

**NORTH DAKOTA RACING COMMISSION**  
**Live and Telephone Meeting**  
**State Capitol Building, Peace Garden Room**  
**600 East Blvd. Ave., Bismarck, ND**  
**Tuesday, April 20, 2010**  
**11:00 a.m. (central time)**

**Call to Order:**

Chairman Jim Ozbun called the meeting to order at 11:01 a.m.

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

**Others Present:** Deb Harsche, Dave Harsche, Curt Rohweder, Scott A. Horst, Mike Cichy, John Ford, L.J. Harsche, Richard Nevins, Wayne Slater, Rachelle Backhaus, Leigh Backhaus, Roger V. Thompson, Ron Klein and Blaine DeCoteau.

**AGENDA**

1. **Approval of Minutes – February 23, 2010 Meeting**
2. **Approval of AmTote International, Inc.**
  - Parent Company's Plan of Reorganization
3. **Outdoor Recreation Development Association**
  - Review of 2010 Condition Book
4. **Horse Race North Dakota's Report**
  - a. 2009 Race Meet's Remaining Debt
  - b. Draft of Policies and Procedures/Financial Review Recommendations
  - c. Proposals Considered by Horse Race ND
  - d. Decision on 2010 Race Meet - ND Horse Park/Fargo
5. **ND Horse Park Foundation (NDHPF)**
  - Consideration of NDRC's request to change by-laws to add a Board Member
6. **ND Horsemen's Advisory Council's Issues/Recommendations**
  - a. Consideration of ND Horsemen's Advisory Council President to serve on the NDHPF Board if a new member is added and if a NDRC Commissioner would not be appointed.
  - b. Consideration of ND Harness Race Association's request for 2010 Out-of-State Breeders' Awards. (Due to no 2010 in state harness meet.)
  - c. Consideration to use Breeders' Fund dollars to enhance Purses for ND Bred Races.
  - d. Horse Race ND board member to serve on the ND Horsemen's Advisory Council.
7. **Purse Fund Applications**
  - a. Horse Race ND - \$132,000
  - b. ND Harness Association

- c. ND Quarter Horse Racing Association - \$10,000
- d. ND Thoroughbred Owners & Breeders Association - \$60,000
- 8. **Promotion Fund Applications**
  - a. Horse Race ND
  - b. Personal Management Services – 2010 Horsemen’s Awards Dinner - \$2,500
- 9. **Suggested Rules and Regulations Changes**
- 10. **Adjournment**

## **MINUTES**

### **1. Approval of Minutes – February 23, 2010 Meeting**

Previously all commissioners had received a copy of the February 23, 2010 commission meeting minutes.

**A motion was made** by Commissioner Secret and seconded by Commissioner Senftner to accept the minutes of the February 23, 2010 meeting with a correction made to item #15, Promotion Fund Applications sub-item e & f to read as follows: “A motion was made by Commissioner Secret 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 for the Stallion Season Auction. All Commissioners voted aye and hearing no negative vote the motion carried.

### **2. Approval of AmTote International, Inc. (AmTote)**

- Parent Company’s Plan of Reorganization

Mr. Michael W. Fuchek, VP and General Counsel for Am Tote International, Inc. wrote a letter as a follow up to his phone call to Director Satran, regarding the Plan of Reorganization filed by Magna Entertainment Corp., AmTote’s parent company. Effective on or before April 30, 2010, Am Tote International, Inc. will be transferred to another subsidiary by the name of MI Developments, Inc..

**A motion was made** by Commissioner Secret and seconded by Commissioner Frederick to accept Am Tote International’s Inc. transfer to MI Developments, Inc., and ask AmTote to provide the Commission with the names of the principals, their titles along with the new role assigned to Am Tote International, Inc.. Roll call was taken: Secret Y, Frederick Y, Senftner Y, and Ozbun Y. Motion Passed.

### **3. Outdoor Recreation Development Association (ORDA)**

- Review of 2010 Condition Book

Discussion with ORDA board members and the horsemen was held to determine additional time slots and any corrections to the 2010 ORDA Condition Book. Director Satran asked several questions for clarification. It was determined that changes were required in the Condition Book.

**A motion was made** by Commissioner Secret and seconded by Commissioner Senftner to accept the ORDA Condition Book with corrections to the following:

- a. Race day 3, June 19<sup>th</sup>, Condition # 5 will include the words ND Bred//Certified.
- b. Race day 5, June 26<sup>th</sup>, Condition #4 will include the words ND Bred/Certified.
- c. Race day 8, July 4<sup>th</sup>, Condition #3 will allow non-members and members of TOBA.

