



**Agriculture and New York State Horse Breeding Development Fund
Minutes – December 2, 2022**

ITEM 1 - CALL TO ORDER: Chairman Brian O’Dwyer called the meeting to order at approximately 11:15 a.m. Establishment of a quorum was noted by Chairman O’Dwyer. In attendance were Fund Board Members Richard Ball and Steve Jones.

ITEM 2 - OPENING REMARKS BY CHAIRMAN O’DWYER: Chairman O’Dwyer offered a few remarks. He thanked his predecessor, Barry Sample, for his many years of service to the Fund. He introduced Ron Ochrym, Acting Executive Director of the Fund, Ralph Scunziano, the Fund’s Counsel, Connie Richardson, Executive Assistant to the Fund, and Liz Wolters, Deputy Commissioner of the Department of Agriculture and Markets.

Chairman O’Dwyer noted the historic significance of the meeting location – the Harness Racing Museum & Hall of Fame – and thanked the Museum’s Chairman of the Executive Committee, Max Hempt and Executive Director Janet Terhune for providing use of the venue for the Fund’s meeting. He noted spending time on a family farm in Orange County while he was young and attending the Hambletonian Stakes in Goshen. He noted the Museum perfectly captures that period of history in New York State. He also noted the wonderful educational programs offered by the Museum to young people.

Chairman O’Dwyer noted that this was Ron Ochrym’s last meeting after thirty-six years of distinguished service to the people of New York. He thanked Ron for his sage counsel and great work for the Fund. He noted that Ron will be sorely missed.

ITEM 3 - CONSIDERATION OF MINUTES OF April 29, 2022: The Fund considered previously circulated draft minutes of the meeting conducted on April 29, 2022. The minutes were accepted as circulated.

ITEM 4 - EXECUTIVE SESSION: The Members convened into Executive Session for the express purpose of consideration of matters pursuant to New York Public Officers Law Section 105(1)(f).

ON A MOTION BY: Member Ball - **APPROVED: 3-0**

Return from Executive Session. Chairman O’Dwyer concluded the Executive Session and had the record reflect that the Executive Session was limited to discussion relative to personnel matters as provided under Public Officers Law Section 105(1)(f). He then returned to the public agenda.

ITEM 5 - HEARING ON AND CONSIDERATION OF VIDEOCONFERENCING RESOLUTION – Chairman O’Dwyer noted that Chapter 56 of the Laws of 2022 includes an amendment to the Open Meetings Law to expand, in extraordinary circumstances only, the ability of public bodies to meet using remote access technology.

He noted that Open Meetings Law § 103-a(2)(a) requires a public body to only consider adoption of such a resolution following a public hearing. He declared this section of the meeting in session as a public hearing for the purposes of receiving public comment to allow Members to attend Fund Board meetings by videoconferencing under extraordinary circumstances. The public hearing commenced.

ON A MOTION BY: Member Ball - **APPROVED: 3-0**

No members of the public commented on the issue.

A resolution was presented to the Fund Board:

RESOLUTION

RESOLVED, that the Agriculture & New York State Horse Breeding Development Fund authorizes its members who experience an extraordinary circumstance, as described above and further defined by any rules or written procedures later adopted, to attend meetings by videoconference: (i) as long as a quorum of the members attend in-person at one or more locations open to the public; (ii) as long as the member can be seen, heard, and identified while the open portion of the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56 of the Laws of 2022; and be it further

RESOLVED, that the Agriculture & New York State Horse Breeding Development Fund shall create written procedures further governing its use of videoconferencing by its members in compliance with Chapter 56 of the Laws of 2022.

ON A MOTION BY: Member Ball - **APPROVED: 3-0**

ITEM 6 – APPOINTMENT OF EXECUTIVE DIRECTOR – Chairman O’Dwyer noted that solicitation for the position of Executive Director was posted and applications were accepted until June 10, 2022. Fifteen applications were received. A first round of interviews was conducted with seven applicants. Of those seven applicants, three were chosen for a second round of interviews. All Members of the Board participated in the final round of interviews. The Board voted to appoint Ralph Scunziano as the Fund’s Executive Director.

ITEM 7 – BREEDER AWARDS UPDATE – Chairman O’Dwyer noted that on November 7th, the 2022 Breeder Awards were posted on the Fund’s website, totaling \$750,000. Chairman O’Dwyer congratulated all the Breeders who received awards this year and thanked them for their participation in the program. He noted that all checks were sent to Breeders who submitted a current IRS Form W-9 to the Fund and that the Fund is reaching out to the remaining Breeders to submit a W-9 so their awards can be processed.

