

**MINUTES**

**NEW YORK STATE RACING AND WAGERING BOARD**

**MEETING OF FEBRUARY 23, 2006**

**A meeting of the New York State Racing and Wagering Board was held on Thursday, February 23, 2006 at 10:30 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 10:34 a.m.

**In Attendance Were:**

Cheryl Buley, Chairwoman

Michael J. Hoblock, Jr., Member

John Cansdale, Executive Director

Robert Feuerstein, General Counsel

Gail Pronti, Secretary to the Board

Joseph Lynch, Chief of Racing Operations

James Kellogg, Audits & Investigations

William Sekellick, Assistant Counsel

Brian Barry, Director of Racing Officials

**Also in Attendance Were:**

Vivian Davis, NYSR&WB

Daniel Toomey, NYSR&WB

Kristen Buckley, NYSR&WB

Shelley Gebhardt, Legislative Gazette

Paul D'Onofrio, Monticello Raceway

George Penn, Crane Vacco

**OPEN COMMENT PERIOD:** None.

**A. The Board approved the minutes of the Board meetings held on January 19, 2006 and February 16, 2006.**

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

**1. FINGER LAKES RACE TRACK – REQUEST TO OFFER PROMOTION**

For entry into the minutes, on January 12, 2006, the New York State Racing and Wagering Board approved the Finger Lakes request to conduct the handicapping challenges on January 21, February 25 and March 25. It is understood that the prizes for this contest, including the awarding of betting vouchers by random drawings will occur per the submitted rules. All winners will be notified by mail and a list of winners must be made available to the general public.

**2. FINGER LAKES RACE TRACK – REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on January 12, 2006, the New York State Racing and Wagering Board approved an amendment to the simulcast plan of operation with approval of a contract between Finger Lakes and Oaklawn Park in Arkansas for the import of the Oaklawn Park simulcasts and wagering thereupon during its year 2006 racing season.

**3.** For entry into the minutes, on January 26, 2006, the New York State Racing and Wagering Board approved an amendment to the Finger Lakes simulcast plan of operation enabling participation in the three Kentucky Oaks and Kentucky Derby future pools in the year 2006 Kentucky Oaks to be contested on May 5, and the 2006 Kentucky Derby to be contested on May 6, at Churchill Downs.

The fact that “there will be no cancellations or refunds” even if the horse listed in the future pool does not compete in the Kentucky Oaks on May 5 or the Kentucky Derby on May 6 (per Kentucky rules) should be stressed to customers before they wager.

These approvals are effective immediately.

#### **4. MONTICELLO RACEWAY – REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on January 12, 2006, the New York State Racing and Wagering Board approved an amendment to the simulcast plan of operation with approval of the import of the Oaklawn Park simulcasts and wagering thereupon during its year 2006 racing season.

#### **5. MONTICELLO RACEWAY – REQUEST TO SIMULCAST VARIOUS LOCATIONS (contd.)**

For entry into the minutes, on January 18, 2006, the New York State Racing and Wagering Board approved the Monticello Raceway request to amend its simulcast plan of operation enabling the import of the simulcast signals from Buffalo Raceway throughout the year 2006 Buffalo Raceway race meeting. Also approved is the export of the Monticello Raceway simulcasts to the harness track known as Pocono Downs in Wilkes Barre, Pennsylvania, now owned and operated by the Mohegan Sun.

#### **6. NASSAU DOWNS REGIONAL OTB – REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on January 12, 2006, the New York State Racing and Wagering Board approved the amendment to the Nassau Regional OTB simulcast plan of operation enabling the importation of simulcasts from the year 2005 initial race meeting conducted at Sam Houston Race Park in Texas through April 9, 2006 ONLY.

This simulcast may be imported whenever permitted under the Racing Law. To continue with the Sam Houston Race Park simulcasts later in 2006, a new federally required simulcast permission letter from the representative horsemen’s association, the Texas Horsemen’s Partnership, LLP must be filed with the Board.

This approval further extends to Suffolk Regional OTB.

**7.** For entry into the minutes, on January 26, 2006, the New York State Racing and Wagering Board approved the amendment to the Nassau Regional OTB simulcast plan of operation enabling the importation of simulcasts from the year 2006 race meeting to be conducted at Rosecroft Raceway in Maryland.

This approval further extends to Capital District, Catskill, Suffolk and Western Regional OTBs.