Roll call was taken: Senftner Y, Secret Y, Frederick Y, and Ozbun Y. Motion Passed.

**A motion was made** by Commissioner Secret and seconded by Commissioner Frederick to waive the state rule requirements to allow the two-year old Thoroughbred Futurity race with a minimum of three (3) horses on Day 1, June 11, 2010. Roll call was taken: Secret Y, Frederick Y, Senftner Y, and Ozburn Y. Motion passed.

**4. Horse Race North Dakota's (HRND) Report**

a. 2009 Race Meet's Remaining Debt

Mr. Mike Cichy, HRND President, reported that the debt for Horse Race North Dakota is \$160,000. Mr. Cichy stated that HRND is waiting for the March payment from Avatar, which could be between \$5,000 and \$6,000 for March.

b. Draft of Policies and Procedures/Financial Review Recommendations

Mr. Cichy reported that a draft of the manual is available. Any comments would be appreciated.

c. Proposals Considered by Horse Race ND (HRND)

Mr. Cichy reported that the neither of the two proposals for a loan had been accepted by HRND. These loans were actually land purchase agreements. HRND is reviewing a loan proposal for approximately \$100,000 using the property as collateral. He reported that Horse Race North Dakota receives \$6,000 to \$7,000 each month from service providers.

d. Decision on 2010 Race Meet - ND Horse Park/Fargo

Mr. Cichy said on behalf of the HRND board, there will be no race meet in Fargo in 2010. No further action was taken.

**5. ND Horse Park Foundation (NDHPF)**

- Consideration of NDRC's request to change by-laws to add a board member or members to the North Dakota Horse Park Foundation

Director Satran reported that letter dated March 12<sup>th</sup> was written, to Ken Pawluk, President of the ND Horse Park Foundation requesting that consideration be made for a Commissioner and the President of the ND Horsemen's Advisory Council be placed on the ND Horse Park Foundation's board. On April 5<sup>th</sup>, Director Satran received a response from NDHPF President Pawluk stating that the NDHPF board would discuss this topic at the next meeting.

Director Satran suggested requesting the date of ND Horse Park Foundation's next meeting and request in writing their decision on adding a board member or members.

**6. ND Horsemen's Advisory Council's Issues/Recommendations**

Director Satran addressed the ND Horsemen's Advisory Council's agenda Item #9 – ND Racing Director's contract and availability. Director Satran read his contract agreement that was approved by the North Dakota Racing Commission to answer any questions about Director Satran's availability in the office.

Director Satran and Helen Tessmann, the NDRC's Administrative Staff Officer, met with the Thoroughbred Racing Protective Bureau (TRPB). This agency does background checks on account wagering companies. It is an extensive process to have a background check completed on a company. On April 7, 2010, they came to the ND Racing Commission's office with three (3) of their representatives; Mr. J. Curtis Linnell, Director and Wagering Analysis Investigator; the Vice President, Mr. James Gowen, of the Thoroughbred Racing and Protective Bureau, and Mr. Jack Jeziorski, an Attorney with Track Net Media Group. Director Satran

stated that before they came he was notified that TRPB would ask questions about Avatar, and also the ND Racing Commission's operations.

Director Satran and Administrative Staff Officer Helen Tessmann were asked questions concerning the state of racing in North Dakota. North Dakota's racing has had a negative image nationally. Director Satran asked Mr. Lynnell why North Dakota's image has been negative. The first item was the 2003 account wagering problems; and the second item was the turnover of directors since the inception of the ND Racing Commission. Racing jurisdictions are uninformed about North Dakota Racing Commission's current structure and contracted personnel.

Director Satran responded to the questions concerning the professional contracts held by the Racing Commission to assist with the Breeders' Fund Administration, Simulcast Pari-Mutuel independent accountant and a private investigator that completes background checks. When financial problems arose with Horse Race ND in 2009 there was an accounting firm that specialized in forensic auditing and they were engaged by the ND Racing Commission to complete a financial review.

Director Satran stated that the TRPB asked about the interaction with horsemen in the state. Director Satran listed the meetings he has attended with the different breed associations and North Dakota race tracks. Director Satran and Chairman Ozbun met with staff members from the Governor's and Attorney General's offices to explain the new benefits Simulcast Pari-Mutuel wagering could bring to North Dakota racing.

Director Satran has communicated with Mr. Mark Thurman, President of the California Horse Racing Information Management Systems (CHRIMS). CHRIMS manages accounts for major tracks in the United States. Mr. Thurman advised Director Satran that he has heard concerns about the North Dakota Racing Commission. Director Satran collaborated with Mr. Thurman on who to address about these issues. Director Satran then sent a letter to 54 organizations to explain the ND Racing Commission and the administration procedures.