ITEM 8: AWARDING OF RFP AND RFQ – Chairman O’Dwyer noted that the contract for Equine Marketing, Public Relations, and Administrative Services expires on December 31, 2022. Accordingly, the Board directed staff to prepare for the continuation of these types of services via the issuance of a Request for Proposal for Administrative, Advertising and Public Relations Services (RFP) and a Request for Quotations for Equine Program Administrative Services

(RFQ). Both the RFP and RFQ were released on June 16, 2022. The competitive process required the documents to be posted on the New York State Contract Reporter and on the Fund's website. The Fund completed two rounds of questions with the responses placed on the Fund's website. Proposals were due on July 27th and interviews were conducted on August 30th.

He noted that one major difference from the prior RFQ was the addition of financial processing and record keeping which included maintaining the Fund's financial records in accordance with GAAP and GASB standards, including collection of monthly revenue reports; maintenance of accounts payable, accounts receivable, and payroll activities; assistance in preparation of annual budget and documentation of budget variances; monitoring of cash flow; providing documentation and oversight of annual audit; and establishing internal controls for financial activities.

He noted that Capitol Hill's proposal for the RFQ was the only one received (one proposal was received late and deemed disqualified) in the competitive process. That proposal had an annual cost of \$272,000.

Chairman O'Dwyer noted that there were 3 proposals for the RFP – with one being disqualified as it was received late. As a result, the two proposals received were from Capitol Hill and PC Public Affairs. Jackie Czub and Ron Ochrym scored the proposals, except for the pricing, which was conducted by Stacey Relation of the NYS Gaming Commission's Contracts Unit. Capitol Hill's proposal was for \$477,495 and PC Public Affairs' proposal was for \$432,606 – which is the cost for the entire 3-year term. Capitol Hill scored higher overall and deemed the winner of the RFP.

Both the RFP and RFQ were awarded to Capitol Hill Management Services.

ON A MOTION BY: Member Ball - **APPROVED: 3-0**

ITEM 9: REVIEW OF 2023 PRELIMINARY BUDGET – Chairman O'Dwyer noted the 2023 preliminary Budget for the Fund was before the Board for the purposes of discussion. He noted the 2023 preliminary Budget provides for estimated revenue of \$16.9 million and expenses of \$14.5 million. He noted that in 2022 one of the major changes was to go with 7 legs instead of the traditional 8, providing a savings of \$1.2 million, which is proposed to continue in 2023. He noted other adjustments that were made in 2022, including eliminating the Excelsior "B" for 3 year-olds, which provided a savings of more than \$200,000. For 2023, there is a proposal to eliminate the Excelsior "B" program altogether, which will provide an additional savings of at least \$200,000. This savings will allow the Fund to raise the 2023 Sire Stakes Finals' purses to \$225,000 for each race, as well as raise the Excelsior and County Fair Series' purses.

Chairman O'Dwyer also noted:

- a. **Breeder Awards** – The preliminary Budget includes \$1,000,000 in Breeder Awards, which is \$250,000 more than the amount provided in 2022.
- b. **Grants** – The preliminary Budget includes \$200,000 in grant funding. The Fund did not provide any grants in 2020 and 2021. In 2019, \$150,000 was allocated to 6 organizations. The Fund intends to have grant applications available after our January 2023 meeting.

- c. **4-H Standardbred Development Grant** – Pursuant to Racing, Pari-Mutuel Wagering and Breeding Law § 332(1)(b), the Fund is authorized to distribute an amount determined by the Fund in an account designated “4-H standardbred development program.” Chairman O’Dwyer believes this should be a separate line item in the 2023 Budget. Last month, he met with representatives of the NYS 4-H Horse Program and Cornell Cooperative Extension. He was very impressed with the program and feels that contributing to their wonderful programs is vital to fulfilling the Fund’s legislative mission. He suggested \$200,000 for a real, statewide program. 4-H will make a presentation at the Fund’s January meeting, at which time the Board Members will be able to evaluate the proposal.
- d. **Out of Competition Testing** – The preliminary Budget includes up to \$40,000 to continue the expanded drug program with the Drug Lab at Morrisville.
- e. **County Fair Testing** – The preliminary Budget includes \$35,000 for Drug Testing at the County Fairs.

