

AGENDA

NORTH DAKOTA RACING COMMISSION
Live and Telephone Meeting
500 North 9th Street, Bismarck, ND
Tuesday, April 12, 2005
1:30 p.m. central

1. Approval of Minutes
 - November 23, 2004
 - December 20, 2004

2. Legislative Update

House Bill No. 1389
House Bill No. 1390

Senate Bill No. 2340
Senate Bill No. 2344
Senate Bill No. 2352

3. Report on State Auditor's Commission Audit

4. NAPRA Spring Conference - April 15-17, 2005
 - Approval for attendees and travel expenses

5. General Budget report

6. Reconsideration of 2005 grants to Charities

7. Horse Race North Dakota - Fargo
 - Requesting additional 2005 funding
 - Purse Fund - \$26,100
 - Promotion Fund - \$40,000

8. Outdoor Recreation Development Association - Belcourt
 - Requesting additional 2005 funding
 - Purse Fund - \$20,000

9. Horse Race North Dakota - Rooter Bar, Inc.
 - Site Inspection Report
 - Letter from Fair Circuit Horse Racing
10. Approval of variances to provisions to the Administrative Rules
11. Lien Games Inc. - Proposal
 - Off-Shore Agreement
12. Steward's ownership of horse
13. Horse Race North Dakota - 2005 Condition Book
14. Any other business which may properly come before the Commission
15. Adjournment

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If you plan to attend the meeting and will need special facilities or assistance relating to a disability, please contact the Racing Commission at 701-328-4633.

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NORTH DAKOTA RACING COMMISSION
Live and Telephone Meeting
500 North 9th Street, Bismarck, ND
Tuesday, April 12, 2005 - 1:30 p.m. central

PRESENT:

Chairman James Boehm, Commissioners Jim Arthaud, Jim Clement, Clarence Frederick, DeAnn Pladson, Director Dean Meyer, Legal Counsel Bill Peterson and Administrative Officer, Helen Tessmann.

OTHER PRESENT:

Jim Tilton
Les Schmidt
Rod Lynch
Mike Cichy
Randy Blaseg, by phone
Leon Glasser

Chairman Boehm called the meeting to order and asked the Director to call the roll.

Commissioner Arthaud	-	Here (By Phone)
Commissioner Clement	-	Here
Commissioner Frederick	-	Here (By Phone)
Commissioner Pladson	-	Here (By Phone)
Chairman Boehm	-	Here

AGENDA ITEM #1

- Approval of Minutes**
 - November 23, 2004
 - December 20, 2004

Commissioner Clement made the motion to approve the minutes of November 23 and December 20, 2004. The motion was seconded by Commissioner Frederick.

Chairman Boehm asked for any corrections or additions and with none asked for all in favor of the motion to say aye. **All commissioners voted aye and with no oppositions the motion passed.**

AGENDA ITEM #2

- Legislative Update**

Director Meyer reported on five bills.

House Bill No. 1389 –The bill brought in by Lien Games that changed the percentage of the tax, was amended and put a sunset clause on it and it was amended to split the breakage after the \$11 million, a three way split on the breakage. That passed and is completely done so there will be no change now on the first \$11 million wagered in the biennium and after that the tax drops to a quarter percent.

House Bill No. 1390 – The one with the historic racing machines failed by one vote in the house.

Senate Bill No. 2340 - Affects us quite a lot as it is the one that removes us from the Attorney General's office and made the Racing Commission a stand alone commission. That has been completed, signed and gone to the Secretary of State.

Senate Bill No. 2344 - failed two years ago, and it passed this time, allows us to retain registration fees, license fees, fines collected, instead of those going to the general fund they can go into our operating budget. I think the fiscal note was \$28,000 for the biennium, about \$14,000 a year.

Senate Bill No. 2352 - The other bill that failed that we dealt with was the one that was the tax exemption for the Fargo track.

Three of them passed and two failed. The historic racing machines and the tax exemption for the track failed.

AGENDA ITEM #3

3. Report on State Auditor's Commission Audit

Director Meyer stated the Audit and Fiscal Review Committee in a meeting last October asked for audit of Racing Commission, I believe it was Representative Andy Maragos, who asked for the audit. There were three recommendations on changes to be made in the operation of the office.

One was on the licensing at the track. They were concerned that the way we are doing it where we are just selling the license. Keeping a hand written list that someone could abscond with the ten or twenty dollars we charge and they want us to keep data on a computer database and then sent back to us. They are concerned with that somebody could sell a license, if they did not put that name on that list, and the person did not request a receipt, that they could just sell the license and keep the money. If we had a computerized list we could post that in the Steward's office or the Racing Secretary's office.

The second things that made the commission looked very good was that when we got into the simulcast part of it and looking at the simulcast provider, their recommendation was that we send our auditor to the hub at Maryland and explain what kind of reports that we would like weekly so we can be assured that the stuff is getting reported to us as to all the stuff that is happening in the state. And since the commission had already done that in the February meeting, we really have all that taken care of. Roger Thompson is going to Maryland and I believe right now he is scheduled to go the 23rd of May.

The Breeders' Fund and everybody realizes how much work that is and they had some recommendations on how to change that. Rather than trying to do it all at once and going through our old files, that we start with this year's colt crop. We will start putting them on so that in five or six year's we would have the running horses would all be on this database.

