

NORTH DAKOTA RACING COMMISSION
Live and Telephone Meeting
State Capitol Building, Peace Garden Room
600 East Blvd. Ave., Bismarck, ND
Tuesday, February 23, 2010
11:00 a.m. (central time)

Call to Order:

Chairman Jim Ozbun called the meeting to order at 11:02 a.m. Chairman Ozbun welcomed those in attendance and thanked everyone for attending. Chairman Ozbun introduced the newest member to the Commission, Tom Senftner.

Director Satran asked everyone to give some thought to what they put in the electronic media because it can be read globally and reflects on North Dakota horse racing.

Present: Chairman Jim Ozbun. Commissioners: Tom Secrest, Andrew Maragos, Tom Senftner, and Clarence Frederick. Also present were Legal Counsel, Bill Peterson; Director of Racing, Winston E. Satran and Administrative Staff Officer, Helen Tessmann.

Others Present: Kara Odegaard, Deb Harsche, John Bubel, Marty Davis, Ted Henry, Blaine DeCoteau, Ritchie Parisien, Robert Wilson, Avery Erfle, Roger Erfle, Nicholas Plowman, Wayne Slater, David Bernsen, L.J. Harsche, Leigh Backhaus, Dale Lagerquist, Alfred Prouty, Blaine Malaterre, Ross Qualey, Mike Cichy, Chuck Fleming, Rebecca Beitsch, Scott A. Horst, Jad Breiner, Troy DeCoteau, Joel Hamre, Angie Cameron and Leon Glasser.

AGENDA

1. **Approval of Minutes – December 15, 2009 Meeting**
2. **Tote Provider Application**
 - Media and Gaming Pty Ltd
3. **Service Provider – Premier Turf Club**
 - Status
 - Letter of Credit – Collection of Taxes
4. **Status Report on ADWs**
5. **Revisions for ADWs Regulations**
6. **Report on Turtle Mountain Gaming Compact**
7. **Authorize the 2009 Breeders Awards Audit**
8. **Request for Additional 2010 Live Race Dates**
 - Outdoor Recreation Development Association
 - Chippewa Downs – Belcourt
 - July 3rd and 4th, Friday and Saturday
9. **Financial Review of Horse Race ND**
 - Eide Bailly's Internal Control Review of Horse Race ND

- Report from Horse Race ND
 - January 28th and February 11th Board of Directors' Meetings
 - Comments on Eide Bailly's Review
 - What needs to be done before they consider having a race meet?
 - When does Horse Race project a future race meet?
- 10. **Application for License to Conduct Horse Racing in North Dakota**
 - **Horse Race North Dakota**
 - ND Horse Park – Fargo
 - July 23, 24, 30, 31, August 6, 7, 13, 14
- 11. **2010 Live Race Season – Grant Authority to Director**
 - To hire veterinarians, stewards and licensing staff
 - To approve Industrial Laboratories
 - To request tracks to submit electrical and fire safety reports
 - To request tracks to provide proof of insurance
 - To review 2010 Condition Books
- 12. **Report on Testimony at the February 11th Judiciary Committee Meeting**
- 13. **ND Harness Racing**
 - Request to consider out-of-state points for 2010 Breeders Awards due to no meet in 2010.
- 14. **Purse Fund Applications**
 - a. Horse Race ND - \$132,000
 - b. Outdoor Recreation Development Association – Additional Request - \$35,000
 - c. ND Harness Association
 - d. ND Quarter Horse Racing Association - \$10,000
 - e. ND Thoroughbred Owners & Breeders Association - \$60,000
- 15. **Promotion Fund Applications**
 - a. Horse Race ND - \$73,567.28 to supplement 2009 Race Meet
 - b. Horse Race ND - \$75,000 for 2010 Race Meet
 - c. Outdoor Recreation Development Association – Additional Request \$35,000
 - d. Personal Management Services – 2010 Horsemen's Awards Dinner - \$2,500
 - e. ND Quarter Horse Racing Association - Stallion Season Service Auction - \$5,000
 - f. ND Thoroughbred Association – Stallion Season Auction - \$5,000
- 16. **Age Restriction on Certified ND Breds**
- 17. **Info on Anti-Slaughter Horse Policy**
- 18. **Authorization to go before Emergency Commission if needed**
- 19. **ND Horsemen's Council Issues or Recommendations**
- 20. **Adjournment**

MINUTES

1. Approval of Minutes – December 15, 2009 Meeting

Previously all commissioners had received a copy of the December 15, 2009 commission meeting minutes.

