



Agriculture & NYS Horse Breeding Development Fund

MINUTES

Agriculture and New York State Horse Breeding Development Fund
Board of Trustees Meeting
10B Airline Drive, Colonie, NY 12235
Thursday, December 8, 2016 at 10:00 a.m.

Present: Trustees: Peter Arrigenna & Mike Kimelman; Department of Agriculture and Markets Commissioner Richard Ball; Jackie Czub, Deputy Commissioner of Agriculture and Markets, Acting Executive Director of the Agriculture and NYS Horse Breeding Development Fund Ron Ochrym; NYS Gaming Commission Assistant Counsel and Fund Counsel Mark Stuart; Agriculture & New York State Horse Breeding Development Executive Assistant Connie Richardson; NYS Gaming Commission Senior Accountant Brian Squadere; Harness Horse Breeders of New York State (HHB) Executive Director Betty Holt.

Agenda Item #1 – Establishment of Quorum: A quorum was present and the meeting of the Agriculture and New York State Horse Breeding and Development Fund (Fund) called to order at 11:02 a.m.

Agenda Item #2 - Designate a Fund Member as Presiding Officer: A motion was made to designate Department of Agriculture and Markets Commissioner Ball as the Presiding Officer of the meeting. Motion made by Member Kimelman, seconded by Member Arrigenna. All in favor.

Before going to the agenda, Presiding Officer Ball made a few remarks. He noted that in addition to the Members present the following staff: Ron Ochrym – who serves as the Acting Executive Director of the Agriculture and New York State Horse Breeding Development Fund, Mark Stuart who serves as the Fund's counsel, Connie Richardson and Brian Squadere who provide staff support to the Fund, and Betty Holt, Executive Director of the Harness Horse Breeders.

Presiding Officer Ball then opened the meeting to Public Comment before going to the Agenda. Alice Allen asked to be recognized and proceeded to relay some experiences she had with the Fund. She felt that the large farms had too much influence in the industry and its impact on former Fund staff. Ms. Allen proceeded to discuss her relationship with the Harness Horse Breeders and problems she had encountered with the HHB. She concluded noting how, she believed, procedures provided by the HHB were not followed correctly specifically mentioning Lucky Chucky and then concluded her remarks.

With no other Speakers, Presiding Officer Ball asked for discussion on Item #3 – Approval of Minutes.

Agenda Item # 3 - Minutes of Last Meeting of May 4, 2016: Minutes of the regular meeting of May 4, 2016 were presented for approval. A motion to accept the Minutes of May 4, 2016 was made by Member Arrigenna and seconded by Member Kimelman. All in favor.

After the Trustees approved the Minutes of May 4, Presiding Officer Ball discussed two items. First, he acknowledged that he recently met with the HHB and had a productive meeting. He recognized the need to work closely with them as the Standardbred industry is a major contributor to the State's agricultural economy. He added that he looked forward to meeting with their board in the near future and conducting some site visits of Standardbred farms across the state in early 2017.

The second item was the Annual Awards Dinner/Event sponsored by the Fund which was held on November 13 in Goshen. He took the opportunity to congratulate the winners recognized at this event. He then returned to the Agenda calling up Item 4.

Agenda Item 4 - 2017 Fund Budget: Presiding Officer Ball noted that the Fund's 2017 Budget was before the Trustees for consideration. He noted that the Budget was basically the same as last year with some changes that he would provide discussion. He noted that the 2017 Budget provided for revenue and expenses of \$16.8 million up from the \$16.3 million in the Fund's 2016 Budget. He also discussed specific items including the following:

a. Grants – Presiding Officer Ball noted that the budget included \$150,000 in grant funding. He provided a summary of last year's grant awarding noting that 6 organizations received funding. He noted that a notice would be posted on the Fund's website outlining the 2017 grant program if approved at the meeting. He added, as done every year, that those recipients of grant money must provide an accounting on how the money was spent (with documentation) by year's end. He noted that four grant recipients had already provided such documentation. He further stated that if a grantee does not provide this information they will not be eligible for a grant in 2017.