So the Racing Commission came out very good in the audit. There hasn't been an audit previously that made any recommendations and so it was real good. The dollars that went out of the office to the horse park were all supported by commission minutes and statutory authority. There was a lot of discussion on that and I made them aware that the commission is very

concerned about the financial aspects of the horse racing in general with the wagers being down. That we are pursuing other avenues such as corporate sponsorships in trying to attract more wagers and we have got two years to really do it.

Director Meyer stated I did write a letter, after all the articles that were written and there was a lot of concern about the money at the horse park, to the Fargo forum which will probably be in there in the next few days.

Chairman Boehm asked Legal Counsel Peterson if anything needed to be done on this item. Mr. Peterson answered I don't think so and as I understand audits unless there is an exception that requires something to be done but you are talking about their recommendations and I don't know if they are considered exceptions. Director Meyer added when they told us their recommendations I had to respond and now the next time there is an audit they will look to see if those recommendations were done.

Chairman Boehm asked for any questions. Jim Tilton stated I would like to ask the question and clarification here. Whenever they refer to the Horse Park are they talking about an audit of the construction costs of the track or are they talking about an audit of the operation of the track. Director Meyer answered I think what they saw mostly was the construction because they put a draft in there and I explained to the auditors. They were calling it a bid and I explained it wasn't really a bid, after I talked to you, it was an estimate made by some architects that have never built a race track. I think that is where they were looking at to see where the money had been spent.

AGENDA ITEM #4

4. NAPRA Spring Conference - April 15-17, 2005
- Approval for attendees and travel expenses

Director Meyer stated that at the last commission meeting Chairman Boehm asked that anyone interested going to the NAPRA conference to contact the office. We would like to have Helen go and Chairman Boehm has agreed to go.

Commissioner Clement made the motion to approve travel expenses for Chairman Boehm and Helen Tessmann to attend the NAPRA Spring Conference. Commissioner Arthaud seconded the motion.

Director Meyer called the roll as follows:

Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

AGENDA ITEM #5

5. General Budget Report

Director Meyer reported I have looked at three funds in our general operating fund. When looking at the travel budget I don't think we dare do anything with that as of February 28, I think we have got it narrowed down to if there were \$6,900 left in there, expenses will include the Fargo trip to inspect the site roughly \$300, the NAPRA trip will cost about \$2,000, Roger's trip to the hub in Maryland will be about \$1,000, and I think Belcourt for races will cost \$1,000 which will leave us with about \$2,500.

One we do have some room in is one called Professional Development. There was \$13,485 in that as the end of February. As of right now we will only use \$450 of that and that was the money for the registration fees for the NAPRA conference.

Another thing is the professional services one. That one had \$13,900 in it. We used \$2,500 of it for the investigator who went out and looked at the horses. Our part-time temporary help who is here until the end of the biennium will be roughly \$3,500. So there will be \$7,000 to \$8,000 remaining there. There is a few dollars if we look at wanting to give the charities some to advertise like for the Kentucky Derby.

Legal Counsel Bill Peterson asked but where is this money. Is it in the Promotion Fund? Director Meyer answered no it is in our operating fund. Mr. Peterson stated I am not sure you can give money from the operating fund. I don't think you can apply that money. Is this an appropriation from the legislature? I would have a hard time believing that you could use their appropriation to give to those entities has to come from the Promotion Fund. Chairman Boehm added it makes sense that it is for operating and could be used for travel or something like that.

AGENDA ITEM #6

6. Reconsideration of 2005 grants to Charities

Commissioner Frederick stated I would recommend that we stay with our previous motion not to fund the charities.

Commissioner Clement stated I would second Clarence's motion as it was me who made the original motion so that we could entertain some discussion. The point of that motion was that I wasn't convinced that that money was being well spent and just because of my own experiences with advertising and trying to promotion. I would support Clarence in his motion unless there is a real sound argument to use those funds and if it ends up with more dollars.

Director Meyer stated I will say that you are not probably going to hurt their feelings as they did not request this. We did not have a letter from them. Legal Counsel Peterson stated let me point out I do not think you need a motion to do nothing. Commissioner Frederick restated I was just recommending we stay with our previous motion. Commissioner Clement withdrew his second.

Chairman Boehm asked for any further discussion. One of the reasons it was mentioned earlier was that some of these sites don't make a whole lot of money and this was just too sort of help them out.

AGENDA ITEM #7

7. Horse Race North Dakota - Fargo

- Requesting additional 2005 funding
 - Purse Fund - \$26,100
 - Promotion Fund - \$40,000

Director Meyer read a portion of Mr. Schmidt's letter. "Mr. Meyer, I have been working on the purse structure for our 2005 race meet. Purses for 2004 totaled \$396,100. Our 2005 purse allocation is \$370,000 thus creating a \$26,100 shortfall." What they are asking for is additional purse funding to get back to the same level they were a year ago. Then a little further down they talk about the promotion fund they are asking for an additional \$40,000 from the Promotion Fund to have their five week meet. I send out some stuff earlier relating to the funds and as most of you will recall from the stuff I sent out when I looked at the Promotion Fund right now without anticipating an increase in gaming revenue wagering for the next year we will be down to about \$930,000 at the beginning of 2006. The Breeders Fund would be at almost \$1.7 million and the Purse Fund at \$1.6 million. What I would like to point out is that if you look at those funds going down that if we do nothing and we don't get an increase in revenue at the rate we are going in two years we would be out of Promotion Fund money. I don't think that will happen and I think that we are going to have some things that will probably help us a little bit but we do have ample money in the Purse Fund to bring these guys up to where they were last year.

