

MINNESOTA RACING COMMISSION
FULL COMMISSION MEETING

MINUTES

Thursday, January 18, 2007

4:00 PM

Columbus City Hall
16319 Kettle River Boulevard
Forest Lake, Minnesota 55025

Call to Order: Chair Hitesman called the meeting to order at 4:15 pm.

Roll Call: Present: Commissioners Hitesman, LeDoux, Leegard, McArdle, Preece, Robinson, Sundberg. Absent: Commissioners Kozitza, McNamara. Also present: MRC Staff Members Richard Krueger, Mary Manney, Cynthia Urista; Joan Eichhorst, Assistant Attorney General.

Adoption of Agenda: There being no additions or deletions to the proposed agenda, Commissioner Sundberg moved that the agenda be adopted as presented; seconded by Commissioner Preece. Motion carried.

Approval of Minutes – December 20, 2006: There being no additions, corrections, or deletions to the minutes of December 20, 2006, Commissioner McArdle moved that the minutes be approved as presented; seconded by Commissioner Sundberg. Motion carried.

Consideration and Action Regarding Rule Amendments: At the request of the Chair, Mr. Krueger provided information on the status of the rule amendments for the Standardbred and Quarter Horse Breeders Fund rules. He explained that the comment period for both sets of rules had expired on December 20, 2006, and that no comments had been received on the standardbred rules. He stated that two comments had been received on the Quarter Horse rules, concerning the requirement that both the donor mare and recipient mare be in the State by January 31st of the breeding year when using embryo transfer. He explained that the comments had requested that the Commission drop the requirement that the donor mare be required to be in Minnesota. Mr. Krueger explained that the issue had been discussed in detail at the Commission's work session meeting on January 2nd. He also added that, after that meeting, the Commission had received a letter from the Minnesota Quarter Horse Racing Association requesting that the Commission adopt the rules as published and proposed, and not make any amendments at this time. Mr. Krueger stated that a survey of requirements in other states regarding the embryo transfer procedures revealed that some other states had more stringent requirements than what was being proposed in Minnesota.

Commissioner McArdle stated that she would recommend not making any changes to the proposed rules. She stated she saw no reason to go against the recommendations of the Board that governed this breed in Minnesota, and added that since other States were more restrictive than Minnesota's proposed rule, she saw no need to make any changes. Commissioner McArdle then moved that the Commission adopt Authorizing Resolutions and Orders of Adoption for the rules governing Quarter Horse and Standardbred Breeders' Fund and Registration rules; seconded by Commissioner Preece.

Chair Hitesman stated that the rules, if adopted as presented, could be amended later on after some experience in working the rules. She pointed out that the rule amendments were a good starting point, and the issue could be revisited later. Commissioner Sundberg stated that a good discussion had been held at the Work Session meeting, and that she felt the concerns expressed by the commentators were legitimate concerns.

Following further discussion, Commissioner McArdle's motion was voted on and carried.

Election of Vice Chairs: Chair Hitesman explained that the issue of electing Vice Chairs had been tabled at a previous meeting to give the current Vice Chairs an opportunity to decide if they wanted to be re-elected. She requested a motion to take it off the table for consideration and action. Commissioner Sundberg moved that the election of Vice Chairs be taken off the table for discussion; seconded by Commissioner Leegard. Motion carried.

Richard Krueger explained that Commissioner LeDoux was currently serving as 1st Chair, and Commissioner Sundberg was serving as 2nd Vice Chair. Both Commissioners LeDoux and Sundberg expressed an interest in being reelected to their respective positions. There were no other nominations or expressions of interest.

Commissioner Leegard moved that Commissioner LeDoux be elected as 1st Vice Chair and that Commissioner Sundberg be elected as 2nd vice chair; seconded by Commissioner Preece. Motion carried.

Canterbury Park Matters – Mr. Sampson: Mr. Sampson stated that poker was flat for the month of the December, while casino games were up approximately 1% from last year. He explained that the player pool had gone below \$50,000 for the first time, and had been a concern, but it was now back up to over \$100,000 again. He explained that for the year just ended, simulcasting was down just under 1%, but added that the figures had fluctuated up and down all year. With regard to legislation, Mr. Sampson stated Canterbury had no current plans to introduce any legislation this year, but added that he would keep the Commission advised if plans changed.