**8. NEW YORK CITY OTB – REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on January 12, 2006, the New York State Racing and Wagering Board approved an amendment to the NYCOTB simulcast plan of operation for 2006 simulcasts from Northville Downs, a harness racetrack in Michigan. This simulcast may be utilized whenever in accordance with the Racing Law.

**9.** For entry into the minutes, on January 12, 2006, the New York State Racing and Wagering Board approved the amendment to the NYCOTB simulcast plan of operation enabling the importation of simulcasts from the year 2006 initial race meeting conducted at Beulah Park in Ohio through May 6, 2006 ONLY.

This simulcast may be imported whenever permitted under the Racing Law. To continue with the Beulah Park simulcasts later in 2006, a new federally required simulcast permission letter from the representative horsemen's association must be filed with the Board.

**10. NEW YORK CITY OTB – REQUEST TO SIMULCAST VARIOUS LOCATIONS (contd.)**

For entry into the minutes, on January 18, 2006, the New York State Racing and Wagering Board approved the NYCOTB request dated January 18, 2006, to amend its simulcast plan of operation enabling the importation of the simulcasts of the racing events from Dubai in the United Arab Emirates through the auspices of Churchill Downs, Inc. These simulcasts may be imported and utilized for wagering whenever in accordance with the Racing Law.

This approval further extends to Capital District, Catskill, Nassau Downs, Suffolk and Western OTB.

**11.** For entry into the minutes, on January 19, 2006, the New York State Racing and Wagering Board approved an addendum to the NYCOTB agreement with Mountaineer Park in West Virginia. This addendum enables the import of thoroughbred simulcasts from the West Virginia racetrack known as Mountaineer Park by all New York State regional off-track betting corporations including Capital District, Catskill, Nassau Downs, New York City, Suffolk and Western OTB and the simulcast plans of operation of each are amended accordingly.

This approval is effective immediately and can continue whenever in compliance with the Racing Law through the end of the 2006 Mountaineer Park race meeting. To continue on this contract past December 31, 2006, new federally required approvals from the West Virginia Racing Commission and from the Mountaineer Park Division of the Horsemen's Benevolent and Protective Association, Inc. (H.B.P.A.) must be filed with the Board.

**12.** For entry into the minutes, on January 26, 2006, the New York State Racing and Wagering Board approved an addendum to the current NYCOTB agreement with Oaklawn Park in Hot Springs, Arkansas. This addendum enables the import of thoroughbred simulcasts from the Arkansas racetrack known as Oaklawn Park by all New York State regional off-track betting corporations including Capital District, Catskill, Nassau Downs, New York City, Suffolk and Western OTB and the simulcast plans of operation of each are amended accordingly.

This approval is effective immediately and can continue whenever in compliance with the Racing Law through the end of the 2006 Oaklawn Park race meeting. To continue on this contract past December 31, 2006, new federally required approvals from the Arkansas Racing Commission and from the Oaklawn Park Division of the Horsemen's Benevolent and Protective Association, Inc. (H.B.P.A.) must be filed with the Board.

**13. SARATOGA HARNESS – REQUEST TO SIMULCAST VARIOUS LOCATIONS**

For entry into the minutes, on January 12, 2006, the New York State Racing and Wagering Board approved an amendment to the Saratoga Gaming and Raceway simulcast plan of operation enabling the continued import of the thoroughbred simulcast signals from the harness racetracks of Freehold Raceway in New Jersey, The Meadows in Pennsylvania and from Rosecroft Raceway in Maryland.

Also approved are amendments to the plan of operation to reflect the agreements with the thoroughbred racetracks known as Bay Meadows in California through May 8, 2006 ONLY, Gulfstream Park in Florida, the Maryland Jockey Club Racetracks of Laurel Park and Pimlico Race Course in Maryland through April 16, 2006 ONLY, Santa Anita Park in California and Tampa Bay Downs in Florida through all of their 2006 race meetings. These simulcasts may be utilized whenever in compliance with the Racing Law.

The federally required letters of permission from the California Horse Racing Board and from the Thoroughbred Owners of California (TOC) specify permission through May 8, 2006 ONLY. To continue with the Bay Meadows simulcasts for their scheduled Fall meeting that is scheduled to begin in early October 2006, new federally required letters of permission from the California Horse Racing Board and from the Thoroughbred Owners of California (TOC) must be filed with the Board.