A motion was made by Commissioner Maragos and seconded by Commissioner Frederick to accept the minutes of the December 15, 2009 meeting as presented. All commissioners voted aye and hearing no negative vote the motion carried.

2. Tote Provider Application
- Media and Gaming Pty Ltd

Director Satran stated that many know that our account wagering world is broadening. Media and Gaming Pty Ltd., from Australia is interested in becoming a Tote Provider in the United States. Mr. Nicholas Plowman, the Managing Director of Media and Gaming, gave a presentation. The company and the software called Typhoon will provide a new way for Tote businesses to run their operations and reduce the amount of money needed to run racing. This business is looking at other opportunities, in other markets, and is looking at a United States based network.

The business is supported by primarily Australian investors who are very successful businessmen. Mr. Plowman discussed what this business can do in North Dakota to bring revenues for racing.

Director Satran asked Mr. Plowman about the company's background check in New Zealand. Mr. Plowman explained that Typhoon was tested by a company, BMM Compliance that does testing of wagering software. Typhoon was tested twice and passed the test twice, with zero compliance issues.

Director Satran asked Mr. Plowman what the advantage would be to be licensed in the United States through North Dakota. Mr. Plowman stated that there are a number of opportunities, like being able to showcase what a new approach to technology in wagering and racing can provide. It opens up a new market for us and for racing.

Mr. David Bernsen, from Watch and Wager, spoke more on how the money is distributed and the advantages of being able to bet internationally.

Director Satran stated that the NDRC received an impressive list of the Board of Directors in Australia and that the company has had a background check through the country of New Zealand. Mr. Bernsen from Watch and Wager has highly recommended them.

A motion was made by Commissioner Secret and seconded by Commissioner Maragos to approve a Tote Provider license for Media and Gaming Pty Ltd. Roll call was taken: Secret Y, Maragos Y, Frederick Y, Senftner Y and Chairman Ozbun Y. Motion Passed

Chairman Ozbun asked Commissioner Senftner to introduce himself. Commissioner Senftner stated he lives SE of Bismarck. He has been around horses and cattle all his life. He has done some horse racing in North Dakota and Winnipeg.

3. Service Provider – Premier Turf Club
- Status
- Letter of Credit – Collection of Taxes

Director Satran reported that Premier Turf Club left North Dakota on December 31st, 2009 and went to the state of Oregon and is newly licensed in Oregon. Director Satran praised Helen Tessmann, the Administrative Staff Officer for the North Dakota Racing Commission, on her organizational skills and diligence to make sure things are covered. Premier Turf owed the racing funds; our contract accountant, Mr. Thompson, and the state of North Dakota, \$51,000. Helen informed Director Satran that all account wagering companies have to have a letter of credit or a bond in North Dakota that protects those funds. If this money was not requested by February 6, 2010, the letter of credit for \$100,000 would expire and the ND Racing Commission would have had to get the dollars owed directly from Premier Turf Club. Helen did the research and obtained the correct procedure in collecting the \$51,000. The Racing Commission received the payment directly from the bank to satisfy Premier Turf Club's obligation. *(The audience applauded Helen.)*

4. Status Report on ADWs

Director Satran reported that Megatote, a new startup company, has provided a report. Their next step is to finalize a contract with Horse Race ND. Megatote should be operating by March 1, 2010. Trifecta is completing the terms of a non-compete agreement and will start activity after March 21, 2010. Silks Corporation has been licensed for 2 years and plans to start in March 2010. Silks' is from Toronto, Canada, and projects bringing in large amounts of revenue. Watch and Wager is in the process of formulating a contract with the Turtle Mountain Band of Chippewa.

