The Board also approved proposal of Subchapter 5300 by regular rulemaking. There are 23 rules, numbered 5300.1 through 5300.23.

These rules will provide the necessary definitions, guidelines and safeguards to authorize the use of state-of-the-art methods of placing wagers, while preserving the integrity of racing and providing accountability and a fair system for wagering patrons. Reasonable controls are provided to prevent minors from opening accounts, to require accurate identification, and to assure confidentiality. In essence, these rules establish the framework of the system with much of the detail of the individual systems to be determined by the off-track betting or track entities pursuant to a plan of operation. These plans of operation will be subject to Board review and approval prior to the implementation of systems to implement the new §1012.

In consideration of the effective date (January 22, 2007), specific authorization for promulgation in advance of the effective date, need of the effected industry participants to finalize plans to implement the amendment to Section 1012 consistent with governing rules, need for Board review and approval of plan of operation amendments, and the potential for substantial revenue generation related to the preservation of general welfare, the Board found that the immediate adoption of Part 5300 is necessary for the preservation of general welfare and that compliance with standard rulemaking requirements would be contrary to the public interest. Part 5300 will become effective upon filing with the Department of State and would remain in effect for ninety (90) days.

Part 5300 will be submitted to the Governor’s Office of Regulatory Reform, together with necessary documents, pursuant to Executive Order. If approved for publication in the State Register, there would be a minimum 45-day period for public comment. Following that period, Board staff would review comments, if any, and make a recommendation to the Board concerning further action in the form of modification or adoption of the proposal.

E. ITEMS FOR BOARD INFORMATION/DISCUSSION

1. YONKERS RACEWAY – 26 PEACE OFFICERS – CONDITIONS MET

The Federal fingerprint history reports for 26 Peace Officers appointed to work at Yonkers Raceway have been received and no derogatory information was revealed.

F. FOLLOW-UP ON ITEMS PREVIOUSLY APPROVED

None.

Meeting adjourned at 11:13 a.m.