



Franchise Oversight Board

MINUTES

Board Meeting
April 27, 2015

9 Bond Street, 4th Floor
Brooklyn, New York

I. Call to Order/Quorum Establishment

The meeting was called to order at 1:35 p.m. by the Chair, Mr. Williams. Establishment of a quorum was noted.

Members Present:

Robert Williams, Chair
Elizabeth Garvey, Member (participated via bilateral videoconference)
Steven Newman, Member
Joseph Rabito, Member (participated via bilateral videoconference)

Board staff in attendance:

Steven Lowenstein, Secretary and Administrative Officer
Kendra Rubin, Counsel

NYRA staff in attendance:

Christopher Kay, President and Chief Operating Officer
Susanne Stover, Senior Vice President and Chief Financial Officer
Joseph Lambert, Senior Vice President and General Counsel
Daniel Ruzow, Whiteman, Osterman & Hannah
Peter Liebowitz, AKRF, Inc. (participated via bilateral videoconference)
Frank Albarella, KPMG
Greg Driscoll, KPMG

Other New York State staff in attendance:

Ali Chaudry, Chamber
Noreen VanDoren, OGS
Michelle Reale, OGS

II. Approval of Board Minutes, Meeting of December 1, 2014

APPROVED: 4-0

III. Consideration of Resolution 15-01: Village of Floral Park Recharge Basin Easement at Belmont Park

Mr. Williams introduced the resolution and stated that the Village of Floral Park was seeking an easement at Belmont Park for the purpose of constructing a recharge basin that would replace a basin currently located at Belmont Park. Mr. Williams added that a review of the request found that the easement was necessary to protect the health and safety of the residents of Floral Park and the granting of such easement would not have an adverse impact on operations. Mr. Williams noted that staff from OGS were present to answer questions. Mr. Newman asked NYRA if the easement would have any impact on them. Mr. Kay responded that it would not.

*BOARD RESOLUTION 15-01
ON A MOTION BY: Mr. Newman
SECONDED BY: Ms. Garvey
APPROVED: 4-0*

IV. Consideration of Resolution 15-02: Draft Generic Environmental Impact Statement for the Saratoga Race Course Redevelopment Plan

Mr. Williams introduced the resolution to accept the draft generic environmental impact statement (DGEIS) NYRA's Saratoga Race Course redevelopment plan as complete and to prepare a notice of completion and notice of a public hearing. He added that the Board had previously declared itself as the lead agency and issued a positive declaration. He also stated that NYRA had retained the firm of AKRF to prepare the DGEIS which was subsequently reviewed by the Office of General Services with the assistance of the firm of O'Brien and Gere. Mr. Williams introduced Daniel Ruzow from NYRA's outside counsel of Whiteman, Osterman & Hannah and Peter Liebowitz from AKRF, who presented a PowerPoint presentation outlining the State Environmental Quality Review Act process, the Saratoga Race Course redevelopment proposal and history, and outlined the DGEIS for the project and steps required to be taken by the Board.

Mr. Williams inquired where the notices would be published. Mr. Ruzow replied in the Saratogian and State's Environmental Notice Bulletin. Mr. Newman asked if it could also be published in the Times Union. Mr. Williams inquired where copies of the DGEIS would be available. Mr. Ruzow replied it would be posted on NYRA's website and copies would be available at Saratoga City Hall, the Racing Museum and at a local library. Mr. Newman

asked if it could be provided to local elected officials. Mr. Kay responded that the local Assemblymen and Senators would be notified.

*BOARD RESOLUTION 15-02
ON A MOTION BY: Mr. Rabito
SECONDED BY: Mr. Newman
APPROVED: 4-0*

V. Financial Reviews

A. 2014 Audited Financial Statements

Mr. Williams stated that Mr. Newman had requested that NYRA's outside auditor, KPMG, appear before the Board. Mr. Albarella, lead engagement partner for KPMG, stated that KPMG began their engagement with NYRA in 2012 and worked on the conversion from FASB to governmental accounting standards. He noted that during their engagement, KPMG had not had any significant uncorrected adjustments that they identified and had not identified any significant deficiencies or material weaknesses in internal controls. Mr. Newman asked if any significant adjustments had been made. Mr. Albarella replied that there were not and that NYRA had received unqualified audit opinions for the past three years. Mr. Albarella noted that their audit is limited to the basic financial statements and does not include the MDNA or the OPEB schedules.