The federally required letter of permission from the State of Maryland Division of Labor, Licensing and Regulation specifies through April 16, 2006. To continue with the Maryland Jockey Club racetracks of Laurel Park and Pimlico Race Course past April 16, new letters of permission must be filed with the Board.

**14.** For entry into the minutes, on January 12, 2006, the New York State Racing and Wagering Board approved an amendment to the simulcast plan of operation resulting from contracts between Saratoga Gaming and Raceway and Oaklawn Park in Arkansas, Turfway Park in Florence, Kentucky, Mountaineer Park, Inc. for Mountaineer Park in West Virginia and including within the Mountaineer Park agreement Scioto Downs in Ohio, for the import of the simulcasts and wagering thereupon during all or parts of the year 2006 racing seasons at all tracks above.

The federally required letter of permission for this interstate simulcast to take place expresses permission through April 6, 2006 ONLY. To continue on with Turfway Park for their Fall 2006 scheduled race meets, new letters of permission must be filed with the Board.

**15.** For entry into the minutes, on January 26, 2006, the New York State Racing and Wagering Board approved an amendment to the Saratoga Gaming and Raceway simulcast plan of operation enabling the import of the thoroughbred simulcast signals from the thoroughbred racetrack known as Delta Downs through all of its 2006 race meeting. Also approved are the harness agreements with the instate harness track Fairgrounds Gaming and Raceway simulcasts, which result from (Buffalo Raceway) and Northville Downs located in the State of Michigan. These simulcasts may be utilized whenever in compliance with the Racing Law.

The Board acknowledged receipt of contracts providing for the Saratoga Gaming and Raceway simulcast signal to be exported to Colonial Downs in Virginia, Northville Downs in Michigan and to Rosecroft Raceway in Maryland.



**16.** For entry into the minutes, on February 3, 2006, the New York State Racing and Wagering Board approved an amendment to the Saratoga Gaming and Raceway simulcast plan of operation enabling participation in the three Kentucky Oaks and Kentucky Derby future pools on the year 2006 Kentucky Oaks to be contested on May 5, and the 2006 Kentucky Derby to be contested on May 6, at Churchill Downs.

The fact that “there will be no cancellations or refunds” even if the horse listed in the future pool does not compete in the Kentucky Oaks on May 5, or the Kentucky Derby on May 6, (per Kentucky rules) should be stressed to customers before they wager.

These approvals are effective immediately.

Further approved is the simulcast plan amendment enabling the import of the simulcast signals from the Louisiana racetrack known as Evangeline Downs. Also approved are the export to contiguous states allowing the Saratoga Gaming and Raceway simulcasts to be sent to The Meadowlands and Monmouth Park in New Jersey, The Downs (Pocono Downs) in Wilkes Barre, Pennsylvania and to Autotote Enterprises, Inc., the operator of the State of Connecticut Off-Track Betting system as well as its sub-outlets as listed in Appendix A.

Acknowledged as received are the export contracts with Indiana Downs in Indiana and Lewiston Raceway in Maine. Neither contract is required to be filed with the Board as both receiving sites for the Saratoga Gaming and Raceway simulcast signal are neither “new” nor located “instate,” nor a Native American site nor located in a contiguous state.

## **17. SUFFOLK REGIONAL OTB – REQUEST TO OFFER PROMOTION**

For entry into the minutes, on January 12, 2006, the New York State Racing and Wagering Board approved the Suffolk Regional Off-Track Betting Corporation’s promotional request to conduct a thoroughbred handicapping contest per the rules listed on the request letter and application dated January 6, 2006. This approval is for the handicapping contest to be conducted at The Racing Forum on Saturday, March 18, 2006.

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

### **1. WESTERN REGIONAL OTB – REQUEST TO ADD NEW EZ-BET LOCATION - AKRON**

For entry into the minutes, on January 12, 2006, the New York State Racing and Wagering Board approved the Western Regional Off-Track Betting Corporation’s request dated July 29, 2005, to conduct wagering and display simulcasts at the New Dog House, in the Town

of Akron, New York (Erie County). It is understood that at this new E-Z Bet location, all wagering is self-service and initiated in a United Tote machine using cash, a winning ticket or voucher. The amount limit in the issuance of any voucher to a customer at any one time will be limited to a maximum of five hundred dollars (\$500).

In addition, it is expected that Western OTB, using its own personnel, will occasionally inspect the New Dog House remote wagering facility and certify that all rules and laws concerning the conduct of wagering in New York State are being followed.

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 Western Regional OTB remote wagering facility.