5. Revisions for ADWs Regulations

Director Satran and Legal Counsel Bill Peterson have been working toward changing the regulations to accommodate the wagering companies that are coming into North Dakota.

6. Report on Turtle Mountain Gaming Compact

Director Satran stated that he and Marty Davis, Belcourt Gaming Director, have been working to make changes to the Addendum of the Gaming Compact. A number of people from the Tribal Council were in attendance at this meeting. Ms. Davis' next step is to meet with the tribal attorney and review the draft of the Addendum of the Gaming Compact. Once the Addendum is revised it will be submitted to the Governor's office.

7. Authorize the 2009 Breeders Awards Audit

A motion was made by Commissioner Maragos and seconded by Commissioner Secrest to conduct an audit of the 2009 Breeder's Awards by Debbie J. Eisenhauer, CPA. Roll Call was taken: Maragos Y, Secrest Y, Frederick Y, Senftner Y and Chairman Ozburn Y. Motion Passed.

8. Moved - after item 9. Request for Additional 2010 Live Race Dates

- Outdoor Recreation Development Association
Chippewa Downs – Belcourt
- July 3rd and 4th, Saturday and Sunday

9. Financial Review of Horse Race ND

- Eide Bailly's Internal Control Review of Horse Race ND

Director Satran reported that Eide Bailly was qualified to do a forensic analysis type of financial review. The review from Eide Bailly was completed and contained the following information:

- a. Accounts payable balance \$220,075.68.
- b. Accounts receivable were \$26,918.36.
- c. Discrepancies were found in reported revenue and actual revenue of \$17,603.79.
- d. Horse Race ND provided Eide Bailly with additional financial information that reduced the discrepancy to \$3,830.09, unaccounted dollars.

Director Satran and Chairman Ozbun attended a hearing of the Judiciary Committee and discussed the Financial Review with the Committee. Eide Bailey's Review listed twenty-eight recommendations. Director Satran recommended requiring Horse Race ND to implement the policies and the procedures to accommodate the recommended practices by Eide Bailly. The ND Racing Commission would review those policies and procedures prior to any racing in Fargo. Director Satran also recommended that the Commission accept the Financial Review and the adjustment revising the discrepancy to \$3,830.09.

A motion was made by Commissioner Secrest and seconded by Commissioner Frederick to approve the Eide Bailly Financial Review and adjustment. To require Horse Race ND to implement policies and procedures based on twenty-eight recommendations and submit them to the Commission for review. Roll Call was taken: Secrest Y, Frederick Y, Maragos Y, Senftner Y, and Chairman Ozbun Y. Motion Passed.

- Report from Horse Race ND

- January 28th and February 11th Board of Directors' Meetings
- Comments on Eide Bailly's Review

Mr. Mike Cichy, President of Horse Race ND, spoke on the Financial Review results and stated that Horse Race ND would comply with the recommendations.

- What needs to be done before they consider having a race meet?

There are two loan proposals submitted to Horse Race ND, one in the amount of \$200,000 and a second one for \$250,000. The current debt is \$172,000 and Horse Race ND will pay off the current debt. Horse Race ND would need \$50,000 per weekend to operate live racing in 2010.

Director Satran stated that he has discussed with legal counsel about possibly having a Commissioner on the ND Horse Park Foundation's Board of Directors. NDRC's legal counsel will research this request and then NDRC would send a letter to the ND Horse Park Foundation asking to change the by-laws to appoint a new member to the Board.

If a Commissioner cannot be appointed to the ND Horse Park Foundation, Director Satran suggested to the Commission that they approach the ND Horsemen's Advisory Council to see if they would be interested in having the Chairman of the ND Horsemen's Advisory Council serve on the ND Horse Park Foundation Board. A letter from NDRC would be submitted requesting consideration of a change ND Horse Park Foundation's by-laws allowing the Chairman of the

ND Horsemen's Advisory Council to serve on the ND Horse Park Foundation's Board of Director's.

