ARIZONA RACING COMMISSION

525TH REGULAR MEETING **WEDNESDAY, SEPTEMBER 10, 2003**

MINUTES OF PUBLIC MEETING

A public meeting of the Arizona Racing Commission was convened on Wednesday, September 10, 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

Also Present: Geoffrey E. Gonsher, Director
Daniel Christl, Assistant Attorney General

Chairman Kruglick called the 525th Regular Meeting of the Arizona Racing Commission to order at 10:00 a.m.

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

A. Call to Order

1. **Approval of the Minutes of the 524th Regular Meeting held Tuesday, August 12, 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 the 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.

Director Gonsher had no comments on any of the Information Report items.

1. Arizona Administrative Code Revisions Status
2. National Thoroughbred Racing Association Advertisements
3. Application for Permit to Conduct a Horse Racing Meeting - Pima County Fair Horse Racing Commission, Inc.
4. TP Racing, L.L.L.P. Reimbursement of Expenditures
5. Department Response to Gas Shortage
6. Energy Efficiency and Travel Limitations
7. Invitation to Visit New Department of Racing Office

C. New Business

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

1. **Appreciation of Assistant Attorneys General Nancy Beck and Blair Driggs - Chairman Kruglick** recognized Blair Driggs for service rendered the Racing Commission and the Department of Racing and wished him success in his new assignment. (Ms. Beck was not present.)

2. **Employee Recognition Award Winners - Director Gonsher** recognized the following individuals: Employee of the Year – Norma Rivero, Supervisor of the Year – Gerry Howard, and Team of the Year – Tucson Greyhound Park Stewards (Mike Brimmer, Eddie Rosano, and Katherine Vasko.

Commissioner Vespoli arrived.

3. **State of Arizona Court of Appeals Opinion: Simms v. Napolitano, et al. – Rick Pyper**, General Counsel for the Department of Gaming, gave a brief overview of the events leading up to the Court of Appeals Opinion. Following Mr. Pyper's presentation, Commission members questioned Mr. Pyper regarding the effect of the ruling on the compacts, the possibility of appendices allowing the receipt of simulcast signals, and the role of Racing in this matter.

Chairman Kruglick addressed Items 8, 6 and 12 out of order.

8. **Arizona Department of Administration Audit – Luis Marquez**, Administrative Services Manager, noted that the period covered by the Department of Administration audit was from April 2002 through March 2003. Mr. Marquez explained the audit process. The report and the responses from Racing management were included in the Commission packet. Many of the areas of concern noted in the audit have already been addressed or are in the process of being addressed. Based on the results of the audit and the Department's self-assessment, several new policies and procedures have been developed. Mr. Marquez introduced Department of Administration auditors, Gregory Vokoun and Rosie Tomforde. **Ms. Tomforde** offered to answer any questions the Commission might have and noted that when she began her audit, Mr. Gonsher had been with the Department of Racing less than two months. During that period, Mr. Gonsher identified many of the problems mentioned in the audit. Ms. Tomforde commended the Department for their attitude and willingness to work with the General Accounting Office on this process. **Commissioner Napier** questioned Mr. Marquez regarding the shortage of staff and the methods to be used to keep the Commission apprised of the Department's fiscal compliance. Following Mr. Marquez's response, **Chairman Kruglick** and **Vice-Chairman Ford** commended Director Gonsher and staff for early recognition and action regarding the deficiencies found in the audit.

6. **TGP Request to Discontinue Use of Full-Time EMT During Live Racing** (Continued from August 12, 2003) – **Director Gonsher** noted that this was a request by Tucson Greyhound Park to discontinue use of medical service personnel during live racing. **Jack LaSota**, attorney representing Tucson Greyhound Park, defended TGP's request, citing the decrease of on-track attendance, the close proximity of EMT personnel at a fire station two-thirds of a mile from the track, a private ambulance service two-tenths of a mile from the track, and qualified on-track personnel. Mr. LaSota concluded by asking the Commission to grant the request. **Vice-Chairman Ford** questioned Tom Taylor, Tucson Greyhound Park General Manager, regarding current and proposed practices. Mr. Ford expressed his concerns regarding the lack of an on-site defibrillator and the dependence on local fire stations for immediate response. Mr. Ford recommended denial of the request but asked that in the future, TGP consider other options for providing first aid to the general public. After further discussion, **Chairman Kruglick** called for a motion. There was no response. No action was taken. **Vice-Chairman Ford** agreed to work with the Director and Tucson Greyhound Park on this issue.