Chairman Boehm asked Les Schmidt or Jim Tilton to speak on issue.

Les Schmidt, Track Manager, Our request for additional purse funding is just exactly what Mr. Meyer said. We want to be able to present the horsemen with the same program that they had in the year 2004. I have talked to various horsemen across our state, Minnesota and South Dakota and they are satisfied with the purse structure that they ran for in 2004. So all we are trying to do is get enough funding to assure them that we will have the same purse structure for the five week meet.

Our reason for the Promotion Fund request is that we would still like to get into the modern technology of pari-mutuel wagering machine. In doing that we are about \$13,600 short from what we had last year from being able to switch forward to the new type of technology that the new pari-mutuel wagering machine would have. The jockey insurance actually jumped 15% so that is going to be another \$4,500. The general liability has jumped about 10%. Our workmen's comp has doubled because we are going to have more people on board.

Commissioner Clement suggested dealing with Purse Fund and Promotion Fund requests separately.

Commissioner Clement made the motion to approve Purse Fund request for \$26,100 for Horse Race North Dakota. Commissioner Pladson seconded the motion.

Chairman Boehm asked for further discussion and with none asked Director Meyer to take the roll. Director Meyer called the roll as follows:

Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes

Chairman Boehm - Yes

The motion carried unanimously.

Commissioner Clement made the motion to deny the request for \$40,000 from the Promotion Fund to Horse Race North Dakota. Legal Counsel Bill Peterson stated I do not think you need a motion to deny..... but maybe that is wrong you do have a request. Chairman Boehm stated a motion has been made is there a second. Is there a second to deny the request for \$40,000? Is there a second, third and final time. No Second. Motion failed for a lack of a second.

Les Schmidt stated we have got two and half years of Promotion Fund. \$40,000 off of that is not going to make difference one way or another if we don't have any funding 2 ½ years from now so let's make what we have as presentable as what we can. Commissioner Arthaud stated I am kind of leaning towards for them and after listening to it I think there are some good arguments both ways and one of the arguments is like Les said what are we going to do.

Commissioner Arthaud made the motion to approve the Promotion Fund grant of \$40,000 to Horse Race North Dakota. Commissioner Pladson seconded the motion.

Chairman Boehm asked for the further discussion. Commissioner Frederick asked will the \$40,000 bring them up to what they had last year is that what they are requesting. Les answered it really won't bring us up to what we had last year but it will give us an adequate amount to run the meet like we did last year. With no further discussion the Chairman asked the Director to take the roll.

Director Meyer called the roll as follows:

Commissioner Arthaud	-	Yes
Commissioner Clement	-	No
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Boehm	-	No

The motion passed.

AGENDA ITEM #8

8. Outdoor Recreation Development Association – Belcourt

- Requesting additional 2005 funding

- Purse Fund - \$20,000

Director Meyer stated there is a letter, Mr. Chairman, and I think everybody realizes how hard it is to get jockeys and that is the main reason. They did not put in for promotion request just for purse supplement to get them back to the same amount that they received last year. If you will remember they were approved four weekends this year. They are only going to run three so they will get by with their promotional money if we give them another \$20,000 this would get them back to \$1,500 a race that they averaged last year and I think it will help a lot to attract jockeys.

Commissioner Frederick (by phone) stated I have Doug DeMontigny here with me. Doug DeMontigny stated Mr. Chairman and members of the commission I appreciate the opportunity to present today. I guess it goes beyond just trying to attract jockeys and \$1,200 purse which is our current fund level that puts us way, way behind all the other tracks. Even with the additional

\$20,000 we will be looking at about \$1,500 average purse and that is still less than the South Dakota tracks. We feel in all fairness to the horsemen this request is reasonable. We are serving as a training facility at the present time for horses that will end up in Fargo. There are a number of horses from several areas in the state up here being broke right now and probably I would estimate around 60 head of horses on the track here at Belcourt right now. The purse supplement we are asking for is just a little bit less than what we had last year but at least somewhere in the ballpark with the South Dakota tracks and the Montana tracks. It allows us to be a reasonable purse structure.

Commissioner Arthaud made the motion to approve \$20,000 from the Purse Fund to Outdoor Recreation Development Association. Commissioner Frederick seconded the motion.

Chairman Boehm called for discussion. Les Schmidt asked Doug, you still will continue with your three weekends and raise the purses. Doug answered yes it is the only way you can have any kind of stake structure Les, you are aware of that, it is difficult to run these two year olds back to back. Les added I have no objection what so ever to your purse fund request and increasing the purses. We have to keep that area healthy also because they really support the Fargo race track. Chairman Boehm asked for any other discussion and asked Leon Glasser as a horseman do you agree. Leon answered for the purse fund, absolutely. I have no problem.

With no further discussion, Chairman Boehm asked the Director to take the roll. Director Meyer called the roll as follows:

Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

AGENDA ITEM #9

9. Horse Race North Dakota - Rooter Bar, Inc.

- Site Inspection Report
- Letter from Fair Circuit Horse Racing

Director Meyer gave a report on his inspection of the site and of the five self betting machines. To load money into the machine you use a card something like a credit card. Mike Cichy of Lien Games explained that the system receives that card as a voucher.