b. Breeder Awards – Presiding Officer Ball noted that the budget included \$1 million in Breeder Awards which represented an increase of \$50,000 over the prior year. He noted that this additional funding will bring the Breeders Awards to the highest level ever. He added that the Breeder Award checks for 2016, in the amount of \$950,000, have been prepared and sent to the Comptroller's office. Once approved, they will be mailed to the recipients which should be any day.

c. Out of Competition Testing – Presiding Officer Ball reminded everyone that the Fund undertook an expanded drug testing program in 2016. The 2017 Budget, if the Members agreed, would continue that program with the Drug Lab at Morrisville. The Budget included up to \$200,000 for this program.

d. County Fair Testing – Presiding Officer Ball noted that the Budget included \$35,000 for Drug Testing at the County Fairs. He added that the Fund pays for this testing as these are non-pari-mutuel races except for the Finals. The Fund has continued to increase its drug testing capabilities. He pointed out that this past year there were 12 race day positives, a sure sign of the need for this funding and program to continue.

e. Field Inspectors – Last year the Fund hired two inspectors at a cost of approximately \$50,000. This year, Presiding Officer Ball noted that with Joel Leveson and Ellen All, there is still a need to have an additional person at times given the number of county fairs being conducted and the need to have Fund investigators at these fairs. He added that the Budget included additional support to increase this component to \$75,000.

He concluded by noting it is important that the Fund have a budget in place along with hard numbers of what is available for these categories of funding. A motion to accept the Budget was made by Member Kimelman and seconded by Member Arrigenna. All in favor.

Agenda Item #5 - Contract to Provide Services: Presiding Officer Ball provided a summary of the agenda item. It was noted that the Fund was created in order that it may promote the breeding of horses and the conduct of equine research in this state on its own responsibility and under its own business management. The policy, good faith and interest of the state are concerned with the management and development of the Fund and are committed to the promotion of horse breeding and equine research in this state. In carrying out this statutory mandate, Presiding Officer Ball noted that the Board of Trustees of the Fund have recognized the Harness Horse Breeders of New York State, Inc. (“HHB”) as a sole source vendor with respect to the effective and efficient promotion of the Standardbred breeding industry as contemplated by the Racing Law. He noted that at their May 2016 meeting the Fund Board approved the contract with the HHB to continue their work for the remainder of 2016 – July 1 through December 31, 2016. By passing a sole source resolution each year, he noted that the Fund was not absolutely assured over time that the HHB continues to be the only vendor that can provide these services. In making such a determination as to whether this contract should continue as a sole source he noted the need to justify their decision which will serve to support their future determinations as to a sole source vendor. Given this concern he suggested that the Fund solicit proposals and extend their current contract with the HHB for three months. In this regard, he asked staff to prepare a “Request for Proposals” and see what interest may exist out there. He noted that by accepting this approach the Fund would have the opportunity to determine whether the HHB is the only provider of such services. Therefore, his recommendation to the members would be to have staff prepare and transmit an RFP requesting such services for the nine months beginning April 1 through December 31, 2017. The Fund would seek to expedite this process by requiring proposals to be submitted to the Fund no later than January 31 and that review by staff be completed within 2 weeks with a recommendation back to the Fund Members by mid-February.

A motion was offered to have staff prepare a “Request for Proposals” requesting vendors to provide the services discussed and that such RFP be made available by December 31 and a closing date for the acceptance of proposals of January 31, 2017 (close of business). He added that he would also require staff to make recommendations to the Fund within 2 weeks of that closing date so that this Fund Board can consider at its February meeting. A motion to prepare an RFP requesting vendors to provide services was made by Member Kimelman and seconded by Member Arrigenna. All in favor.

A second motion to extend the current contract with the HHB 3 additional months to March 31, 2017, with 2 one-month extenders, at the current rate of \$26,383 per month, was offered by Member Kimelman and seconded by Member Arrigenna. All in favor.