Commissioner Sundberg asked for an update on where Canterbury stood with regard to the memo it had sent out to employees regarding early retirement incentives, furloughs, or lay-offs. Mr. Sampson stated that they had offered three programs to employees in an attempt to reduce labor costs, but that minimal interest had been received to date. Commissioner Sundberg stated that she was concerned because the memo sent out by Canterbury Management placed part of the blame for a business downturn on the competing racetrack in the north metro. Mr. Sampson stated that Canterbury Park had submitted documentation to the Commission during North Metro's application process, projecting a 20% downturn in business as a result from the second track. He stated that, while the impact would not be felt until the track actually opened, Canterbury did not feel it could wait until that happened before getting the labor costs under control. Commissioner Sundberg stated that she thought it was inappropriate for Canterbury to place the blame on North Metro in its memo to its employees.

Chair Hitesman asked for an update on the status of a project involving a racetrack in the northern part of the State. Mr. Sampson stated that Canterbury had been approached by a group interested in putting together a venue near Hibbing that would offer car racing, horse racing, and card playing. He stated that they had taken a preliminary look at the proposal, and determined that the three activities would not share enough infrastructure to make such a project feasible, and that no further talks had been held.

In response to a question from Commissioner LeDoux, Mr. Sampson stated that the card club had seen a 1% increase in profit over the last year, so it was still a profitable venture. He added that past years had seen increases of 10% to 20% so the 1% increase represented a significant downturn. He stated the card club was still profitable, but profits were shrinking each year, adding that the only way to increase profitability was by trimming labor costs, because taxes and other fees were fixed by statute.

North Metro Harness Matters: Mr. Druck: Mr. Druck spoke to the Commission. He stated that formal groundbreaking ceremonies had been held earlier in the day at the site. In response to Chair Hitesman, Mr. Druck stated that site preparation work would begin immediately,

including work on utilities, water lines, etc. that needed to be in place before actual construction of the track could begin.

Mr. Druck then reminded the Commission that North Metro Harness Initiative had appeared at the December Commission meeting and requested approval of their financing package, and that they had agreed to come back before the Commission at this meeting with the final financing package. He introduced Mr. Hugh Gravenhorst of Black Diamond Corporation, indicating that Oppenheimer Group had recommended that Black Diamond Corporation be the lender for the project. He stated that Black Diamond had reviewed the application, and recommended that an additional \$3 million in cash equity be put into the project, which North Metro had agreed to. He stated that the result was a 2/3 to 1/3 equity ratio for the project. In response to the Chair, Mr. Druck stated that what had occurred in the past 30 days was a normal evolution of the financing project, and that no other material changes had occurred to the plan.

In response to an inquiry from Executive Director Krueger, Tom Fox of North Metro stated that he had met with State Senator Ann Rest and assured the Legislature that the project was viable even if the expected legislative changes were not approved. Mr. Fox added that legislative changes to allow all-breed simulcasting, and start up of the card club before 50 days of live racing had been conducted, would improve the quality of the races and improve purses for the first year of racing.

Mr. Druck stated that it had been suggested that an economic impact study on the project could be beneficial. He added that the project was estimated to add \$54 million in total revenue to the area around the racetrack. Mr. Druck then stated that they were asking the Commission to issue final approval for Black Diamond, so that North Metro could sign the commitment letter and start the process of finalizing the paperwork so the loan could be closed.

Commissioner Leegard stated that she was not clear about what the Commission was being asked to approve, and asked whether the lender needed to have separate approval from the Commission. Chair Hitesman explained that the Black Diamond was not being licensed by the Commission, but needed to be approved as a contractor under the contract approval rule. She added that, as a contractor, Black Diamond needed to undergo a background investigation pursuant to requirements in statute and rule.

In response to a question from Commissioner Sundberg, Mr. Gravenhorst of Black Diamond stated that their company had reviewed the application of North Metro considering the entity as a whole, with participation of Mountaineer Gaming and Southwest Casino Corporation.

Commissioner McArdle then moved that the Commission approve the loan agreement between North Metro and Black Diamond Corporation; seconded by Commissioner LeDoux.