Commissioner Secrest stated that Horse Race ND should not race this year until new management is established and then race next year (2011).

Jad Breiner, newly appointed Manager of ND Horse Park, reported that this was the first year the debt was this extreme and was due to the lack of proper management. Several changes have been made to the management procedures. The Horse Race ND Board has been changed to include members from other parts of the state. If Horse Race ND does not race this year, the momentum will be lost.

Director Satran stated that Jad Breiner was previously in charge of the physical operations of the track. When management changed, Jad stepped in and has done a wonderful job keeping those businesses that need to get paid, calm and assured they will get paid. (*Jad received applause from the audience.*)

- When does Horse Race project a future race meet?

Mike Cichy, President of Horse Race ND, said that if they could get dates for racing they would go through the new procedures in detail with the Commission.

Chairman Ozbun asked Mike Cichy when the Policies and Procedures would be ready for the Commission to review. Mr. Cichy said they would be reviewed before the Commission approves any funding for Horse Race ND.

Director Satran reported on the financial state of the funds. See Agenda items #14 & #15.

* * * * Lunch Break 12:30 p.m. * * * *

Re-convened at 1:15 p.m.

- 8. Request for Additional 2010 Live Race Dates**
- Outdoor Recreation Development Association
Chippewa Downs – Belcourt
- July 3rd and 4th, Saturday and Sunday

Blaine DeCoteau and Wayne Slater, ORDA Board, asked for additional race days. They also requested \$35,000 from the Promotion Fund and \$35,000 from the Purse Fund.

Commissioner Secrest asked Mr. Slater and Mr. DeCoteau to provide him with a report of the condition of the ORDA track in Belcourt.

Director Satran reported that the balance of the Promotion Fund would be \$115,000 after the \$35,000 is granted to ORDA.

A motion was made by Commissioner Secret and seconded by Commissioner Frederick to approve two additional race days in Belcourt on July 3rd and 4th to Outdoor Recreation Development Association (ORDA). Also to include granting ORDA, \$35,000 from the Promotion Fund and \$35,000 from the Purse Fund. Roll Call was taken: Secret Y, Frederick Y, Maragos Y, Senftner Y, and Chairman Ozbun Y. Motion Passed.

10. Application for License to Conduct Horse Racing in North Dakota

- **Horse Race North Dakota**

ND Horse Park – Fargo

July 23, 24, 30, 31, August 6, 7, 13, 14

Commissioner Secret asked Mike Cichy if they are going to pay the debt before they even consider racing in 2010. Mr. Cichy responded that the debt would be taken care before racing would be considered. Director Satran will review the ND Horse Park Foundation's budget with Jad Breiner. Commissioner Secret said with that condition, he would support the motion.

Chairman Ozbun asked when the Commission could schedule another meeting. Director Satran said probably the first part of April.

A motion was made by Commissioner Maragos and seconded by Commissioner Senftner to approve the 2010 license and race dates for Horse Race North Dakota. Roll call was taken: Maragos Y, Senftner Y, Frederick N, Secret Y and Chairman Ozbun Y. Motion Passed.

11. 2010 Live Race Season – Grant Authority to Director

- To hire veterinarians, stewards and licensing staff
- To approve Industrial Laboratories
- To request tracks to submit electrical and fire safety reports
- To request tracks to provide proof of insurance
- To review 2010 Condition Books

A motion was made by Commissioner Secret and seconded by Commissioner Frederick to approve authority to the Director of Racing to hire veterinarians, stewards, and licensing staff; approve Industrial Laboratories; request electrical and fire safety reports and proof of insurance; and review the 2010 Condition Books. Roll call was taken: Secret Y, Frederick Y, Maragos Y, Senftner Y and Chairman Ozbun Y. Motion Passed.

12. Report on Testimony at the February 11th Judiciary Committee Meeting

Chairman Ozbun reported that Director Satran did an excellent job of reporting the issues and opportunities of North Dakota horse racing to the North Dakota Judiciary Committee. Director Satran discussed key points of the Financial Review of Horse Race ND, as well. Chairman Ozbun said that the meeting went extremely well.