Agenda Item #6 – Consideration of 2017 Sire Stakes Conditions: The members discussed and considered the Conditions for the 2017 Sire Stakes Programs which included a new #58 condition for foals of 2016 and updating Conditions #57 and #56. Presiding Officer Ball noted that while this will help avoid confusion, he would remind all participants of these programs, whether Sire Stakes, Excelsior or County Fair Series, that it is incumbent upon the participant to be familiar with the rules of the programs and their understanding of series they are participating in.

As for the changes that have been incorporated in drafting #58 – he noted the following:

- a. Number of horses by an Owner and/or Trainer – this year the condition only prohibits an owner from having more than 2 horses in a finals or consolation race. A trainer would be allowed to have more than two horses as long as not more than two have common ownership.

- b. Cancellation - if 6 or fewer horses entered in a Consolation. Last year, the condition provided that if there were 6 or fewer horses in the consolation, it would be canceled. This year the proposal provides that there must be at least 5 horses entered in the consolation. If there are fewer than 5 horses in the consolation, but not less than 4, the consolation race shall be held but the purse shall be prorated based on the number of horses entered. There shall be no consolation race scheduled if less than 4 horses are entered.
- c. Drug Testing – this is changed to “Race Day Testing” something the Gaming Commission has done with all pari-mutuel races. It makes more sense that regardless of when samples are taken, either before or after a race, the Presiding Judges, working with the Investigators, can order the necessary testing based on their expertise.
- d. Drug Positives - the conditions also clearly note that the process to be taken when a horse has a positive drug result. Basically, when any participant in the Sire Stakes program is notified of a positive drug result, he/she must notify the Agriculture and NYS Horse Breeding Development Fund within 10 days upon receipt of the notice if they demand a hearing. Any such demand must be made in writing to the Fund and sent either by e-mail or mail to the Agriculture and New York State Horse Breeding Development Fund at its Schenectady address.

A motion to approve Condition #58 was offered by Member Arrigenna and seconded by Member Kimelman. All in favor.

As for the changes that have been incorporated in drafting #57 – he noted the following:

- a. Number of horses by an Owner and/or Trainer – this year the condition only prohibits an owner from having more than 2 horses in a finals or consolation race. A trainer would be allowed to have more than two horses as long as not more than two have common ownership.
- b. Cancellation - if 6 or fewer horses entered in a Consolation. Last year, the conditions provided that if there were 6 or fewer horses in the consolation, it would be canceled. This year the proposal is to provide that there must be at least 5 horses entered in the consolation. If there are fewer than 5 horses in the consolation, but not less than 4, the consolation race shall be held but the purse shall be prorated based on the number of horses entered. There shall be no consolation race scheduled if less than 4 horses are entered.
- c. Drug Testing – this is changed to “Race Day Testing” something the Gaming Commission has done with all pari-mutuel races. It makes more sense that regardless of when samples are taken, either before or after a race, the Presiding Judges, working with the Investigators, can order the necessary testing based on their expertise.
- d. Drug Positives - the conditions also clearly note that the process to be taken when a horse has a positive drug result. Basically, when any participant in the Sire Stakes program is notified of a positive drug result, he/she must notify the Agriculture and NYS Horse Breeding Development Fund within 10 days upon receipt of the notice if they demand a hearing. Any such demand must be made in writing to the Fund and sent either by e-mail or mail to the Agriculture and New York State Horse Breeding Development Fund at its Schenectady address.

A motion to approve Condition #57 was offered by Member Kimelman and seconded by Member Arrigenna. All in favor.

As for the changes that have been incorporated in drafting #56 – he noted that the changes noted in #58 and #57 are also included in #56. They include:

