

RACING COMMITTEE MINUTES

JULY 28, 2009 – 3:00 P.M.

Present: Chairman Veitch; Supervisors Hargrave, Hunter, Southworth, Wood, and Yepsen; David Wickerham, County Administrator; Charlie Hayward, NYRA; Ed Lewi, Ed Lewi Associates; Press.

Chairman Veitch called the meeting to order and welcomed all in attendance.

On a motion made by Mr. Hargrave, seconded by Mr. Hunter the minutes of the June 4, 2009 meeting were approved unanimously.

Mr. Veitch thanked Mr. Hayward and Mr. Lewi for taking time out of their day to come and speak to the committee today.

Mr. Hayward said the new franchise was done in February 2008. From February 2008 to September of 2008 negotiations took place with the State to get a separation agreement, franchise agreement, and lease agreement for Saratoga, Belmont and Aqueduct.

The franchise agreement codified the terms that were in the legislation, and the State also allowed in the franchise agreement that if they violated any terms, NYRA had the right to sue them.

One of the major failings of the prior relationship between NYRA and the State and a source of major frustration on both sides was a lack of clarity and specificity in the statutes that governed NYRA's franchise.

To correct these prior shortcomings, NYRA and the State sought to negotiate detailed and specific agreements and leases, through legally binding contracts that clearly defined the rights, responsibilities, authority and remedies of both the State and NYRA under the new franchise.

By statute, NYRA is a private, not-for-profit corporation with a 25-year franchise license from the State to conduct thoroughbred racing and pari-mutuel wagering at the three racetracks now owned by the State and leased to NYRA for the term of the franchise.

NYRA is governed by a charter and bylaws that were approved by the State and by a Board of Directors, consisting of 14 privately elected directors and 11 publicly appointed directors.

NYRA's emergence from Chapter 11 re-organization was made possible through the provisions of the state Settlement Agreement, wherein NYRA agreed to sell Aqueduct, Belmont, and Saratoga racetracks to the State in exchange for consideration from the

State consisting of a cash payment from the State of \$105 million (\$75 million allocated for payment of claims to creditors; \$30 million allocated to NYRA operations) and the elimination of \$133 million of State debt.

The lease stipulates that NYRA for the next 25-years can do nothing but race. There can be no real estate development on the track, and NYRA has committed to do Spring and Fall training which is good for NYRA and the community. NYRA has committed to running at least 36 race dates and not having any parallel race dates between upstate and downstate.

Mr. Hayward said the Franchise Oversight Board has very limited authority. The following is a list of the basic duties and functions of the board:

- Represent the interests of the state in all real estate development proposed for Aqueduct racetrack or real estate development at Belmont Park racetrack.
- Ensure the continuation of high quality thoroughbred racing at the thoroughbred racing facilities located within the State.
- Monitor and enforce compliance with definitive documents that comprise the franchise agreement.
- Review and make recommendations concerning the annual operating budgets of such franchised corporation.
- Review and make recommendations concerning operating revenues and the establishment of a financial plan.
- Review and make recommendations concerning accounting, internal control systems and security procedures.
- Review such franchised corporation's revenue and expenditure policies.
- Review such franchise corporation's compliance with the laws, rules and regulations applicable to its activities.
- Make recommendations for establishing model governance principles.
- Receive, review, approve or disapprove capital project expense plans.
- Evaluate review and approve the racing franchisee's selection of a vendor or vendors to contract with the franchised corporation for provision of totalizator services.
- Facilitate discussions and voluntary agreements between the franchised corporation and off-track betting corporations to streamline operations, decrease operating costs and maximize opportunities.
- Review and provide any recommendations on simulcasting contracts.
- Act on behalf of the People of the State of New York to enter into one or more ground leases, for one dollar in consideration annually for each of Aqueduct racetrack, Belmont Park and Saratoga racecourse to the franchised corporation.
- Be responsible for payment of all property taxes related to the racing facilities and real estate.

Mr. Veitch asked what the time frame was on the VLT issues? Mr. Hayward said that there is a very good chance that the selection of a VLT operator will take place by the end of the Saratoga Meet.