13. ND Harness Racing

- Request to consider out-of-state points for 2010 Breeders Awards due to no in-state meet in 2010.

Director Satran reported that the ND Harness Race Association members wrote to ORDA asking them to consider a weekend for harness racing. The ORDA Board voted and determined that they could not accommodate harness racing this year.

Dale Lagerquist, ND Harness Race Association, explained how this process will work to collect points and submit them to the ND Racing Commission office for Breeder's Fund awards.

A motion was made by Commissioner Maragos and seconded by Commissioner Secrest to table the ND Harness Racing Association's request for out-of-state points for 2010. To request the ND Harness Race Association to prepare a strategy and present it to the ND Horsemen's Advisory Council for their review. Then the ND Horsemen's Advisory Council can present their recommendation to the Racing Commission at the next meeting. Roll call was taken: Maragos Y, Secrest Y, Frederick Y, Senftner Y and Chairman Ozbun Y. Motion Passed.

14. Purse Fund Applications

a. Horse Race ND - \$132,000

A motion was made by Commissioner Secrest and seconded by Commissioner Maragos to table Horse Race ND's application for Purse Funds in the amount of \$132,000 until the next Commission meeting. Roll Call was taken: Secrest Y, Maragos Y, Frederick Y, Senftner Y and Chairman Ozbun Y. Motion Passed.

b. Outdoor Recreation Development Association – Additional Request - \$35,000
(Item 8 carries the motion for this request.)

c. ND Harness Association
(The application was submitted without a dollar amount.)

A motion was made by Commissioner Secrest and seconded by Commissioner Maragos to table ND Harness Association's Purse Fund application until the next meeting. Roll call was taken: Secrest Y, Maragos Y, Frederick Y, Senftner Y and Chairman Ozbun Y. Motion Passed.

d. ND Quarter Horse Racing Association - \$10,000

A motion was made by Commissioner Maragos and seconded by Commissioner Frederick to table ND Quarter Horse Racing Association's Purse Fund application for \$10,000 until the next meeting. Roll call was taken: Maragos Y, Frederick Y, Secrest Y, Senftner Y and Chairman Ozbun Y. Motion Passed.

e. ND Thoroughbred Owners & Breeders Association - \$60,000

A motion was made by Commissioner Secrest and seconded by Commissioner Maragos to table ND Thoroughbred Owners and Breeders Association's Purse Fund application for \$60,000 until the next meeting. Roll call was taken: Secrest Y, Maragos Y, Frederick Y, Senftner Y and Chairman Ozbun Y. Motion Passed

15. Promotion Fund Applications

- a. Horse Race ND - \$73,567.28 to supplement 2009 Race Meet

A motion was made by Commissioner Maragos and seconded by Commissioner Senftner to accept Horse Race ND's withdrawal of the Promotion Fund application for \$73,567.28. Roll Call was taken: Maragos Y, Senftner Y, Frederick Y, Secrest Y and Chairman Ozbun Y. Motion Passed.

- b. Horse Race ND - \$75,000 for 2010 Race Meet

A motion was made by Commissioner Secrest and seconded by Commissioner Maragos to table Horse Race ND's Promotion Fund application for \$75,000 until the next meeting. Roll Call was taken: Secrest Y, Maragos Y, Frederick Y, Senftner Y and Chairman Ozbun Y. Motion Passed.

- c. Outdoor Recreation Development Association – Additional Request \$35,000
(Item 8 carries the motion for this request.)

- d. Personal Management Services – 2010 Horsemen's Awards Dinner - \$2,500

Director Satran asked for from Personal Management Services an itemized expenditures list for the 2009 Horsemen's Award Dinner. The Administrative Staff Officer read the report and e-mail from Personal Management Services.

A motion was made by Commissioner Maragos and seconded by Commissioner Secrest to table Personal Management Services' Promotion Fund application for \$2,500 until the next Commission meeting. Roll call was taken: Maragos Y, Secrest Y, Frederick Y, Senftner Y and Chairman Ozbun Y. Motion Passed.