## **2. WESTERN REGIONAL OTB – REQUEST TO ADD NEW MEMBER TO BOARD OF DIRECTORS - TOUHEY**

For entry into the minutes, on January 30, 2006, the New York State Racing and Wagering Board conditionally approved the appointment of Marcia B. Touhey to the Western Regional Off-Track Betting Corporation's Board of Directors. The condition that a satisfactory federal print report be forthcoming to the Board has been satisfied. It is understood that Mrs. Touhey will be representing the County of Orleans on the Western OTB Board.

## **3. NYRA REQUEST FOR APPROVAL OF RACING OFFICIALS FOR THE YEAR 2006**

For entry into the minutes, on January 30, 2006, the New York State Racing and Wagering Board approved Braulio Baeza, Jr. for the remainder of the year 2006 as a racing official. Mr. Baeza had been conditionally approved through January 31, 2006.

Remaining are five other racing officials that have yet to satisfy inquiries of staff of the Board with written documentation that would bring to a close outstanding issues. These five individuals, who are currently conditionally approved officials and employees listed as belonging in Categories I, II or III to perform duties at the New York Racing Association's tracks during the year 2006 racing season, have now had their conditional approval extended through March 31, 2006. This extension is in anticipation of the receipt of additional information from Dr. Judson Butler, Jose Morales, Michael Muzio, Trinity Nemeti and William Nemeti.

The approvals are in compliance with Board Rule 4005.1.

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

### **1. IN THE MATTERS OF JOSEPH GUARINO**

The New York State Racing and Wagering Board approved the recommendation of Hearing Officer Russell H. Baller, Jr. to uphold the equine drug rule violations (Rules 4120.2[f] and 4120.4] in relation to the October 21, 2003 and September 20, 2004 post-race mepivacaine positives of horses trained by Joseph Guarino, and modified the related penalties from a total one hundred-twenty (120) day suspension and \$2,000 fine to a revocation of Mr. Guarino's trainer's license and any rights to participate as a trainer. The Board determined that Mr. Guarino is ineligible to reapply for a racing license for a period of not less than nine (9) months from the effective date of the revocation. The Board's upward modification of the penalty is based on the seriousness of the violation, Mr. Guarino's history of rule violations, and the need to deter conduct, which goes to the heart of pari-mutuel racing activity.

### **2. IN THE MATTERS OF STEVEN P. GREEN**

The New York State Racing and Wagering Board approved the recommendations of Hearing Officer Russell H. Baller, Jr. to uphold the violations set forth in Notices numbered BU 54-05, 55-05 and 56-05, and modified certain penalties by taking the following actions:

BU #55-05- upheld the decision of the Presiding Judge to impose a fifteen (15) day license suspension for taking back quickly in front of a field of horses so as to cause confusion and interference among the trailing horses, and helping another horse to improve its position, in the 9th race at Buffalo Raceway on July 3, 2005, in violation of Board Rules 4117.4(c and j).

BU #54-05- upheld the decision of the Presiding Judge that Steven Green intentionally drove into and harassed another driver after the finish of the 5th race at Buffalo Raceway on June 26, 2005, in violation of Board Rules 4117.4(c) and 4119.1, and modified the fifteen (15) day license suspension and \$1,000 fine to be a fifteen (15) day license suspension and \$500 fine because a fine of \$500, coupled with the suspension, is proportionate to the violation.

BU #56-05- upheld the decision of the Presiding Judge that on specified dates Steven Green engaged in belligerent and abusive behavior towards the Presiding Judge, in violation of Board Rule 4119.2, and engaged in conduct inconsistent with the best interests of racing generally by repeatedly questioning the integrity of the Presiding Judge, in violation of Board Rule 4119.7(b), and modified the \$1,000 fine to be a \$500 fine based on the Board's consideration of the relationship of the licensee's behavior to the concurrent proceedings against him for which he has received substantial punishment.

**3. IN THE MATTERS OF PHILIPPE LAFRAMBOISE**

The New York State Racing and Wagering Board approved Hearing Officer Russell H. Baller, Jr.'s recommendation that harness trainer-driver Philippe LaFramboise's license be revoked based on a finding that his character and fitness are such that his participation in harness racing is inconsistent with the public interest, convenience and necessity, and with the best interests of racing generally based upon his history of Rule violations, including six equine drug violations within a 42-month period.