ITEM 10: WAIVER FOR EXTRAORDINARY CIRCUMSTANCES PER BY-LAWS –

Chairman O’Dwyer noted that Fund needed to ratify one decision made outside of a Fund meeting per the Fund’s By-Laws. While unable to have meetings, the Fund continued to transact business, and a decision that would normally require Fund Board approval was made. Since the Fund’s last public meeting on April 29, 2022, there was a consulting need for the Sire Stakes, Excelsior Series, and County Fair Series that required specialized knowledge of the Fund’s programs. Staff discussed the matter with former Trustee Peter Arrigenna who, as a prior Member of this Board, was instrumental in assisting the Fund during this year’s racing season. Peter performed this work pursuant to a seven-month Contract for a total amount of \$3,500.

ON A MOTION BY: Member Ball - **APPROVED: 3-0**

ITEM 11: LEGISLATIVE UPDATE – Chairman O’Dwyer noted that legislation passed in both houses the last week of Session that would affect the Fund. Assembly Bill A10028 (Pretlow) and Senate Bill S9016 (Addabbo), according to the sponsors, provided the changes necessary to address the drop in mares bred in New York, which went from 1,147 in 2020 down to 919 in 2021. The Bill was sent to the Governor on November 21, 2022, and vetoed the next day. Chairman O’Dwyer read from the Governor’s Veto Message: “As I have heard from several industry stakeholders that a change in the program is necessary to the continued existence of standardbred racing in New York, I am directing the Agriculture and New York State Horse Breeding Development Fund to review the program and provide me with any recommended changes.”

Chairman O’Dwyer noted that the Fund’s job is to review the program and provide the Governor with any recommended changes. He believes that receiving input from the Breeders, the public, and all the stakeholders is essential. He asked the Fund’s new Executive Director, before the January meeting, to come up with a plan to hold public sessions throughout the State of New York, to solicit feedback from stakeholders, and come up with any recommendations as to

whether the Fund should look towards outside consulting agencies to conduct a thorough review of the program that the Fund is administering.

Chairman O'Dwyer solicited comments from the other Members.

Fund Board Member Jones noted that the Fund already received recommendations from the Breeders in New York, but those recommendations were turned down by the Governor. He noted that New York is the only jurisdiction with this rule and feels the change is necessary.

Fund Board Member Ball noted that the Department of Agriculture and Markets entered into a program to look at both the Agriculture and New York State Horse Breeding Development Fund and the New York State Thoroughbred Breeding and Development Fund, but it was interrupted by COVID-19. The goal was to have a listening session to look at the future of breeding horses in the next ten to fifteen years. He noted a number of great programs in New York State. He also noted challenges and uncertainties faced by the industry. He stated that the Fund has an opportunity to consider changes that will maintain the Fund's reputation within the breeding industry throughout the United States.

ITEM 12: NEW/OLD BUSINESS – Chairman O'Dwyer provided a status update regarding money owed to the Fund by Tioga Downs. Tioga Downs failed to make any payments for the period of April 2021 through December 2022 and failed to make annual reconciliation payments to cover any shortfalls in payments between estimates and final liability following publication of the CPI for each year. Pursuant to N.Y. Racing, Pari-Mutuel Wagering and Breeding Law § 1355, a statutory condition of licensure as a gaming facility is to make applicable racing support payments. Chairman O'Dwyer noted the Fund has been communicating with both Mr. Gural and his attorney. The Fund continues to seek payment and is exploring options to collect this debt. He noted that if the Fund does not resolve this issue by the January meeting, he would make recommendations to the Board as to what further actions the Fund could take. He noted that the Fund Board has a fiduciary obligation to ensure that these payments are made.

Chairman O'Dwyer asked the other Members if they had any other new or old business to address.

Fund Board Member Jones discussed a request to streamline the licensing process in New York, similar to the licensing process in Indiana. There was discussion as to whether it was an issue for the Fund or the Gaming Commission. Chairman O'Dwyer asked the new Executive Director to look into the matter and report back at the Fund's January meeting.

ITEM 13: ADJOURNMENT – Chairman O'Dwyer thanked everyone who attended the meeting. He noted that while the Fund had not set a date for the next meeting at this time, he expected the next meeting would be sometime in January.

ON A MOTION BY: Member Jones - **APPROVED: 3-0** – Chairman O'Dwyer declared the meeting adjourned at approximately at 12:08 p.m.

###