Director Meyer stated Leon Glasser is here and there is a letter from Fair Circuit Horse Racing Association objecting to licensing this site. The Director continued that I bet next week when we have our first week's report I don't ever think we would see a fall out from another site because of this.

Mike Cichy stated the next step on these machines now that we have had them on line a little bit is to make the machines more user friendly. Director Meyer stated I think of the one thing that is kind of exciting about it I had a good visit with Andy Stronache and the computer guy that was with him and they hope in the future to build like 10,000 of these machines and have them and those bets would be funneled through North Dakota. One thing I kind of went beyond when I

visited with them I asked well where they are building these machines. They were very disappointed in that they could only build a couple a week so I sent them a note and said that we would steer them in the right direction if they wanted to build the machines in North Dakota and create some jobs. It looked like it would take 4 or 5 people with pretty good jobs building these machines.

Commissioner Arthaud asked Dean do you have Leon and those guys, their concerns addressed. Director Meyer said Leon is here and he could address them. We have discussed this a lot and I think we have agreed to disagree. They were concerned and their letter expresses that and when the commission looked at the opening of Smokey's the commission was concerned that an additional site would take away from the existing site and that the bettors would just go from one site to another to whoever did the most promotion or offered the best rebates, or had the best drinks or the nicest supper or something.

Commissioner Arthaud stated I think what my concern with Smokey's was where the charitable money was going. Commissioner Clement agreed.

Director Meyer stated don't think that when you see the site you don't get concerned that it is going to be taking away from one. I toured both sites. On Saturday afternoon down at Fair Circuit site there was probably from 25 to 30 guys I suppose sitting down there that are handicapping horses and discussing. I don't see any of those guys that would go sit in Rooters' Bar and play that machine. I share the Fair Circuit's concern but we have to find some ways when we look at where the money is coming. Last year we bet 5.2 million wagered simulcast. This year I know it will get back over the next six weeks but the Triple Crown races coming up but we are on pace after this first quarter to do probably 4.2 or 4.3 million with a million dollars off last year's. So I think we have to explore every avenue we can to increase the wagering.

Commissioner Frederick stated the request is after the fact we already approved it. Director Meyer stated I am just reporting on it and we did have discussion and I have to apologize to the Chairman because I got him in kind of a bad spot because the commission approved pending inspection so I think we have got to approve the inspection and get a license hung up. What happened was without giving them authority which I did I gave them authority to put the machines in, without putting the machines in I had nothing to go and inspect. So I told if I have got to inspect it I almost have to have something there because we can't approve it without the simulcast. We have to have the picture coming in and a way to take the bets so we ended up with a couple deals there.

Chairman Boehm added the site has been approve it is just a matter of accepting his report that he looked at it and that everything is ok I guess. Director Meyer added I think it is worth a try and if it doesn't work, it doesn't work. Like I told Dr. Tilton, I don't know how many of you guys have met Andy Stronache, everybody in the horse racing industry, they own probably six tracks or more including Lone Star in Texas. They were horse breeders of the year. Like I told Dr. Tilton sometimes it is better to have a real rich friend than it is to have a real good business plan. And hopefully we are going to build some machines here and expand this thing. But he is a very nice gentleman and they have kind of just adopted North Dakota as one of their projects.

Chairman Boehm asked for any other discussion. Previous motion that was made was approval upon site inspection. Bill stated the site inspection has been conducted and there are no problems so I guess I don't think there is anything that needs to be done. I guess I don't know the exact wording of the motion.

Commissioner Clement made the motion to approve the director's site inspection report of Rooters Bar. Commissioner Arthaud seconded the motion.

Chairman Boehm asked for any further discussion and with none the Chairman asked **all in favor say aye and with none opposing the motion passed.**

Jim Tilton stated I would like to bring up one thing here that I think is really important with regard to this. You indicate here we have a letter from Fair Circuit. That letter was never circulated to Horse Race North Dakota who runs that charity. Now in fairness and open communication I really believe that we should have had the right and take have privy to that letter and look at the concerns because it not only affects the commission but it also affects what we are trying to do down there.

Director Meyer stated I was partly responsible for that and it was against my better judgment that I did it. The last meeting when this was approved pending inspection that was not on the agenda. I put it out the last minute as it was called up the day of the meeting and they asked it to be put on and so it was approved pending inspection. I am sure that that letter would have been here at that time and objections would have been voices at that meeting. Bill Peterson stated I think it is pointed out that once you got the letter it should have been sent out. Jim Tilton asked when did you get the letter. Director Meyer answered March 24 and the meeting was February 25. Director Meyer answered but that once it was approved pending inspection that was never out in the public that it was going to be on the agenda. So that is a mistake that I made and allowed that on there. Jim Tilton said I still believe that the minute that letter came out it should have been forwarded to Horse Race North Dakota for us to have an opportunity to know that that situation had arisen and if we are going to have open communication like a lot of people are talking about open communication I really believe that is the way it should have been handled, Dean. Chairman Boehm added well at least then you could have addressed the issue. Jim Tilton added I think that there are statements that are in that letter that really, and I think the fact is that there are statements there that weren't quite correct. We did not stand in opposition to Smokey's, if you remember Jim, we did not stand in opposition to Smokey's other than the fact we asked that the money be directed to Horse Race North Dakota. It is important for everybody to know that.