- a. Number of horses by an Owner and/or Trainer – this year the conditions only prohibit an owner from having more than 2 horses in a finals or consolation race. A trainer would be allowed to have more than two horses as long as not more than two have common ownership.
- b. Cancellation if 6 or fewer horses are entered in a Consolation. Last year, the condition provided that if there were 6 or fewer horses in the consolation, it would be canceled. This year the proposal is to provide that there must be at least 5 horses entered in the consolations. If there are fewer than 5 horses in the consolation, but not less than 4, the consolation race shall be held but the purse shall be prorated based on the number of horses entered. There shall be no consolation race scheduled if less than 4 horses are entered.
- c. Drug Testing – this is changed to “Race Day Testing” something the Gaming Commission has done with all pari-mutuel races and previously discussed with respect to Conditions #58 and #57.
- d. The conditions also clearly note the process when a horse has a positive drug result. Basically, when any participant in the Sire Stakes program is notified of a positive drug result, he/she must notify the Agriculture and NYS Horse Breeding Development Fund within 10 days upon receipt of the notice that they demand a hearing. Any such demand must be made in writing to the Fund and sent either by e-mail or mail to the Agriculture and New York State Horse Breeding Development Fund at its Schenectady address.

A motion to approve Condition #56 was offered by Member Kimelman and seconded by Member Arrigenna. All in favor.

New York Excelsior Series – 2017 Conditions – Some of the changes noted in Conditions #58, #57 and #56 are also incorporated in the Excelsior Conditions. They include:

- a. Number of horses by an Owner and/or Trainer – this year the condition only prohibits an owner from having more than 2 horses in a finals or consolation race. A trainer would be allowed to have more than two horses as long as not more than two have common ownership.
- b. Cancellation if 6 or fewer horses entered in a Consolation, if they are scheduled. Last year, the Fund did not offer consolations for the Excelsior program but the Conditions preserved this option. Last year, the conditions provided that if there were 6 or fewer horses in the consolation, if scheduled, they would be canceled. This year the proposal is to provide that there must be at least 5 horses entered in the consolation if one is scheduled. If there are fewer than 5 horses in the consolation, but not less than 4, the consolation race will be held but the purse will be prorated based on the number of horses entered. There will be no consolation race scheduled if less than 4 horses are entered.
- c. Drug Testing – this is changed to “Race Day Testing” something the Gaming Commission has done with all pari-mutuel races. It makes more sense that regardless of when samples are taken, either before or after a race, the Presiding Judges, working with the Investigators, can order the necessary testing based on their expertise.

- d. The conditions also clearly note that the actions when a horse has a positive drug result. Basically, when any participant in the Sire Stakes program is notified of a positive drug result, he/she must notify the Agriculture and NYS horse Breeding Development Fund within 10 days upon receipt of the notice that they demand a hearing. Any such demand must be made in writing to the Fund and sent either by e-mail or mail to the Agriculture and New York State Horse Breeding Development Fund at its Schenectady address.

These are the changes incorporated in Excelsior Series Conditions for 2017. A motion to approve the New York Excelsior Series Conditions for 2017 was made by Member Kimelman and seconded by Member Arrigenna. All in favor.

New York County Fairs – 2017 Conditions – Some of the changes noted in #58, #57 and #56 and the Excelsior Series are included in the County Fairs Conditions. They include:

- a. Drug Testing – this is changed to “Race Day Testing” something the Gaming Commission has done with all pari-mutuel races. It makes more sense that regardless of when samples are taken, either before or after a race, the Fund investigators can order the necessary testing based on their expertise.
- b. The conditions also clearly note that the process when a horse has a positive drug result. Basically, when any participant in the Sire Stakes program is notified of a positive drug result, he/she must notify the Agriculture and NYS horse Breeding Development Fund within 10 days upon receipt of the notice if they demand a hearing. Any such demand must be made in writing to the Ag Fund and sent either by e-mail or mail to the Agriculture and New York State Horse Breeding Development Fund at its Schenectady address.

These are the changes incorporated in New York County Fairs Conditions for 2017. A motion to approve the New York County Fair Conditions for 2017 was made by Member Kimelman and seconded by Member Arrigenna. All in favor.

Agenda Items 7A&B – Consideration of Schedules for the 2017 Sire Stakes and 2017 Excelsior

Series: Schedules for both series were reviewed by the members. It was noted that the schedules did not include a finals location as there was an on-going discussion for protocols to be included in such races that was not resolved. Presiding Officer Ball thanked Member Arrigenna for putting the schedules together.