- e. ND Quarter Horse Racing Association - Stallion Season Service Auction - \$5,000
f. ND Thoroughbred Association – Stallion Season Auction - \$5,000.

Commissioner Secrest asked Bill Peterson, Legal Counsel, what the Breeder's Fund can be used for. Mr. Peterson stated that it can be used for Breeder Fund Awards and also for supplementing North Dakota bred horse races.

Director Satran stated that the Legislature admonished Chairman Weir regarding this issue and to create this controversy again would be bad for horse racing in North Dakota.

Commissioner Secrest said that maybe since ND racing is in dire need, this issue could be overridden. Commissioner Secrest stated he thought this issue should be given to the ND Horsemen's Advisory Council for their recommendation.

A motion was made by Commissioner Secrest and seconded by Commissioner Senftner to have the ND Horsemen's Advisory Council consider using the Breeders' Fund dollars to

enhance the purses for ND bred horses and to determine the amounts. Roll call was taken: Secrest Y, Maragos Y, Frederick Y, Senftner Y and Chairman Ozbun Y. Motion Passed.

The record will show that Commissioner Maragos left the meeting at 2:50 p.m.

A motion was made by Commissioner Secrest and seconded by Commissioner Frederick to approve granting from the Promotion Fund \$2,500 to each, the ND Quarter Horse Racing Association and the ND Thoroughbred Association. Roll call was taken: Secrest Y, Frederick Y, Senftner Y and Chairman Ozbun Y. Motion Passed.

16. Age Restriction on Certified ND Bred

Director Satran reported that a request was made by the thoroughbred owners to change the racing age restriction because thoroughbreds run longer and run less in a season. Currently the racing age is 6 years old and after six they do not qualify for breed fund points. This is in the regulations and will be submitted to the Governor's office requesting an emergency change to the rules. After a discussion with horsemen and the Commission, it was decided that the racing age restriction would be increased through age 12 for all breeds and included in the regulation changes.

A motion was made by Commissioner Secrest and seconded by Commissioner Frederick to approve, for all North Dakota bred horses, the racing age restriction through the age of 12. Roll call was taken: Secrest Y, Frederick Y, Senftner Y and Chairman Ozbun Y. Motion Passed.

17. Info on Anti-Slaughter Horse Policy

Director Satran received an inquiry asking North Dakota to declare no Anti-Slaughter Policy for horse races. No action was taken, at this time, by the Commission.

18. Authorization to go before Emergency Commission if needed

Director Satran reported that the Administrative Fund is allocated \$30,000 by the Legislature to be used for the operation of the office. The racing office has had more expenses this year with the Financial Review and meeting room costs. The Commissioners get paid for attending the Commission meeting, but not for attending meetings other than Commission meetings. The office would like to implement a change so that Commissioners get paid \$75 for attending additional meetings. Director Satran spoke with the Office of Management and Budget and the Budget Analyst suggested that in June the ND Racing Commission go to the ND Emergency Commission providing justification for the need to spend above the limit of \$30,000. The Administrative Fund cannot be used for any other purpose except for administrative costs.

A motion was made by Commissioner Senftner and seconded by Commissioner Frederick to authorize the Director in June to request at the ND Emergency Commission meeting to spend above the \$30,000 for administrative costs. Roll Call was taken: Senftner Y, Frederick Y, Secrest Y and Chairman Ozbun Y. Motion Passed.

19. ND Horsemen's Advisory Council Issues or Recommendations

The ND Horsemen's Advisory Council has requested to have a Horse Race ND board member serve on their board. The Commission suggested that the ND Horsemen's Advisory Council make a recommendation to the Commission at the next meeting.

20. Adjournment

A motion was made by Commissioner Secret and seconded by Commissioner Frederick to adjourn the meeting. All Commissioners voted aye and hearing no negative vote, the motion was passed. The meeting adjourned at 3:14 p.m.