AGENDA ITEM #10

10. Approval of variances to provisions to the Administrative Rules

Director Meyer stated the variances, when I went through the minutes, it has been pretty much the same ones granted all the time. One changes the weights to a maximum of 138 pounds or 14 pounds over. Requirement that horses to stabled on the grounds at least 48 hours that allows them to be in their stall by 9 a.m. the day they are scheduled to race. A couple dealing with coupling and these again are nothing new here and have been in effect all the time. One I would like to make note of on a comment side that deals with the steward being able to identify horses and allow them to run when a tattooer is unavailable because that may happen again this year. I did write the Quarter Horse association probably a month ago and ask what we had to do to get some somebody certified in North Dakota to be a tattooer. I think the only guy now is in Rapid maybe that does it. Les Schmidt stated if I remember right that is Aaron Sailer but I believe the only thing he can do is Thoroughbred. I don't think South Dakota even has anybody doing tattooing yet.

Randy Blaseg stated Aaron Sailer tattoos both the Thoroughbred and the Quarter Horses. Director Meyer asked is he the only guy available, Randy that you know of. Randy stated we did a lot of working trying to find someone that would simply do it. They are paid by each individual when they tattoo the horse and the problem was we just couldn't find anyone that would be interested do it. I believe Les talked with an individual from Fargo a year ago and he can fill you in on whether or not that gentleman was interested. Meyer stated I just wanted to make you aware that is one of the deals in there where the Steward and the commission Vet if they certify the horse's identity they wouldn't have to be tattooed. It does away with the provision making maidens five years old or older ineligible is rescinded.

Director Meyer continued that the variance does away with the Coggin's test for in-state horses. Commissioner Clement stated I have somewhat of an issue with that... If an in-state horse never travels out-of-state, has never been in an area that would be endemic for the EIA than it's probably a good rule but there is no way you can really certify that so I think that because of the value of horses at these tracks there is no reason to have horses that would provide extra risk so I think we should rescind that. The Coggin's Test are not that expensive and just everybody that is involved in the horse game has to have it current or within six months or a year. It is not a huge expense. So I think we could even create some liability for us by having this ruling. I think we should eliminate it and we should have that test requirement on all horses that would be at the grounds. So it is probably not a good rule. Bill Peterson added the rule does exist but this is a variance to the rule. Commissioner Clement so then we would strike this from the variance. Leon Glasser said I think it is a good thing. Les Schmidt stated it is absolute must that there be Coggin's Test and it is in the rules book of the Fargo condition book too and so I am strongly against that variance. Director Meyer stated then we will mark #7 off the variances.

Director Meyer continued that a Preference System for each track that has been done. The Stewards Enforcement and everything is still the same. Dealing with the trifecta wagering and I think that has kind of been a standard. The safety vests. I think one thing we should change is number fifteen this was done last year so we weren't dealing with the Belcourt track and it should be that the race meets conducted at both tracks. That the steward be granted the authority to grant any variances. Give the steward the authority to grant any variance he deems necessary for the protection of horses, jockeys and the public. Commissioner Clement asked is there a reason not to extend this to Belcourt. Director Meyer stated the reason wasn't in there it was just put in there, this was just copied from the one and it was done before Belcourt was authorized to race last year. It is basically going to be the same deal. If there is something he doesn't like about the track it gives him the authority to over rule. And then the last one it changed the minimum jockey mount to \$45.00. Legal Counsel Peterson asked is this a new one. Les Schmidt answered no we requested the jockey change variance last year.

A lengthy discussion was held as to what is currently being paid to jockeys, the rule as to what the schedule of different amounts was and what the variance would allow paying. Doug DeMontingy stated we have to be able to pay what we can pay. We paid a \$40.00 jockey mount fee last year at Belcourt. Les Schmidt stated he liked the idea of a guideline as to what to pay. Director Meyer asked that authority be given to work with Legal Counsel and track managers on the schedule for jockey fees.

Commissioner Frederick made the motion to approve variances as presented minus the subsection seven with the Requirement for Negative Coggin's Test, to add Belcourt to subsection fifteen and give authority to the Director to set the schedule for the jockey fees. Commissioner Clement seconded the motion.

With no further discussion, Chairman Boehm asked the Director to take the roll. Director Meyer called the roll as follows:

Commissioner Arthaud	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Boehm	-	Yes

The motion carried unanimously.

Legal Counsel Peterson made the recommendation that the next time amendments are made to the rules consideration be made to making the rules permanent.

Director Meyer asked when the process to promote the simulcast rules can the variances be done at the same time. Legal Counsel Peterson answered yes any rule that needs to be done.

Les Schmidt asked to clarify whether individuals buying a license at Belcour this year, would that license also be good for the Fargo track. The answer was yes.

AGENDA ITEM #11

11. Lien Games Inc. - Proposals - Off-Shore Agreement

Director Meyer gave a brief background of Lien Gomes's proposal and asked Mike Cichy of Lien Games to report on Lien Games.