Mr. Newman noted that NYRA's pension liability had decreased dramatically. Ms. Stover responded that was due to the return on investments and noted the expected rates of return.

Mr. Newman noted that while purses had increased handle had declined, contrary to previous assertions that increased purses would increase field size and handle. Mr. Kay responded that handle and field size has to be looked at in a national context, and due to declines in foal crops there is increased completion for limited number of horses. He also noted that handle is declining nationally and NYRA is trying to create big race days to increase handle and that they need purse money to do that.

Mr. Newman asked if NYRA had looked at the potential impact of VLTs at Nassau and Suffolk OTB. Mr. Kay responded that the statute contained a claw back that would maintain NYRA's funding at at least 2013 levels. Mr. Newman asked if they had looked at the impact of commercial casinos. Mr. Kay responded that he did not see there being a significant impact.

Mr. Newman asked if the pension funds were separately audited and by who. Ms. Stover replied that they were and Mr. Albarella stated that they are audited by KPMG. Mr. Newman asked if he could see them at some point.

Ms. Stover responded that she would have to check with funds but she believed those audits could be shared.

B. 2015 First Quarter Financial Results

Ms. Stover provided a summary of NYRA's 2015 first quarter results. She noted that NYRA incurred a loss from racing operations of \$11.2 million before VLT revenue. That was \$485,000 favorable to budget and \$975,000 unfavorable to the same quarter last year. Lower net wagering revenue due to an increased number of weather cancelations was offset by lower operating expenses.

Mr. Williams asked about NYRA's cancelation policy. Mr. Kay responded that he typically speaks to Mr. Kozack, VP of Facilities, and Mr. Panza, VP of Racing, between 6 and 6:30 am to discuss the possible impact of weather. They consider any potential impact on the health and safety of the jockeys and horses in making a decision to cancel racing.

Ms. Stover noted that the weather cancellations resulting in a \$1.8 million loss in net revenue. This was partially offset by adding race dates on previously scheduled dark days and aggressive management of operating expenses. Mr. Williams asked if the labor expense savings were the result of the weather cancellations. Ms. Stover responded that the savings from the cancelations were minimal and Mr. Kay added that the weather added to the cost of maintaining the track surface.

Ms. Stover noted that Gross VLT revenue was \$1.2 million over budget. Mr. Williams asked if NYRA changed its VLT forecast in light of statutory changes contained in the State budget. Ms. Stover said that they tend to be conservative in their VLT numbers and treat any increase as a Bonus.

Ms. Stover continued that non-operating expenses were \$681,000 favorable to budget due to lower retiree benefit costs, income tax and depreciation. For the quarter, NYRA incurred a net loss of \$180,000, which was \$1.7 million less than budget and \$594,000 less than the first quarter of 2014.

Ms. Stover stated that NYRA spent \$5.9 million on capital improvements during the quarter. Mr. Williams asked if they could expand on the upgrades to the barns. Mr. Kay responded that NYRA had done work to improve the existing barns by putting in plastic around the walls and rubberizing the floors. They are also increasing the number of stalls at Belmont by expanding 5 existing barns and building one new barn. Mr. Williams asked about upcoming work on the dormitories. Mr. Kay responded that they had revitalized the dorms at Aqueduct and that they had finally received permits for the first new dorm building at Belmont and would begin construction soon. Once that building is complete, NYRA plans to construct two more identical dorm buildings.