Commissioner Secrest stated that he would like to see Director Satran's future predecessor, be trained by Director Satran. John Ford, Lien Games; Helen Tessmann, NDRC Administrative Officer; Blaine DeCoteau and Wayne Slater, ORDA; all commended Director Satran for his professionalism and efforts he has made to work with the horsemen and directing horse racing in the right direction.

Director Satran reported that when he was in Belcourt and met with the ORDA board, he was so pleased to see the enthusiasm from them stating that they want to improve things so horse racing in North Dakota is a positive thing.

\*\*\*\* Lunch Break 12:36 p.m. \*\*\*\*

\*\*\*\* Meeting reconvened 1:16 p.m. \*\*\*\*

*Item #6 continued -*

The ND Horsemen's Advisory Council reported on their April 9, 2010 meeting:

a. Consideration of ND Horsemen's Advisory Council President to serve on the ND Horse Park Foundation Board if a new member is added and if a NDRC Commissioner would not be appointed. *No Action taken*

b. Consideration of ND Harness Race Association's request for 2010 Out-of-State Breeders' Awards. (Due to no 2010 in-state harness meets.)

NDHAC recommends to the Commission to deny the Harness Association's request to use Breeders' Fund dollars for Out-of-State awards.

Director Satran reported that account wagering reports March 2010 reported that the harness racing generated \$3,461,143. Director Satran reminded the horsemen to create a better image for horse racing in North Dakota we need to find a way that would allow Harness racing to earn breeders' fund awards. Since there is no Harness Meet this year in North Dakota, the Commission needs to allow the Harness Racers their share of Breeders' Fund awards by racing out of state. Director Satran explained that the Harness race owner will pick the race track location and the Commission decides on the time allowed to race.

**A motion was made** by Commissioner Secrest and seconded by Commissioner Senftner to allow Harness racers to receive ND Breeder's points, if they place, at a designation out-of-state race track and the date coordinated with Director Satran. Roll call was taken: Secrest Y, Senftner Y, Frederick Y, and Ozbun Y. Motion passed.

c. Consideration to use Breeders' Fund dollars to enhance Purses for ND Bred Races. NDHAC recommends not using Breeder's Fund dollars to enhance Purses for ND Bred Races  
*No action taken.*

d. Horse Race ND board member to serve on the ND Horsemen's Advisory Council. NDHAC recommended to have the ND Racing Commission appoint the Horse Park ND track manager to the ND Horsemen's Advisory Council Board when a track manager is hired. *No action taken.*

#### **Other issues from the ND Horsemen's Council:**

NDHAC asked to receive notice from the North Dakota Racing Commission when the Legislative Hearings are being held so they can attend the hearings. Director Satran stated that the ND Racing Commission uses the Legislative Council's website to obtain this information and it is available to anyone to obtain times and dates of hearings. Commissioner Senftner suggested that the link to the Legislative Council's website be included in the NDRC's website. The Racing Commission office will have the link added.

A question was asked if the rule for the age restriction of ND bred horses goes into effect this year. Director Satran read the minutes that referred to this change. It was voted on and approved to increase the age through 12. Counsel Bill Peterson stated that a waiver by the Commission could be put in place for this year.

**A motion was made** by Commissioner Frederick and seconded by Commissioner Senftner to waive the current age restriction for racing from age 6 years old to 12 years old to allow eligibility to earn breed fund points in 2010. Roll call was taken: Frederick Y, Senftner Y, Secrest Y and Ozbun Y. Motion passed.

NDHAC requested the NDRC drop the percentage based system currently used for Breeder's Fund awards. Legal Counsel Bill Peterson asked NDHAC to submit a clarification to the Commission so the Commission knows exactly what is being requested. Also, have NDHAC provide information on how they would amend the rules.

NDHAC asked for funding from the Commission to pay for a secretary to take the minutes at their meetings. Commissioner Frederick asked if there was still an account set up for this particular reason. Director Satran explained that there had been a private account for Breeders Fund awards only; however a previous state audit stipulated that NDRC could not hold money in private banks. This request would have to come from the Promotion Fund. However, there are currently other requests for money out of the Promotion Fund and including those requests we would have a minus balance remaining.

Scott Horst, a member of the ND Thoroughbred Association, advised the Commission that he has submitted a workable schedule to the ND Horsemen's Advisory Council to discuss further as a way to pay out Breeders' Fund awards rather than the 12.5% that is split among the breeds at this time.

**7. Purse Fund Applications**

- a. Horse Race ND - \$132,000

*No Action Taken.*

- b. ND Harness Association

Director Satran reported that the ND Harness Association submitted an application to NDRC; however they did not include the amount of money they are requesting.