Mike Cichy stated there is already off-shore handle coming into the US. The reason we at Lien Games are looking at this is a new revenue stream for live racing. It would be new handle, a lot of the money that is coming in off shore now is US bets that are bounced off shore to get to a low tax jurisdiction and bounced back on shore. The biggest question will be what tracks will allow us to take it and we at Lien Games and the Horse Park and Turtle Mountain need some sort of authorization from the Racing Commission to proceed with this because we will need to go separately each track. Tell them what we are going to do. Will you let us place bets in your system from off-shore? Some already have exclusive with TVG or You Bet or something like that and so they won't allow it. Some will say no it's ok we will take the money as long it is regulated by your racing commission. The reality is the question will be more contractual with the send tracks than it will be from a legal stand point. We would like to start it up at Turtle Mountain at Sky Dancer. I met with the gaming commission up there. I met with the tribal council and they are comfortable with it subsequent to approval by the commission here. Ultimately on everything that we do, as far as big players, gateway systems and all the rest of it we so we will have operations in Turtle Mountain where they are running live racing and we will have operations at the Horse Park in Fargo where they are running live races.

Director Meyer asked are you taking that signals out or just bringing signals in at the horse park. Mike answered this type of system even though it is experimental would be the type of thing we put the Horse Park signal into the system and allow off-shore people or people anywhere to bet on it. Then that money would come back into the system the same way any other track monies do and goes on track. The people that are involved in this from off-shore have told me that

from one degree or another it doesn't make any difference what track it is some of the people will bet on the track because it is there. This bring us back to the machines that are in Rooter's when they are talking manufacturing 10,000 machines they are talking about putting those machines off-shore and in South America so they would be live bets that would be shipped back into the US and back on track. And long term that is the type of thing we need to get ready for from the regulatory stand point so that we don't spend six months dancing around trying to figure out whether we want to do something because then the opportunity is gone and they have gone somewhere else. It doesn't really make a difference whether it is a machine lie ones at Rooter's or a PC terminal when you place the bet because it is still going to be shipped on track. One of the things that we need to work out is the cash system so that we are not in the position where we are giving credit or taking bets off credit cards. Nobody in his right mind gives credit when you are taking bets. First you take the cash then we take the bets.

Director Meyer asked what you would be doing is you would buy the signal say Lone Star in Texas and that goes to a site or several sites in Antigua?

Mike Cichy stated no, no that would go to the site in Antigua but it would be streamed on the computer so that if this individual wanted to make a bet it was the side band that was explained to you, the best pick of the day, and it would look for \$5, \$10 and \$20 wagers as opposed to big players who are handicapped and all the rest of it. It is set up more as an impulse item than it is as planned handicapped. Meyer asked you are not sitting in a club with a big screen you are sitting there playing poker or whatever on the computer and it comes up on the side of the screen and click in on bet.

Mike Cichy continued the key issue to me is that we have the money in the bank to cover the bets. This type of thing as its get up and running as we get it going there would be a loop between the racing commission, Attorney General's office, Turtle Mountain, Lien Games and I would like to have this thing going in a simplified manner which is to say just little money when Roger Thompson (Auditor) is in Hunt Valley, Maryland so that he can take a look at it and figure out how he is going to track it because nobody has done it this way before. The majority of the off-shore money is coming back and forth now is guys who are sitting somewhere in the US, Las Vegas perhaps, that are calling or shipping it on the internet to an off-shore site then from the off-shore site it comes back into the US.

Commissioner Clement asked so the reason, higher rebates or more money in the pot. Can you break it down and compare it to the way simulcast would be. Mike replied look at Minnesota they can't take bet over the internet they do not have the legal options to the type of hub we want to set up here. South Dakota went to ¼ of one percent, they are in the process of writing rules so if you want to do something last month, two months ago, six months ago when these people approached me. There are not many jurisdictions that you can do it in. In a year, five years down the road there will be more and more as people go to the internet which is where all this is headed.

Director Meyer asked on the WTO ruling that just came out where that affected internet gaming but not horse racing. It clarified that internet gambling was illegal other than horse racing. Mike answered right, the US stood back and said we don't want any internet gaming going on in the United States. It is all illegal and we don't want you off-shore people taking bets on it. The Antiguan people took it to the world trade organization for a ruling. One of the things that came out of the ruling was that you guys allow off-shore because of the interstate horse racing act which says wagers from one legal jurisdiction may be place in another legal jurisdiction. Well that is not fair because you are only letting, this is talking to the US, and you are only letting US

companies do this. We think that we off-shore people should be allowed to do it too. They were talking all gaming. Then they were talking horse racing because the US government said well what about horse racing and the US government said well horse racing is legal in North Dakota under the interstate horse racing act. And then that is when they went oh yes, but you only allow US people to do it and that brings us back to the whole thing again that according to the interstate horse racing act it is legal. As we talked early that the recent trial in Fargo nobody stepped up and said taking the bets was illegal. They said you should have told the Racing Commission about it. That is an over simplification but I don't recall anywhere in the course of the trial where anybody said anything that the bets themselves were illegal. I have a number of forms that we can fill out that could be of use to the commission if they think it is necessary. What I need right now is the authorization to proceed on this subsequent to continued oversight by the Racing Commission. I have got people that want to put money into setting the system up but they are not really interested in putting up substantial money until we get the authorization. The Racing Commission can shut it down any time they want but we need the option to start.

Director Meyer asked are there other companies doing this off-shore right now. Mike answered yes. What is the reason a lot of them were stopped the last day or two. Was it illegal money or just they weren't paying their bills. Mike answered it was in part the association. Meyer added I think it was just one track or one group of tracks that was stopped.