Ms. Yepsen asked how many bidders there were? Mr. Hayward said there were seven bidders total, with six of them serious bidders.

Mr. Veitch said there has been a lot of talk about the future development and capitol improvements to the racetrack in Saratoga. Mr. Veitch asked what the process would be in going forward toward the capitol improvements.

Mr. Hayward said there has to be more clarification about the upkeep at Belmont and whether they might be consolidated. The jewel is Saratoga, which is the most profitable and highest profile with some of the greatest meets. In January the Board voted to go through a selection process for two architects, one for the backstretch area and the other for the track and amenities. In April two firms were selected.

Mr. Hayward said recently there were improvements to the back area of the track where the area was completely re-sodded and landscaped.

Mr. Hayward said the racing industry has gone through a lot of changes. He is hoping that the Saratoga Meet, which started out with a spectacular first weekend in terms of the quality of racing and number of horses, will have good participation. In addition, there were record 3,500 stall applications, and a record number of entries for opening day.

Mr. Hayward said historically the last week of racing is set aside for the local community. This year on July 31st, there will be College Day at the track, where every college student that presents his or her college ID will be registered to win a \$1,000 scholarship.

Mr. Lewi said in addition to the scholarship there would be games, special prices on food, gifts such as IPOD's.

Mr. Hayward said Sunday, September 6th will be Family FunFest where anyone with an ID will be able to enter the track free of charge.

On August 6th at 10:00 a.m. a meeting will take place at the Big Red Spring where each community will send a representative to pick what they think is most important about their community. Displays will be setup at the track on August 30th. There will be five races during the day that will represent Saratoga County communities.

Mr. Veitch said that Jen Ciulla would be contacting supervisors about their displays at the racetrack. Each race will represent five towns. The title of the race will be "The Communities of Saratoga County", and the final race will be "The Saratoga County Supervisors". Each town will be notified as to what race they are in, and Supervisors are encouraged to attend and watch the race from the winners circle.

Mr. Veitch distributed a letter that was sent by the City of Saratoga Springs to Senator McDonald, Assemblyman Tedesco and County Treasurer, Sam Pitcherale, regarding the property tax payments by NYRA. One of the first items on the agenda this year was to

speaking about the State's property tax obligation as part of the franchise agreement and what should be done if no payments were received.

As of July 20th the State had yet to send their property tax payment to the County and as a result the City of Saratoga Springs has not received their reimbursement from the County.

Mr. Veitch asked if anyone had any ideas as to how to proceed?

Ms. Southworth suggested going face to face with the State Comptroller.

Ms. Yepsen suggested going to Albany and scheduling more appointments, meeting with the comptroller, the budget officer, and someone in the Governor's office that handles racing and wagering.

Mr. Veitch suggested moving forward with a resolution from the Board of Supervisors.

A motion was made by Mr. Wood, seconded by Ms. Yepsen to approve a resolution urging the State to fulfill its obligation to pay the Real Property taxes on the lands formerly owned by the New York Racing Association. Unanimous.

Ms. Yepsen distributed handouts with regard to ThoroFan and upcoming events beginning July 29th through August 8th. She introduced the "Festival of Racing" with a seminar entitled: From the Horse Farm to the Finish Line to take place at the Fasig-Tipton pavilion from 10:00 – 11:30 am. on August 8th. Tickets were distributed to all committee members. Ms. Yepsen asked that they be filled out and returned to her as soon as possible so that she can let ThoroFan and Fasig-Tipton know how many will be attending. Ms. Yepsen said there would be various speakers from the racing industry as well as demonstrations. They are trying to link all the various organizations that are involved in the industry together and educate people, she said. It is not just about racing; there are a host of various activities that occur before a horse enters the starting gate.

Mr. Veitch said the NYRA Local Advisory Board met on July 20th at the Holiday Inn. The meeting was well attended, and a rotating chairmanship of the board was setup.

Mr. Wickerham said the NYRA Local Advisory Board is planning to have at least six meetings a year with additional meetings when necessary.

On a motion made by Ms. Yepsen, seconded by Mr. Hargrave the meeting was adjourned.

Respectfully submitted,
Chris Sansom