ARIZONA RACING COMMISSION

523RD REGULAR MEETING **WEDNESDAY, JULY 9, 2003**

MINUTES OF PUBLIC MEETING

A public meeting of the Arizona Racing Commission was convened on Wednesday, July 9, 2003, beginning at 10:00 a.m. in Building Conference Room 250, 1110 West Washington, Phoenix, Arizona.

A. Call to Order:

Present: **Chairman Burton Kruglick**
Vice-Chairman Bob Ford
Commissioner Michael Napier
Commissioner Michael Vespoli (by telephone)

Also Present: **Geoffrey E. Gonsher, Director**
Nancy Beck, Assistant Attorney General

Chairman Kruglick called the 523rd Regular Meeting of the Arizona Racing Commission to order at 10:00 a.m. Chairman Kruglick recognized those in attendance for the first time: Rita Breedlove, Tucson; Paul Bullis, Director, Department of Gaming; Patty Shirley, Tucson, horse owner and trainer; Rick Albrecht, Office of the Attorney General; and Ken Tucker, attorney, representing the horsemen's and breeders' associations.

The following matters were discussed, considered, and decided at the meeting:

A. Call to Order

1. **Approval of the Minutes of the 522nd Regular Meeting held Wednesday, June 11, 2003 - Chairman Kruglick** called for a motion to approve the Minutes. **Commissioner Napier** moved to approve. **Vice-Chairman Ford** seconded the motion. **All in favor.** (Commissioner Vespoli not present for vote.)

B. Department Information Reports

Commission members were provided with informational reports on all items listed below. Only select items were addressed by Director Gonsher at the Commission meeting.

1. **Application for Renewal of Permit to Conduct Teletrack Wagering for TP Racing, L.L.L.P.**
2. **Application for Renewal of Permit to Conduct a Horse Racing Meeting for TP Racing, L.L.L.P. - Director Gonsher** reported that Items 1 and 2 are status reports. Turf Paradise has been cooperative in responding to the Department's requests. The Department's special investigator has been conducting interviews. The Department should have a report to the Commission in August on both of these issues.

Commissioner Vespoli was connected by telephone.

3. **Department of Racing Administration Restructuring - Director Gonsher** reported that the four-month process of restructuring the Administrative division of the agency was the first step and foundation of the restructuring of the entire agency. The Licensing and Investigations divisions will be reviewed during the summer. Restructuring of these areas should be compete by the end of the summer.
4. **Vehicle Management and Travel Policy and Procedures - Director Gonsher** reported that after reviewing the Department's vehicle and travel practices, several instances of unintentional violations were discovered. The Department has worked closely with the State Department of Administration to ensure that the agency's vehicle management and travel policies are consistent with the State's and that Department employees conduct themselves in a manner that is appropriate for public employees.
5. **Employee Annual Leave Balances - Director Gonsher** reported that in the past year the Department paid out over $40,000 on leave balances to employees who are no longer associated with the Department. As a small agency it is very important to monitor this area closely during the year.
6. 2003 Procurement Diversity Report
7. **Revised Overtime Policy - Director Gonsher** reported that the Department has discovered some unintentional violations and lack of management in this area. To ensure that Department rules are consistent with state rules and that overtime is supervised by management of the agency, the Department will introduce a new policy for monitoring overtime.
8. Equal Employment Opportunities; Executive Order 2003-22
9. Removal of Quarantine for the Transportation of Greyhounds

10. **May Monthly Quality Service Information - Commissioner Napier** questioned the change from monthly to quarterly reporting of the quality service information. **Director Gonsher** reported the change was made because of lack of staff resources and a poor response from survey recipients. The Department plans to revise the survey and report back to the Commission on this matter later in the year. **Commissioner Napier** asked that the survey be brought back to the Commission when finalized.

C. **New Business**

The following New Business items are for a status report, presentation, discussion, and possible action for the Commission.