**4. MONTICELLO RACEWAY – REQUEST TO WITHDRAW \$114,248.33 FROM CIF**

The New York State Racing and Wagering Board approved the request by Monticello Raceway dated November 28, 2005, to withdraw \$114,248.33 from its Capital Improvement Fund for reimbursement of capital improvement expenditures as follows:

Partial reimbursement for the new paddock was included in the 2005 Capital Improvement Budget.

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**Backstretch (100%)**

New Paddock	\$114,248.33
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<b>Total Backstretch Items</b>	<b><u>\$114,248.33</u></b>
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Total Recommended for Approval	\$114,248.33
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**Backstretch (\$114,248.33)**

**Building of new paddock – (\$114,248.33) – Contractor was Darlind Construction, Inc. This was a budgeted CIF item.**

The balance in the Capital Improvement Fund was \$144,396.84 as of December 31, 2005.

**5. FINGER LAKES RACETRACK – REQUEST TO WITHDRAW \$45,808.41 FROM CIF**

The New York State Racing and Wagering Board approved Finger Lakes Race Track's request to withdraw a total of \$43,308.41 from its Capital Improvement Fund for reimbursement of advertising and promotional expenditures as follows:

**Advertising and Promotional Expenditures**

Print Media	\$	2,646.75
Direct Mail		4,253.00
Signs & Billboards		5,177.55
Promotions & Giveaways		<u>31,231.11</u>
<b>Amount Requested</b>	<b>\$</b>	<b><u>43,308.41</u></b>

**Calculation of 2004 Advertising and Promotion Funds**

Regular and Multiple for 2004	\$	9,205,308
1/2 of 1%	<u>0.005</u>	
2004 Maximum Advertising & Promotional Reimbursement		46,026.54
Less: Prior Advertising Approvals	<u>0</u>	
for 2004		
Balance Available	<u>46,026.54</u>	
Less: Current Request	<u>43,308.41</u>	
<b>Remaining Balance for 2004 Advertising</b>	<b>\$</b>	<b><u>2,718.13</u></b>

The balance in the Capital Improvement Fund was \$284,069.25 as of December 30, 2005.

**6. FINGER LAKES RACETRACK – REQUEST TO WITHDRAW \$209,374.40 FROM CIF**

The New York State Racing and Wagering Board approved Finger Lakes Race Track's request to withdraw a total of \$190,374.40 from its Capital Improvement Fund for reimbursement of Capital Improvement Expenditures below. The Board denied \$19,000 for inventoried sand due to the difficulty in verifying such an expenditure, which was made four years ago in 2002.

**Other (43%)**

Lawn tractor	\$	4,771.55
Panasonic camera		993.13
Camera lens		1,115.41
Paddock renovation project survey		3,995.00
Swim farm camera surveillance project		2,386.22
Foam padding- Paddock gazebo project		318.28
Stone- Paddock gazebo project		4,936.44
Victorian gazebo- Paddock gazebo project		3,150.00
Miscellaneous material- Paddock gazebo project		214.65
Xerox 2101 and work centre pro 65 copiers		62,974.80
TV Monitors		862.92
Painting exterior Paddock wall		1,630.80
Masonry on stair towers		<u>3,000.00</u>
<b>Total Other</b>	<b>\$</b>	<b><u>90,349.20</u></b>

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**Backstretch (57%)**

Consultant – Main track resurface \$ 8,034.70

Equipment/Labor – Main track resurface	29,065.31
Stone Roller	2,895.75
Smoke Detectors – Fire Safety – Dorms/Barns	1,047.60
Safety Signs – Fire Safety – Dorms/Barns	1,239.81
Fire Evacuation Signs – Fire Safety – Dorms/Barns	477.80
Deadbolts – Fire Safety – Dorms/Barns	961.26
Electric Labor – Fire Safety – Dorms/Barns	1,145.64
Sand – Training Track	26,611.40
Repair base – Training Track	2,407.07
Labor – Training Track	13,500.00
Security vehicle (1992 Dodge Pickup)	1,211.75
Two way radios	1,427.11
Configuration/Training – Racing Office	<u>10,000.00</u>
<b>Total Backstretch</b>	<b><u>\$ 100,025.20</u></b>
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<b>Total Recommended for Approval</b>	<b><u>\$ 190,374.40</u></b>

**Other (\$90,349.20)**

**Lawn Tractor – (\$4,771.55)- Vendor was Bob James Equipment Rental, Inc. This was a budgeted CIF item for 2005.**

**Panasonic Camera – (\$993.13) –with Camera Lens- (\$1,115.41)- Vendor was Univisions Video Systems. This was a budgeted CIF item for 2005.**