12. **Appeal of Director's Decision of Case No. 03A-033-DOR dated May 5, 2003. (Richard C. Gamez)** **Chairman Kruglick** asked if Mr. Gamez was present. Mr. Gamez was not present. Assistant Attorney General Victoria Mangiapane was present to provide the Commission with independent legal advice concerning this case. Assistant Attorney General Blair Driggs was present to represent the Department in this matter. **Assistant Attorney General Mangiapane** briefly explained the order of business in these proceedings. **Chairman Kruglick** then asked Mr. Driggs to proceed. **Assistant Attorney General Driggs** noted that Commission members were provided a copy of the administrative record for this case and asked that the Commission deny the appeal. **Chairman Kruglick** asked if there were any questions. There were none. **Chairman Kruglick** called for a motion. **Commissioner Napier** moved to deny the appeal. **Vice-Chairman Ford** seconded the motion. **All in favor.**

4. **National Racing Compact – Director Gonsher** recommended that the Commission support the Department of Racing's efforts to participate in the Compact. The Department recommends the following actions: 1) Immediately become a Participatory Member. 2) Request the Attorney General's Office to review the Compact document to ensure compatibility with Arizona statutes and the Arizona Administrative Code. 3) Open a Legislative folder in November to prepare a bill for consideration. 4) Review all current Department licensing policies and procedures to identify revisions that may be required. **Chairman Kruglick** recognized Henry Evans, representing the Arizona Horsemen's Benevolent and Protective Association. **Mr. Evans** briefly summarized the Compact and the benefits provided its members. Mr. Evans offered to lend his support in the Legislative process. **Chairman Kruglick** called for a motion. **Commissioner Napier** moved to become a Participatory Member in the National Racing Compact and directed the Department to proceed with the recommendations as set forth by Director Gonsher. **Commissioner Vespoli** seconded the motion. **All in favor.**

5. **County Fair Racing in Arizona – Casey Faunce**, Vice-President of the Arizona Counties Racing Association, gave an overview of county fair racing in Arizona and reviewed the use of monies received from the State in support of county fair racing. Mr. Faunce responded to questions from Commission members and urged the Commission to support county fair racing.

7. **Department of Racing Efficiency Review Report – Luis Marquez**, Administrative Services Manager, explained that Governor Napolitano's Executive Order Implementing Statewide Efficiency Review required all Executive Branch agencies to submit a summary of actions taken to address several cost saving issues and to identify the resulting cost savings. Mr. Marquez reviewed the practices and policies implemented by the Department of Racing to comply with the Governor's request. The Department's total projected annual savings is $96,850 to $138,200.

Chairman Kruglick left the meeting at this time. Vice-Chairman Ford chaired the remainder of the meeting.

9. **Horse Retirement - Director Gonsher** noted that this item is included in the Agenda in response to prior requests by the Commission. **Commissioner Napier** discussed this issue and thanked the Arizona Thoroughbred Breeders Association for their letter in support of HR 857, the American Horse Slaughter Prevention Act. He also thanked Director Gonsher for the inclusion in the Supplement budget of a proposal for the creation of a non-appropriated Retired Race Horse Adoption Program Fund. Mr. Napier urged continued and increased support of this issue. Mr. Napier asked for a survey of states that have legislation in place that require some subsidy of charitable organizations that provide these kinds of retirement programs.