Ms. Stover noted that wagering on US races declined by 5.2% for the quarter compared to a 26.9% decline on wagering on NYRA races due to the high number a weather related cancelations. Mr. Newman asked if NYRA was able to segment the national data. Ms. Stover replied that she believed they could.

Mr. Williams asked if NYRA had changed its policy in regard to closing Aqueduct for training while they were not racing there. Mr. Kay responded that NYRA Board members had expressed concern due to the delay in construction of new dorms at Belmont and the need to provide maximum stall space to increase field size, so a decision was made to keep Aqueduct open for training during the spring Belmont meet.

Mr. Williams asked about the roll-out of the new GBE platform during Wood week. Mr. Kay said that NYRA conducted a soft launch during Wood week. He added that the new platform allows improved access to betting information and options, customer customization, and access to additional camera angles. He also added that launch went off with very few glitches.

Mr. Newman asked about the status of NYRA's efforts to expand into New York City sports bars and restaurants. Mr. Kay responded that NYRA continues to work on the initiative.

Finally, Mr. Kay provided as summary of NYRA's plans and preparations for the upcoming Belmont Stakes.

VI. New Business

Mr. Williams noted that NYRA had submitted various other reports to the Board that the Board traditionally reviews at this time. Mr. Williams noted that Mr. Rogan had left NYRA's employment as Chief Compliance Officer and asked if NYRA had replaced him. Mr. Kay responded that NYRA had not but they had hired a consultant to help create a compliance program and are looking to add expertise in their legal department. Mr. Newman asked if NYRA had hired a new Vice President for human resources. Mr. Kay responded that they had hired Jim Ranton as Chief Human Resources Officer.

Regarding the single, sole and emergency procurement reports, Mr. Williams asked about contracts for snow removal and electrical work in Barn 15. Ms. Stover replied that Masone Brothers had the prior contract for snow removal and that contract was extended, and SME had worked done electrical work in the other barns and had unique experience with the electrical work in the barns. Mr. Newman asked about the contract for branding. Mr. Kay responded that there are primarily two providers and NYRA had selected the firm that had prior experience with racing corporations. Mr. Rabito asked about the contract with Home Tips Trophy Suites. Mr. Kay responded that

those were the temporary luxury suites at Saratoga Race Course that NYRA wishes to replace with a permanent structure.

Mr. Newman asked if NYRA could provide more detail on the reports explaining why a contract was awarded single source. Ms. Stover replied that she would. Mr. Newman asked if NYRA followed up with vendors who do not end up bidding on contracts as to why they did not. Ms. Stover replied that NYRA does check with vendors, especially if they had sent them a request or if they get limited responses.

Mr. Newman asked about Mr. Wait's resignation from the NYRA Board and reports that the reason was because of the extension of Reorganization Board. Mr. Kay responded that Mr. Wait had served on the Board for 30 years and had expressed to him that it was time to leave the Board.

Mr. Newman noted that on the liquidity report, NYRA had significant amounts of cash and asked if that money was invested. Ms. Stover replied that it was in very low risk investments. Mr. Kay commented that he believed that NYRA's amount of reserves are low and would like authority to maintain a higher level of reserves.

Mr. Newman asked if money contained in the purse cushion was eventually paid to the horsemen. Ms. Stover replied that it was. Mr. Newman asked how much was paid out each month from the pension plans. Ms. Stover replied that they pay out about \$14 million annually and contributing about \$5 to \$6 million annual to the funds.

VII. Old Business

Mr. Williams noted that Mr. Newman had requested a schedule of capital projects from NYRA at the prior meeting. Mr. Newman stated that he had spoken with NYRA staff prior to the meeting.

VIII. Report of the Chair

Mr. Williams stated that he did not have anything for the Report of the Chair and turned the floor over to Mr. Kay. Mr. Kay stated that the Board performs a performance review of NYRA every four years. Mr. Kay would like the opportunity to report to the Board more frequently on their performance and receive feedback on their performance. Mr. Williams responded that he would discuss the issue with the Members.

IX. Adjournment

The meeting was adjourned at 3:29 PM.