**Paddock Renovation project survey – (\$3,995.00) – Contractor was RMS Associates. This was a budgeted CIF item for 2005.**

**Swim farm camera surveillance project- (\$2,386.22)-** Includes four Panasonic WV-CP244 color cameras (\$632), one Panasonic AG-TL950 Time Lapse VCR (\$678), and one Panasonic WJ-MS424 Color Quad System (\$899). Vendor was Univisions Crimson Group. **This was not a budgeted CIF item for 2005.**

**Foam Padding – Paddock Gazebo project – (\$318.28) –** Vendor was MSC Industrial Supply Co., Inc. **This was a budgeted CIF item for 2005.**

**Stone – Paddock Gazebo project – (\$4,936.44) –** Vendor was Dolomite Products Co., Inc. **This was a budgeted CIF item for 2005.**

**Victorian Gazebo – Paddock gazebo project – (\$3,150.00) –** Vendor was Wood Tex, Inc. **This was a budgeted CIF item for 2005.**

**Miscellaneous material – Paddock gazebo project – (\$214.65) –** Vendor was Wegman’s Food Markets, Inc. **This was a budgeted CIF item for 2005.**

**Xerox 2101 and work centre pro 65 copiers – (\$62,974.80) –** Vendor was Xerox Corporation. **This was a budgeted CIF item for 2005.**

**TV Monitors – (\$862.92) –** 10 Toshiba 13” color television sets. Vendor was The Stereo Shop. **This was a budgeted CIF item for 2005.**

**Paint exterior Paddock wall fence – (\$1,630.80) –** Contractor was New York State Painting Inc. **This was a budgeted CIF item for 2005.**

**Masonry on stair towers – (\$3,000) –** Contractor was K B Masonry & Tile Co. **This was not a budgeted CIF item for 2005.**

### **Backstretch (\$100,025.20)**

**Consultant – main track resurface - (\$8,034.70)-** Contractor was Joseph King Company LTD. **This was not a budgeted CIF item for 2005.**

**Equipment/Labor - main track resurface - (\$29,065.31)- Contractor was Macedon Excavating & Paving, Inc.** This was not a budgeted CIF item for 2005.

**Stone Roller – (\$2,895.75) – Vendor was A..G. Paving & Sealcoating.** This was a budgeted CIF item for 2005.

**Smoke Detectors – Fire Safety – Dorms/Barns - (\$1,047.60)-** Vendor was O’Connell Electric Co., Inc. **This was not a budgeted CIF item for 2005.**



**Safety Signs – Fire Safety – Dorms/Barns - (\$1,239.81)-** Vendor was W. W. Grainger, Inc. **This was not a budgeted CIF item for 2005.**

**Fire Evacuation Signs – Fire Safety – Dorms/Barns - (\$477.80)-** Vendor was Heiser Logistics. **This was not a budgeted CIF item for 2005.**

**Deadbolts – Fire Safety – Dorms/Barns - (\$961.26)-** The vendor was Wegmans Food Markets, Inc. **This was not a budgeted CIF item.**

**Electric Labor – Fire Safety – Dorms/Barns - (\$1,145.64)-** The contractor was O’Connell Electric Company. **This was not a budgeted CIF item.**

**Sand – Training Track – (\$26,611.40) –** The vendor was Monroe Sand & Gravel. **This was not a budgeted CIF item for 2005.**

**Repair base – Training Track – (\$2,407.07)** The contractor was Macedon Excavating & Paving. **This was not a budgeted CIF item for 2005.**

**Labor – Training Track – (\$13,500.00) –** The contractor was Macedon Excavating & Paving, Inc. **This was not a budgeted CIF item for 2005.**

**Security Vehicle (1992 Dodge Pickup) – (\$1,211.75) –** The vendor was Hartung Auto Sales. **This was not a budgeted CIF item for 2005.**

**Two way radios – (\$1,427.11) –** The vendor was Saia Communications. **This was not a budgeted CIF item.**

**Configuration/ Training – Racing Office – (\$10,000) –** Hardware, software and training on how to enter statistics into RTO system was provided by Incompass Solutions, Inc. **This was a budgeted CIF item for 2005.**

The balance of the Capital Improvement Fund bank account was \$284,069.25 as of December 30, 2005.