10. **Pari-Mutuel Industry Charitable Contributions - Director Gonsher** noted that this item is on the agenda in response to a request by Chairman Kruglick. Representatives from Phoenix Greyhound Park and Turf Paradise made presentations. **Randy Fozzard**, Turf Paradise General Manager, gave an overview and brief history of Turf Paradise Foundation. **Dan Luciano**, General Manager of Phoenix Greyhound Park, reviewed the history and activities of Phoenix Greyhound Park Foundation and shared an extensive list of recipients of the funds. Commission members thanked both Mr. Fozzard and Mr. Luciano and expressed their appreciation of the organizations' efforts to support such a diversity of recipients.

11. **Stacy Burton v. State of Arizona, et al. Follow-up - Director Gonsher** reported that the Department was required to provide a plan to prevent the recurrence of losses similar to Ms. Burton's. The Department's plan has been provided to the Commission. John Beech, Jockeys' Guild Member Representative, addressed the Commission. **Mr. Beech** explained that the Guild was a national labor organization that represents and negotiates the enforcement of collective bargaining agreements with the various stakeholders within the racing industry. Mr. Beech summarized the Guild's objectives and then gave a brief presentation on the benefits of worker's compensation, emphasizing that the insurance in place at most tracks does not adequately cover incidents such as Ms. Burton's. A discussion followed relating to insurance coverage and procedures for canceling racing due to inclement weather and track conditions. The Department is using the Jockeys' Guild procedures on a interim basis as a guide for canceling racing. Commission members expressed concern regarding the policy and the designation of authority. **Director Gonsher** informed the Commission that a draft policy would be brought back before the Commission within 60 days. The draft policy will have been reviewed by all participants to ensure consensus. **Vice-Chairman Ford** recognized Richard Gerry, attorney representing Stacy Burton. **Mr. Gerry** offered suggestions on how to protect the jockeys and prevent future liability on the part of the State of Arizona. Mr. Gerry concluded his presentation by emphasizing that the safety of racing resides with the Department and the Stewards. **Commissioner Napier** thanked Mr. Gerry for the information and suggestions presented.

13. OTB Operations

a. TP Racing, L.L.L.P. Request for Additional Wagering Facilities Under 2000-2003 Teletrack Wagering Permit.

i. Brewery Steakhouse and Stock Exchange, 15 Brewery Gulch, Bisbee, Arizona
ii. Famous Sam's, 2052 South 4th Avenue, Yuma, Arizona
iii. McDuffy's Sports Bar Peoria, 15814 North 83rd Avenue, Peoria, Arizona
iv. Zoomers Sports Bar & Grill, 1100 South Highway 260, Cottonwood, Arizona

b. Closures

Vice-Chairman Ford called for a motion on the permit application requests. **Commissioner Vespoli** moved for approval. **Commissioner Napier** seconded the motion. **All in favor.** (Chairman Kruglick not present for the vote.)

14. Permittee Operations Reports

- Apache Greyhound Park – no report
- County Fairs – no report
- **Phoenix Greyhound Park – Dan Luciano**, General Manager, reported that in the past two weeks, two defibrillators were purchased for use at Apache Greyhound Park and Phoenix Greyhound Park. The security supervisors and EMT will be trained on this equipment.
- Rillito Park – no report
- Tucson Greyhound Park – no report
- **Turf Paradise – Randy Fozzard**, General Manager, reported that Turf Paradise opens for live racing September 26. Mr. Fozzard invited everyone to attend.
- Yavapai Downs – no report
- Yuma Greyhound Park – no report

C. Commission Reports

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

None reported.

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

Commissioner Napier noted that in addition to issues mentioned earlier, he would like the matter of on-track insurance coverage to be addressed on a future agenda. **Director Gonsher** noted that this matter would be addressed by the Task Force.

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.

Announcements

The next regular commission meeting will be held on October 8, 2003, at 10:00 a.m.

Adjournment:

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

The meeting adjourned at 11:45 a.m.

Dated this 1st day of October 2003.

Arizona Racing Commission
By Joyce Cozby
Joyce Cozby, Commission Secretary