1. **Applications by Arizona Counties for County Fair Racing Dates During Fiscal Year 2004: Cochise County Fair Association, Mohave County Fair Association, Navajo County Fair, Inc., Pima County Fair Horse Racing Commission and Yuma County Fair, Inc. - Chairman Kruglick** recognized Loretta Brasher, Executive Director of the Arizona Quarter Racing Association. **Ms. Brasher** said the AQRA was strongly opposed to giving dates to any counties that did not run at their own venues or at a venue where quarter horses may participate. **Commissioner Napier** said he was not aware of this situation and would like more information provided to the Commission, including a position on county fair racing and the venue issue. **Chairman Kruglick** called for a motion. **Commissioner Napier** moved for approval of the applications. **Vice-Chairman Ford** seconded the motion. **All in favor.**

2. **Horse Ownership Proposed Rule Revision - Director Gonsher** reported that this request was being expedited at the request of the Arizona Thoroughbred Breeders Association. Extensive research of other states has been conducted by Rita Breedlove with the University of Arizona Race Track Industry Program. **Chairman Kruglick** recognized Henry Evans, lobbyist for the Arizona horsemen. **Mr. Evans** added his support to the rule revision. **Chairman Kruglick** called for a motion. **Commissioner Napier** moved to proceed with the rulemaking process on this proposed rule. **Vice-Chairman Ford** seconded the motion. **All in favor.**

3. **Ad Hoc Horse Racing Task Force - Director Gonsher** noted that several members of the Task Force have been identified. The horse owner representative position has not been filled. The Department has been provided a contact for the jockey representative and will contact that individual. Because many individuals are out of town during the summer, the first official meeting of the Task Force will be held in September. Members of the Task Force will be invited to submit ideas, suggestions and comments prior to the September meeting.

4. **Resolution of Permittee Totalizator Situation – Pam Niederkorn,** Pari-Mutuel Auditor reviewed a problem in which United Tote was unable to produce the "WIN ODDS" report for Apache Greyhound Park, Phoenix Greyhound Park and Tucson Greyhound Park on a daily basis. The problem was corrected in May. The system will continue to be monitored for accuracy.

5. **Racetrack Communications Downtime – Pam Niederkorn,** Pari-Mutuel Auditor reported on two incidents in which communication services to the Santa Cruz Fair meet in Sonoita and Yavapai Downs in Prescott Valley were out of operation.

6. **New Pari-Mutuel Audit System - Pam Niederkorn,** Pari-Mutuel Auditor provided information regarding the new Pari-Mutuel Audit System. The new system should be fully implemented by the end of July 2003. The tracks will be able to input and transmit pari-mutuel data directly to the Department through the Internet. This will improve the accuracy of the information, reduce the time required to rectify errors, and improve the overall communication of information between permittees and the Department.

7. **Legislation Final Report – Henry Evans,** lobbyist for the Arizona Horsemen's Benevolent and Protective Association reviewed the legislation contained in HB 2038 and the group's decision to withhold the bill and move forward with the rule process.

8. Application of C. Thomas Taylor, Jr. as General Manager of Tucson Greyhound Park (rescheduled for August)

9. **Phoenix Greyhound Park OTB Permit Applications - Chairman Kruglick** called for a motion to approve both facilities. **Vice-Chairman Ford** moved to approve. **Commissioner Napier** seconded the motion. **All in favor.**
   a. Ham's Restaurant & Tavern, 3302 North 24th Street, Phoenix
   b. Metro Sports Bar & Restaurant, Inc., 10402 North Black Canyon Highway, Phoenix

10. **Yuma Greyhound Park – Change in Gambling Age From 18 to 21 – Bill Gresser, Jr.**, President of Southern Arizona Greyhound Racing, Inc. gave a brief history of Yuma Greyhound Park and reviewed the efforts made at that location to inform the public of the change in gambling age. Mr. Gresser indicated there have been no problems in this area.

11. **FY 2002 Breeders' Awards Overpayments - Director Gonsher** reported that at the Commission's request, the Department has again submitted a claim to Risk Management, but have yet to receive a formal response. The Department still believes the preferred solution is to request each breeder who received an overpayment to reimburse the Department, but after receiving comments from the industry and the Commission, the Department has decided to use FY 2003 excess Breeders' Award funds to balance the FY 2002 account. If the Department is reimbursed from Risk Management, the funds will be deposited to the Breeders' Fund account. **Chairman Kruglick** asked, with the consent of the other Commission members, that the Department submit a letter to Risk Management on behalf of the Commission requesting reimbursement. **Chairman Kruglick** recognized Ken Tucker, representing the Arizona Horsemen's Benevolent and Protective Association and the breeders' association. **Mr. Tucker** asked for an accounting so the breeders would know who was overpaid and how much they were overpaid. Mr. Tucker also asked that once a response was received from Risk Management, his clients be allowed an opportunity to present a legal position on this matter.