Commissioner Arthaud asked has this been approved from the Attorney General's office is that correct? Legal Counsel Bill Peterson answered that that is incorrect. Mike Cichy said I am saying that it does not need to be approved by the Attorney General's office. The compact up in Belcourt allows them to take bets. The Racing Commission approves. I am saying in all fairness I don't know if the Attorney General knows enough about it to stick their necks out on this. Mr. Meyer has been how long with the IRS people in Washington DC? Director Meyer answered probably a month ago that I contacted them. The way I look at it we aren't breaking any new ground. There other people doing it in other states. Mike Cichy answered that is right.

Commissioner Arthaud stated well if the Attorney General doesn't understand it I realize we are the Racing Commission but are we suppose to be the experts that know it is alright then.

Legal Counsel Peterson added I can not advise you whether it complies with North Dakota law or Federal law or International law because I do not understand what we are dealing with here. Director Meyer added what would help us I think, both Bill and I agreed, is that NAPRA and Paul should have some input into this so that we asked Mike to go down and he agreed to do that and give us some guidance.

Mike Cichy added we are not going to open this thing up and all of a sudden hundreds of thousands of dollars come pouring into the system here. In my opinion what we need to do is get authorization to proceed as everybody including myself to a degree needs to educate themselves as to how this thing is going to work. The first thing I need is authorization to proceed so that I can go to the tracks and ask a number of tracks if we can use their signals. And once they use their signals then we will put them up in this web site and see if anybody bets on them.

Legal Counsel Peterson stated unfortunately whether you do it on limited bases, or trial run it could still be illegal I don't know because I don't know what is going on. You can't authorize something that is illegal. You need to know what this system is and how it is going to work and how it is going to be regulated, you can't just authorize something that is illegal and let's see if it is or not. I just don't think you can operate that way. You need to figure out what it is that is

going on here and how it is going to be regulated. If it is legal, under North Dakota law, federal law, and international law I don't even understand what all the questions are and what to articulate them. I think the people that are proposing this need to present something to the commission to explain to the commission what it is that they intend to do specifically, explain how it complies with state law, federal law, international law, explain who is involved, what is going to happen, all of these things, which I say I can't even articulate questions to ask. Then I think you also should take advantage of your membership in NAPRA and I believe they have people who are experts in these matters and seek their advice on the issues that arise.

Mike Cichy added how do I think this is legal, North Dakota century code allows telephone account wagering and other electronic means. It doesn't say anything else, that's what authorized, that's what is legal. How you track the records, it is all in the tote system. Roger Thompson is getting further and further educated on this. There absolutely nothing illegal about this. Now if somebody wanted to put a law into the century code that would say taking bet from outside the United States is illegal than it is. But we have had phone rooms in North Dakota, we have taken bets over the gateway system in North Dakota and as long as the part that it gets to simulcast wagering says that it is done through an authorized charity then it is illegal. Then if you go down further that where it says telephone account wagering and other electronic means are legal. That is all this is.

Bill Peterson added I don't know that that's all this is. Mike added that's all it says in the Century Code. Bill continue that may be but I don't know that that is what you are doing. You have to put together, you can't send us a contract, you have got to put together a proposal about what it is actually you doing, who is doing it, when you are going to do it, cover all the bases so the commission can understand it. Just what you explain here and include other elements like Federal law, how it complies with Federal law. We need to review what your proposal is in writing. Chairman Boehm added that this is off-shore and different than what we have done. Bill added you can put that in the proposal that this is not new and why it is not new. Director Meyer asked Legal Counsel, the Tribal gaming compact, Bill yes, there is that as well. There are issues alone with that. I can't even begin to address the issues that that might rise until I know actually what we are doing here. So all I am saying I don't know. I am not going to tell the commission that it is legal or anything else until I do know and the commission understands what it is that is being proposed.

Director Meyer stated I guess maybe we have to give Lien Games some guidance on what information we need. Chairman Boehm stated I believe what Bill is saying is that we want a proposal from Lien Games outlining everything that they want to do, how it is going to be done. Bills added I would suggest that. Chairman Boehm added I can't approve this request with the information that we have got. Mike Cichy asked does Lien Games and Turtle Mountain need approval to do this. Do we need formal approval to do this at all? Legal Counsel answered I don't know. Mike Cichy stated given in light of what, at least my feeling, towards the open disclosure of everything that we are doing. That is why we are here. What is in the Century Code is pretty clear. Director Meyer asked if we could do it like we did the site, look at Turtle Mountain, and if Bill reviewed the Indian Gaming compact to see if we can prohibit it or have too. Bill added I don't know about you guys but I don't understand what they are doing and you are going to have to educate me because I don't understand what is going on here and I don't think the commission does I am not sure and they can speak for themselves. I can not advise the commission that this is legal under state, federal or any other law.

Commissioner Arthaud stated I can't get comfortable unless Bill can explain it to me if it is legal or not. Commissioner Clement added I don't have a clue. Bill added so maybe that is your

responsible Mike is to educate the commission and not in fifteen minutes. Commissioner Clement stated we need a detail plan and proposal so we can understand. Mike added I am here because we need to go through this process. Bill added you have to take it upon yourselves to educate the commission. What it is that they want to do and why it is legal under all laws that it might pertain to and under the Indian Gaming compact and attempt to explain all the issues that could arise or that you think might arise. Commissioner Arthaud asked did we get a proposal. Bill answered no, this is all verbal.

Legal Council suggested seeking advice from NAPRA and asked Lien Games to put forth a written proposal that the commission can review. Then when questions arise in the result of reviewing the proposal then we actually have a question that we can ask.