**A motion was made** by Commissioner Secrest and seconded by Commissioner Senftner to deny the ND Harness Associations application. Roll call was taken: Secrest Y, Senftner Y, Frederick Y, and Ozbun Y. Motion passed.

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

The NDQHRA application is requesting \$5000 for the 2012 Stallion State Races and \$5000 for the 2013 Derby.

**A motion was made** by Commissioner Secrest and seconded by Commissioner Senftner to deny ND Quarter Horse Racing Association's application for Purse Fund money for 2012 & 2013 races. Roll call was taken: Secrest Y, Senftner Y, Frederick Y, and Ozbun Y. Motion passed.

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

ND Thoroughbred Owners & Breeders Association (TOBA) is reducing their request for Purse Fund money from \$60,000 to \$30,000. Director Satran reported that the Purse Fund has a current balance of \$55,832.47. Director Satran stated that if Purse money is given to TOBA this year, the Purse Fund will be depleted to the point of having no Purse Fund money in 2011.

**A motion was made** by Commissioner Senftner and seconded by Commissioner Secrest to deny the request for \$30,000 of Purse Fund money to the Thoroughbred Owners & Breeders Association. Roll call was taken: Senftner Y, Secrest Y, Frederick Y and Ozbun Y. Motion passed.

**8. Promotion Fund Applications**

- a. Horse Race ND

Mike Cichy reported that he has applied to the Racing Commission for \$75,000 to bring the debt of \$150,000 down to a workable amount for a loan. Mr. Cichy is changing HRND's request to \$50,000 from the Promotion Fund. Counsel Bill Peterson stated the application is completed for review for the 2010 race in Fargo, ND. Since there isn't going to be a race there this year, he suggests this application be denied and wait for a corrected application.

**A motion was made** by Commissioner Secrest and seconded by Commissioner Frederick to deny the application request from Horse Race North Dakota for Promotion Fund money of \$75,000. Roll call was taken: Secrest Y, Frederick Y, Senftner Y and Ozbun Y. Motion passed.

**A motion was made** by Commissioner Secrest and seconded by Commissioner Senftner to authorize up to \$50,000 from the Promotion Fund to Horse Race North Dakota contingent on Horse Race North Dakota obtaining the additional \$100,000 within the next month. Roll call was taken: Secrest Y, Senftner Y, Frederick Y, and Ozbun Y. Motion passed.

b. Personal Management Services – 2010 Horsemen’s Awards Dinner - \$2,500  
The ND Racing Commission requested a breakdown of expenses from Personal Management Services. The breakdown has not been provided at this time. The Commission asked Scott Horst, member of the ND Thoroughbred Association, to check with Personal Management Services regarding the Commission’s request to provide an expense breakdown for the \$2500 they are asking for the 2010’s Awards Dinner.

**A motion was made** by Commissioner Senftner and seconded by Commissioner Secrest to table this item until the requested breakdown of expenses from Personal Management Services is provided to the North Dakota Racing Commission. Roll call was taken: Senftner Y, Secrest Y, Frederick Y and Ozun Y. Motion passed.

#### **9. Suggested Rules and Regulations Changes**

Director Satran reported that he and Legal Counsel Bill Peterson have been redrafting the account wagering rules, the totalizator rules and the simulcast rules. Then the proposed rules will go through the administrative rules, changes, and hearings in the public. They hope to have this completed by September 1, 2010.

Mr. Ron Klein, a Bismarck horse racing bettor, spoke to the Commission about some suggestions he has for the NDRC to consider in order to increase purse funds for live racing. Mr. Klein suggested that the NDRC visit the Oakland Park Race Track in Hot Springs, Arkansas to see how they operate their track. They are smaller than Bismarck and have 61,000 people in attendance. They have instant racing which brings in the purse money.

Commissioner Secrest asked Mr. Klein to prepare a plan for the NDRC to review and have him assist North Dakota with promoting these suggestions.

The contract renewal for MCC Services, LLC, Breeder’s Fund Administrator and to submit an Alternate Procurement request to extend the contract for Roger Thompson, Thompson Accounting.

**A motion was made** by Commissioner Secrest and seconded by Commissioner Frederick to renew the Breeder’s Fund Administrator contract with MCC Services, LLC for 1 year to June 2011, and the Alternate Procurement request for Roger Thompson, Thompson Accounting to be submitted for 2011 as well. Roll call was taken: Secrest Y, Frederick Y, Senftner Y and Ozbun Y. Motion passed.

#### **10. Adjournment**

Meeting adjourned at 2:55 P.M.