12. **FY 2004 Department of Racing Budget - Director Gonsher** reported that the FY 2004 budget is $61,500 higher than last year's budget. The increase reflects the increase in costs to the agency for Risk Management expenses, employees' salaries, and other required expenses. The Department has been able to maintain the current level of full-time positions with no staff reductions. There is no decrease in any of the expenditure items.

13. **Simulcast Wagering at Indian Casinos – Paul Bullis**, Director of the Department of Gaming reviewed the history and status of simulcast wagering at tribal casinos. A discussion ensued regarding the possibility of changes in the way simulcasts will be brought into tribal casinos if a new appendix to the compacts is negotiated. Several members of the industry, including Randy Fozzard, General Manager of Turf Paradise, Frank Covello, President of the Arizona Thoroughbred Breeders Association, and Loretta Brasher, Executive Director of the Arizona Quarter Racing Association, expressed their concerns that the simulcasts may be allowed to enter Arizona through out-of-state providers. Commission members questioned the Racing Commission's role in the appendix negotiations. **Commissioner Napier** asked that more information be provided the Commission relating to jurisdiction and the Racing Commission's role in this matter.

14. **Stacy Burton v. State of Arizona, et al., CV2002-000157, Maricopa County, report regarding settlement – Rick Albrecht**, Assistant Attorney General, Liability Management Section, provided Commission members with information regarding the final settlement in the matter of Stacy Burton v. State of Arizona, et al.

15. **Permittee Operations Reports**
   - **Apache Greyhound Park – Ed Braunger**, General Manager informed Commission members that AGP will be disbursing approximately $20,000 to local non-profit groups this week as part of the annual distribution through Phoenix Greyhound Racing Foundation, Inc. Funds are derived from authorized charity days.
   - County Fairs
   - **Phoenix Greyhound Park – Dan Luciano**, General Manager clarified the matter addressed in New Business Item 4. The problem was the report, not the totalizator system.
   - Rillito Park

- **Tucson Greyhound Park – Tom Taylor,** CEO, reported that TGP has just completed resurfacing their track. The track is resurfaced annually for the safety of the dogs.
- Turf Paradise
- Yavapai Downs
- Yuma Greyhound Park

C. Commission Reports

1. **Summary of Current Events Affecting the Arizona Racing Commission.**

   Chairman Kruglick mentioned that the soon-to-be-released movie *Seabiscuit* might be an opportunity for the industry to conduct fundraisers for charity groups.

2. **Identification of Matters To Be Placed on Future Agendas.**

   Commissioner Napier asked that the following matters be placed on a future agenda:

   - Health care for jockeys, including health care available to Stacy Burton at the time of her accident. Have there been any changes since that incident?
   - What procedures are implemented when there is a hazardous off track? What role do the stewards and jockeys play?
   - Information on the National Horse Slaughter Bill.

Executive Sessions. The Commission may vote to go into executive session on any of the foregoing agenda items for legal advice from its attorney pursuant to A.R.S. § 38-431.03(A)(3).

E. Call to the Public

Those members of the public wishing to address the Commission must sign the signup sheet and be recognized by the Chair. Time permitting; each presentation will be given approximately five minutes. Action taken as a result of public comment will be limited to directing staff to study the matter or re-schedule the matter for further consideration at a later date.

Ken Tucker, representing the Arizona Horsemen's Benevolent and Protective Association and the breeders' association, asked that the Commission consider looking at safety in racing in Arizona. Mr. Tucker suggested it might be helpful to hear from Stacy Burton's attorneys. **Chairman Kruglick** asked Director Gonsher to look into this matter.

Don Rogers, Director of Racing at Yavapai Downs, made comments relating to the Stacy Burton incident.

Announcements

The next regular commission meeting will be held on August 12, 2003, at 10:00 a.m. at Yavapai Downs, Prescott Valley.

Adjournment:

Chairman Kruglick called for a motion to adjourn. **Vice-Chairman Ford** moved to adjourn. **Commissioner Napier** seconded the motion. **All in favor.**

The meeting adjourned at 11:30 a.m.

Dated this 14th day of July 2003.

Arizona Racing Commission
By Joyce Cozby
Joyce Cozby, Commission Secretary