



State of New York  
Franchise Oversight Board  
State Capitol  
Albany, NY 12224

## **MINUTES**

Franchise Oversight Board Meeting  
September 15, 2014  
Conference Room 131, State Capitol, Albany, New York

**I. The meeting was called to order at 11:44 AM by the Chair, Mr. Williams. Establishment of a quorum was noted.**

**Members Present:**

**Robert Williams, Chair**

**Elizabeth Garvey, Member**

**Steven Newman, Member (participated via videoconference)**

**James Towne, Jr.**

Board staff in attendance:

Steven Lowenstein

Bradley Allen

Ali Chaudhry

NYRA staff in attendance:

Christopher Kay, President and Chief Operating Officer  
(participated via videoconference)

Susanne Stover, Senior Vice President and Chief Financial Officer  
(participated via videoconference)

Joseph Lambert, Senior Vice President and General Counsel  
(participated via videoconference)

Public in attendance:

Casey O'Brien

Danielle Schittino

## **II. APPROVAL OF BOARD MEETING MINUTES FOR May 13, 2014**

*APPROVED: 4-0*

### **III. OLD BUSINESS**

#### **A. Performance Standards Report, 2008 - 2012**

Mr. Williams ask for permission to take items out-of-order.

Mr. Williams stated that New York Racing, Pari-Mutuel Wagering and Breeding Law places a responsibility on the Board to monitor and enforce compliance with definitive documents that comprise the Franchise Agreement between the State and NYRA. Both the Franchise Agreement and Racing Law section 206 contains several performance standards that NYRA is on obligated to meet. The Board has a responsibility to review NYRA's performance every four years.

Mr. Newman ask if the NYRA Board uses these performance standards when considering the bonus compensation for NYRA's president and CEO. Mr. Kay responded that his bonus is predicated upon a set of standard set by the NYRA Board. Mr. Newman stated that he like to get those standards so that he could compare them to the performance standards. Mr. Williams stated that he make such a request.

Ms. Garvey noted that a copy of a one-paragraph explanation of NYRA's method of stall allocation had been circulated, which she believed to be an effort to establish a written policy. Ms. Garvey stated that she believed this explanation was insufficient to meet NYRA obligations under the performance standard. Mr. Kay responded that the stall application was the key to allocations and that NYRA's goal is to allocate stalls to maximize field size. Ms. Garvey added that data on denials was needed and the circulated policy does not address that issue. Mr. Williams stated that the circulated policy should be viewed opening of the process and work should continue.

*Adoption of the Report*

*ON A MOTION BY: Mr. Towne*

*SECONDED BY: Ms. Garvey*

*APPROVED: 4-0*

*\*Mr. Rabito requested that the record show he would have voted for adoption had he been able to attend.*

### **IV. FINANCIAL REVIEWS**

#### **A. 2013 Audited Financial Statements**

Mr. Newman stated that he had made a request that the auditor be present, and noted that they were not. Mr. Kay responded that they had contacted their auditor, and that they would meet with him privately but request that written questions be submitted prior to the meeting. Mr. Newman responded that he believed it to be appropriate for the auditor to appear at a public meeting and suggested that if they refused, they should be removed as auditor. Mr. Williams asked counsels to review any professional obligations or concerns that would arise under the contract or professional rules and responsibilities. Absent the appearance of the auditory, Members agreed to move to the next item.

#### **B. 2014 Second Quarter Financial Results**

Ms. Stover provided an overview of NYRA's second quarter financial results. She stated that NYRA had operating income from racing operations of \$5 million, an increase of \$6.8 million from the same period last year. NYRA had \$29.5 million in revenue from VLTs and spent \$6.3 million on capital improvements. For the year-to-date NYRA had net income of \$13.9 million, a decrease of \$14.6 million from the prior year, largely due to credit related to deferred tax assets in the prior year. NYRA had a loss from racing operations of \$5.2 million, \$5.1 million less than the prior year. Operating expenses declined from the prior year.

Mr. Newman asked what impact the triple crown possibility had on NYRA's finances. Ms. Stover responded that it was not the central component of what happened in the quarter. She added that the operating loss excluding Belmont Stakes Day was \$5 million, \$2.2 million less than the prior year. Mr. Kay added that NYRA was making efforts to make Belmont Stakes Day a "must see event" regardless of the potential of a triple crown.

Mr. Williams ask for an overview of how the Saratoga meet went, noting that he had seen that while on-track handle was up 1.99 percent, all-source handle was down 2.6 percent. Mr. Kay responded their handle at Delmar was down 20 percent and that Delmar had a tough meet, and that a new agreement between Gulfstream and Calder had an impact on the amount bet at Gulfstream. He added that he thought that the meet was very good and that NYRA had implemented a number of initiatives to improve the customer experience.

Mr. Williams stated that it was reported that Mr. Kay received a 3 percent increase in his base pay and asked if other staff would receive similar increases. Mr. Kay responded that they would.

## **V. NEW BUSINESS**

Mr. Williams stated that Ms. Garvey would like to raise an issue regarding storm water drainage in the Village of Floral Park that could be rectified through the instillation of a recharge basin on the Belmont Park Property. Mr. Allen added that the State owned the property and that any easement would need to be granted by the Board. Mr. Kay stated that NYRA had had discussions with the Village regarding the issue. Ms. Garvey stated that there is a desire on the part of the Village to resolve the issue and asked NYRA to expedite the process.

## **VI. CHAIR'S REPORT**

Mr. Williams stated that NYRA was in the process of preparing a generic environmental impact statement for the redevelopment plan for the long-term capital improvement of Saratoga Race Course, and staff anticipates receipt of the draft GEIS in approximately a month, necessitating a meeting shortly thereafter.

## **VII. The meeting was adjourned at 12:46 PM.**