## **7. CAPITAL OTB SIMULCAST LICENSE APPLICATION FOR 2006**

The New York State Racing and Wagering Board deferred action on the Capital District Regional Off-Track Betting Corporation’s simulcast license application for 2006 pending:

- **Receipt of copies of the actual inspection or a letter from the appropriate local official stating that a fire inspection was actually performed and that there were no**

**violations at those branches for which such current documentation has not been filed with the Board.**

- Written clarification of the answer to question 13 b on “day accounts.”
- Verification in writing of compliance with the Board directive on bet cancellations and with the policy that no cancellations are permitted after the start of a race.

The Board will consider further action at the next Board meeting.

Capital OTB will remain operational on the continuing rights of the 2005 simulcast license. Such rights are conditioned upon 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.

## **8. NEW YORK CITY OTB SIMULCAST LICENSE APPLICATION FOR 2006**

The New York State Racing and Wagering Board deferred action pending resolution of the following:

Receipt of the site specific SAS-70 Type II Report for 2005 no later than April 28, 2006, for the period July 1, 2005 through March 31, 2006.

Matters concerning NYC OTB’s financial position.

The Board imposed a fine of \$5,000 based upon NYC OTB’s failure to file the required 2005 SAS-70 Type II Report by the due date of October 31, 2005. A separate notice of fine will be issued.

The Board will consider further action at the next Board meeting.

NYC OTB will remain operational on the continuing rights of the 2005 simulcast license. 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, including:

Receipt of fire inspection reports on an ongoing basis.

Location of a number of Bet Mates that are unaccounted for.

## **9. WESTERN OTB/BATAVIA DOWNS TRACK AND SIMULCASTS LICENSES FOR 2006**

The New York State Racing and Wagering Board approved the Western Regional Off-Track Betting Corporation's simulcast license application for 2006.

The 2006 simulcast license is 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, including:

a. 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.

At the same meeting, the New York State Racing and Wagering Board deferred action on Batavia Downs' track and simulcast license applications for 2006 pending:

- Clarification of Batavia Downs' standing concerning CAFO requirements.

The Board did not assign any of the racing programs requested by Batavia Downs for 2006.

The Board will consider further action at the next Board meeting.

Batavia Downs will remain operational on the continuing rights of the 2005 simulcast license. Such rights are conditioned upon 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.

## **10. BUFFALO RACEWAY TRACK LICENSE APPLICATION FOR 2006**

The New York State Racing and Wagering Board approved the Buffalo Raceway track and simulcast license applications for 2006 conditioned upon receipt no later than April 28, 2006, of the site specific SAS-70 Type II Report for the period July 1, 2005 through March 31, 2006. The Board imposed a fine of \$5,000 based upon Buffalo Raceway's failure to file the required 2005 SAS-70 Type II Report by the due date of October 31, 2005. A separate notice of fine will be issued. The Board assigned the 81 programs requested on the specified dates.

The 2006 track and simulcast licenses are also 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.

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.

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.

#### **11. BUFFALO RACEWAY SIMULCAST LICENSE APPLICATION FOR 2006**

See Number Ten above.

#### **12. NEW YORK RACING ASSOCIATION, INC. SIMULCAST LICENSE APPLICATION FOR 2006**

The New York State Racing and Wagering Board deferred action on the New York Racing Association, Inc.'s simulcast license application for 2006 pending receipt and review of information concerning application questions 1, 2, 5a, 5b, and 15 (noted below):

- Question 1- needs to be completed.
- Question 2- Clarification as to when the Belmont backstretch was last inspected and when it will be inspected and when the Aqueduct facility will be inspected.
- Question 5a- The Tote and ITSP software versions.
- Question 5b - Clarification of the simulcast list; whether this is a complete list including primary or secondary guests, etc..

- Question 15 - Provide a copy of the contract with Stevenson and Associates, Inc.

In addition, action was deferred pending receipt and review of the following:

- Financial projections for the period requested for licensure (2006) that demonstrates how NYRA plans to meet its financial obligations during the license period.
- Aged accounts payable listing (i.e., listing of accounts payable that indicate how many days each liability has been outstanding. Typically aged payables list liabilities that are under 30 days; under 60 days; under 90 days and over 90).
- Draft balance sheet, income statement and statement of cash flows for the ten months ended October 31, 2006.

The Board will consider further action at the next Board meeting.

NYRA will 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.

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. 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.