Chair Hitesman inquired about the requirement for a background investigation. Mr. Krueger stated that he would notify the Alcohol & Gambling Enforcement Division to proceed with the investigation as soon as the Commission approved the contract. In further response to the Chair, Mr. Krueger stated that the AGED had done some preliminary work on the background investigation, but that the full investigation would not begin until the contract was formally approved.

Mr. Druck stated that he assumed the background investigation had already been done, based on actions taken by the Commission at the December meeting. He reiterated that his request at this time was for the Commission to approve the agreement between North Metro and Black Diamond, which would allow them to sign the commitment letter and finalize the loan.

In response to the Chair, Mr. Krueger stated that AGED would need to visit the offices of Black Diamond, and that they would have to fill out a questionnaire, and that the entire process would take about thirty days. Mr. Druck stated that he disagreed, and stated that when the request

was submitted in December, it was meant for the background investigation to be completed so the Commission could consider final approval at this meeting.

In response to the Chair, Mr. Druck stated that Black Diamond had been through an extensive background investigation in Nevada, and in other jurisdictions where it conducted business. He stated that Black Diamond was well known throughout the industry. Mr. Druck stated that he could not sign the commitment letter without approval from the Commission.

Chair Hitesman asked whether the background check needed to be completed before the Commission approved the contract. Mr. Krueger said no, adding that the Commission could act to rescind approval at a later date. In response to Commissioner Sundberg, the Chair stated that there had been a difference in interpretation of what was meant at the last Commission meeting in referring to approval of the contract.

Mr. Druck suggested that the Commission could defer action until January 22nd, and ask AGED to complete its background investigation by that date. In response to the Chair, Mr. Krueger stated that he did not think AGED would be able to complete its investigation in that time period, but if so directed by the Commission, he would confer with the Commissioner of Public Safety about this issue.

Commissioner Leegard pointed out that there were mechanisms in rule that allowed the Commission to rescind approval of any contract if later information found that approval should not have been issued in the first case.

Chair Hitesman called a brief recess so that North Metro representatives could discuss the issue among themselves.

Following the recess, the Chair summarized the discussion by stating that the Commission had been asked to approve a contract, and that the Commission had the ability to rescind its approval over any contract.

Following further discussion, Commissioner McArdle withdrew her motion and Commissioner LeDoux withdrew his second of that motion. Commissioner McArdle then moved that the Commission affirmatively approve the contract with Black Diamond Commercial Finance LLC subject to the Commission's existing authority to rescind approval under Minnesota Rule 7870.0500, subpart 5; seconded by Commissioner LeDoux. Motion carried.

Ms. Eichhorst cautioned that the Commission use this type of conditional approval very sparingly.

Commissioner Leegard asked for clarification on whether future participatory lenders in the project would also have to undergo background investigations. Ms. Eichhorst stated that that if they were material participants, they would need to be backgrounded. Mr. Krueger reminded that statute required any investor of over 5% in the licensee would need to be approved by the Commission.

Mr. Druck gave a legislative update to the Commission. He stated that they would be making their fourth legislative attempt to seek authority to open the card club prior to conducting 50 days of live racing, and to conduct all-breed simulcasting. He stated that they remained cautiously optimistic that they would succeed this year. Mr. Halpern added that the requested economic impact study report would be submitted to the Legislature in February.

Budget Update: Mr. Krueger stated that he had conducted an overview of the budget at the Commission's work session on January 2nd, and that information had been furnished to the Commission in the packet mailed out for this meeting. He stated that figures would be complete through the month of December, and would be a discussion item at the February work session

of the Commission. In response to Commissioner Sundberg, Mr. Krueger stated that he would furnish information on Commissioners' per diems for discussion at the February work session meeting.

Other Matters: There were no other matters to be discussed by the Commission at this meeting.

Announce Future Meetings: It was announced that the Full Commission Work Session would be held on February 6, 2007, and that the February Full Commission meeting was scheduled for Thursday, February 15th. It was announced that the Full Commission Work Session for March was scheduled for Tuesday, March 6th, and the Full Commission Meeting for March was scheduled for Thursday, March 15th.

Adjournment: There being no further business of the Commission, Commissioner Sundberg moved that the meeting be adjourned at 5:55 pm; seconded by Commissioner LeDoux. Motion carried.

Adopted this 15th day of February, 2007 by the Minnesota Racing Commission