A motion to approve the 2017 Sire Stakes schedule was offered by Member Kimelman and seconded by Member Arrigenna. All in favor.

A motion to approve the 2017 Excelsior Series schedule was Member Kimelman and seconded by Member Arrigenna. All in favor.

Presiding Officer Ball noted that as for the County Fair Racing Schedule, the Fund will not receive that information until the county fairs meet in January. After that time, the Fund should receive a schedule from them that can then be consider. He requested discussion of requiring those Fair Associations that do not offer racing on their fairgrounds or during the time of their actual fair dates, to have to submit to this Fund by February 1 how their racing will promote agriculture as required by law. Last year, he noted that there were some complaints that there was little to no agriculture components at some off-site venues. If the Members agreed, he suggested that staff contact those and note if they want to continue to offer racing how will their association would promote agriculture at these events.

Agenda Items 8 A&B – Consideration of Purse Schedules for the 2017 Sire Stakes and 2017 Excelsior Series : Purse schedules for both series were reviewed by the members.

A motion to approve the 2017 Sire Stakes purse schedule was offered by Member Kimelman and seconded by Member Arrigenna. All in favor.

A motion to approve the 2017 Excelsior Series schedule was Member Kimelman and seconded by Member Arrigenna. All in favor.

Agenda Item 9 - Consideration of Fund Policies: Presiding Officer Ball noted that each year the Fund Board reaffirms the policies of the Fund. He noted that there were 22 policies that needed to be readopted for 2017. After listing the policies he asked for a motion that included the following policies:

1. Violence in the Workplace
2. Sexual Harassment Policy
3. Affirmative Action Policy
4. Cancellation of Un-deposited/Uncashed Checks
5. Project Sunlight
6. Minority and Women Owned Business Enterprises
7. Lobbying Policy
8. Hiring Policy
9. Equipment Control Policy
10. Communications and Computers Policy
11. Credit Card Policy
12. Cash Receipts Policy
13. Collections Procedures/Policy
14. Procurement Guidelines
15. Whistle Blowing Policy
16. Records Retention Policy
17. Investment Policy
18. Disposal of Property Policy
19. Grants Policy
20. Internal Control Policy
21. Time and Attendance Policy
22. Travel Policy

A motion was made by Member Kimelman in which he listed all 22 policies for approval. The motion was seconded by Member Arrigenna. All in favor.

At this time, Presiding Officer and Trustee Ball had to leave the meeting for other business. He designated, as allowed under Agriculture and Markets Law, Deputy Commissioner Jackie Czub to continue as his designee.

Agenda Item 10 – Annual Agriculture and NYS Horse Breeding Development Fund 2016 Financial Audit – Status: Presiding Officer Czub noted that an RFP was sent out to conduct the audit work. Once proposal are received staff will review and have recommendations for the next meeting.

Agenda Item 11 - Zweig Report: Acting Executive Director Ochrym provided a report on the Zweig Committee annual meeting held at Cornell University in Ithaca in November.

Agenda Item 12 - Update on Financial Services - Banking Services: Presiding Officer Czub noted that earlier this year the Fund changed banks after a staff review concluded that the Fund could actually receive more money on its deposits. Subsequently, the Fund moved its banking from Key Bank to Trustco after the Members agreed to that action. It was noted that the Thoroughbred Fund recently changed banks for exactly this reason – better return on funds deposited and it has been successful. Fund Comptroller Squadere provided a summary of the benefits of this move at this time.

Agenda Item 13 - New/Old Business: Members discussed some aspects of the drug testing program and stallion eligibility conditions. Staff noted that additional information on these items would be provided to the Members.

Agenda Item 14: Adjourn: Presiding Officer Czub noting that all business on the agenda was completed and thanked everyone for attending the meeting. There were some additional comments from the public which Ms. Czub noted should be addressed at the next Fund Board meeting during the public comment period. She requested a motion to adjourn. Member Kimelman made a motion to adjourn seconded by Member Arrigenna. All in favor.

The meeting was adjourned at 11:50am.