**13. NEVADA GOLD NY, INC. – REQUEST FOR APPROVAL TO AMEND ARTICLES OF INCORPORATION AS A NEW YORK RACING CORP.**

Pursuant to Racing, Pari-Mutuel Wagering and Breeding Law Section 302, on February 23, 2006 the New York State Racing and Wagering Board approved the filing of the Amended Articles of Incorporation of Nevada Gold NY, Inc. to reflect its status as a New York corporation for the purpose of conducting harness horse race meetings at which pari-mutuel betting may be conducted.

The Board's approval is for the limited purpose of Racing, Pari-Mutuel Wagering and Breeding Law Section 302. It does not constitute and should not be construed as an approval pursuant to Racing, Pari-Mutuel Wagering and Breeding Law Sections 307 (Licenses for harness race meetings), 309 (Licenses for participants or employees at harness race meetings), or 303 (Filing of information concerning stock transfers; necessity for Board's approval).

Nevada Gold NY, Inc. was directed to require the Racing, Pari-Mutuel Wagering and Breeding Law, Section 307 (a), legend be printed on each of its stock certificates in the event that the Board issues a racing license.

**14. NEVADA GOLD NY, INC. – REQUEST FOR APPROVAL OF PLANS FOR FACILITIES FOR TIOGA DOWNS PURSUANT TO SECTION 322 OF THE RACING, PARI-MUTUEL WAGERING AND BREEDING LAW**

Pursuant to Section 322 of the Racing, Pari-Mutuel Wagering and Breeding Law, on February 23, 2006 the New York State Racing and Wagering Board approved the plans submitted by Tioga Downs Racetrack LLC for the facilities at Tioga Downs.

The following items were not reviewed:

Size/location of Board office

Horse Ambulance

Drivers Stand convenient to Paddock or Gate

Type and Quality of Starting Gate

Breathalyzer

Display (Tote)

Totalizator System.

These items, and others, will be reviewed in conjunction with the 2006 track and simulcast license applications.

Board approval of the plans, insofar as submitted and reviewed, is conditioned upon a final inspection by Board staff indicating that the facility has been completed in accordance with the plans (and corresponding commitments by representatives of the applicant) that have been approved by the Board.

## **15. WESTERN OTB – REQUEST TO ADD NEW E-Z BET FACILITY**

The New York State Racing and Wagering Board approved the Western District Regional OTB request dated September 29, 2005, to conduct wagering and display simulcasts at Darox, Inc. d/b/a Scruples, in the Town of Newfane, New York (Niagara County). It is understood that at this new EZ Bet location, all wagering is self-service and initiated in a United Tote machine using cash, a winning ticket or voucher. The amount limit in the issuance of any voucher to a customer at any one time will be limited to a maximum of five hundred dollars (\$500).

In addition, it is expected that Western OTB, using its own personnel, will occasionally inspect Darox, Inc. d/b/a Scruples remote wagering facility and certify that all rules and laws concerning the conduct of wagering in New York State are being followed.

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 Western Regional OTB remote wagering facility.

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

### **1. EMERGENCY RULEMAKING – PARLAY WAGERING**

On January 11, 2006, the Board approved the Emergency Adoption of the Parlay Wagering Rule, which amends 9E NYCRR sections 4010.6 and 4122.38. This amendment would extend parlay wagering to include proposition wagering.

### **2. INDIAN GAMING - LICENSING STATISTICS**

Licensing statistics for January 1, 2006 through January 31, 2006. Also included are the certifications for Mohawk, Seneca Allegany, Seneca Niagara and Oneida.

### **3. 2006 LICENSED SUPPLIERS**



List of 2006 licensed suppliers and manufacturers for the period of January 1, 2006 through January 31, 2006.

**4. GAMES OF CHANCE/BELL JAR TICKETS**

List of bell jar tickets authorized/denied by the Charitable Gaming Unit between January 4, 2006 – February 3, 2006.

**5. GAMES OF CHANCE/BINGO REGISTRATION NUMBERS**

List of Games of Chance and Bingo Registration Numbers authorized/denied by the Charitable Gaming Unit between January 6, 2006 – February 3, 2006.

**6. LICENSING – CURRENT RACING LICENSING COUNT**

The current racing licensing counts as of January 31, 2006 since January 1, 2006 are as follows: total receipts 858 and total licenses 413 for the year 2006.

**F. FOLLOW-UP ON ITEMS PREVIOUSLY APPROVED**

None.

The meeting was adjourned at 12:09 p.m.