AGENDA ITEM #12

12. Steward's Ownership of Horse

Director Meyer reported that at the time of awarding Breeders award dollars, one situation arose where Rick Tessin, one of the stewards at Fargo Horse Park had transferred a horse to Rick Buchholz, then when the races were over the transfer was voided. Director Meyer read several letters: his letter to Rick Tessin, Rick Tessin's 03-25-05 response, and the 04-05-05 letter from Randy Blaseg the Chief Steward. Director Meyer also reported on his visit with Rick.

Legal Counsel Peterson explained you have information that a steward, a licensee, may have violated the rules and what you are doing is first of determining whether or not there are grounds to support a disciplinary action against this individual for a violation of the rule. Your options are three things: you can decide to not go ahead with a disciplinary action against his license, seek further information or decision to go ahead with action against his license. If you decide to go ahead with an action against his license, you can allow me authority to offer him a settlement agreement on whatever terms you feel are appropriate. Legal Counsel explained the rules and further explained whether or not the licensee violated any rules and whether you want to go ahead with the disciplinary action against his license.

Randy Blaseg explained that one can not own a race horse and be a steward. Commissioner Frederick recommended some kind of disciplinary action. Commissioner Arthaud made the motion to take disciplinary action.

Legal Counsel Peterson suggested in this case is to perhaps decide to take disciplinary action against his steward's license then you have a disciplinary action pending, the second is do you want to offer him a settlement agreement and what the terms are for that settlement agreement and I suggested a letter of reprimand. If he does not accept the settlement then he would be served with a formal complaint. Commissioner Clement made a motion to go forward with disciplinary action.

Further discussion was held as to what disciplinary actions to take and the process and if more information was required. Commissioner Clement asked to withdraw his motion. Commissioner Arthaud also withdrew his motion.

Commissioner Frederick made the motion to obtain more information through Legal Counsel's office. Commissioner Clement seconded the motion.

Chairman Boehm asked for all in favor of the motion to say aye. **All commissioners voted aye and with no oppositions the motion passed.**

At this time Commissioner Arthaud asked to be excused from the meeting.

AGENDA ITEM #13

13. Horse Race North Dakota - 2005 Condition Book

Director Meyer reported that I wasn't sure if we had to approve the condition books and so I put this on the agenda. I talked to Bill about it today and we do not have to approve them. We just have to review the condition books.

Legal Counsel Peterson confirmed that the commission does not have to approve the condition book but commission should review the condition book. Les Schmidt explained the few changes made to the condition book for 2005 versus 2004 which including changing payment dates.

Chairman Boehm asked Leon Glasser if the Quarter Horse Association reviewed the condition book. Leon answered yes, there was derby for the Northern Plains wasn't included which got worked out. Les Schmidt stated there was correspondence with the Northern Plains people about whether there was going to be a derby and I was told yes there was and I said our condition books will be out March 1st and no correspondence with them before March 1st.

Director Meyer reported that ORDA's condition book was at the printer.

AGENDA ITEM #14

14. Any other business which may properly come before the Commission

Legal Counsel Peterson stated that Chad Warren, who assaulted a steward in September 2003. On May 18, 2004 after investigation was done the commission decided to take disciplinary action and also authorize me to offer him a 10 year suspension of his jockey's license. On May 20th, 2004 I sent the offer to him but received no response so I prepared a complaint seeking suspension of his jockey's license for 30 years. I served the complaint on him certified mail on June 16, 2004. On June 18th 2004 he refused delivery. Under the law that is sufficient service of the complaint. On June 23rd I sent him a copy of the complaint by regular mail. He had twenty days to answer the complaint. He did not answer the complaint so he is well beyond being in default and I recommend that the commission find him in default and order his jockey's license be at least suspended for thirty years. At least longer than the ten years you offered him in the settlement.

Director Meyer stated a week ago when Chad Warren called me Chad wanted a hearing to lessen the deal. I would make a couple comments and I am not arguing with Bill whether you go 10 years or 30 years it will be a life time suspension. I do want to say one thing that I think the Racing Steward put himself in a position that he shouldn't have been in. If I am going to ref at a football game and if I have to kick people out of the games I don't think I should probably go to the bar where they are drinking afterwards.

Randy Blaseg asked if he could speak to Dean on this. Dean, Les Schmidt had invited several officials and people that worked at the track out for supper that evening at the particular place. In fact, that is why I was there at that particular time. Now are you saying that I shouldn't have gone to where Les invited us? Director Meyer answered I am just saying, you just heard what I said, I said that you put yourself in a position when you get in an argument with one at the track and you go to the bar where there is drinking. Randy Blaseg stated there was no argument at the track at all. Director Meyer added well not an argument, you didn't allow him to ride is that what it was? Randy Blaseg answered that is right. That is not an argument when an individual was not even come close to making weight you do not allow him to go ahead and ride races. You would be defrauding the public.

Legal Counsel Peterson recommended what the commission to do is make a motion to find Mr. Warren in default and order his jockey's license be suspended at least more than ten years.

Commissioner Pladson made the motion to suspend Chad Warren's jockey license for twenty years. Commissioner Clement seconded the motion.

Commissioner Frederick asked when someone gets fined \$500 and they don't pay what happens there. Legal Counsel Peterson explained he wasn't fined, we offered him a settlement that included a fine.

With no further discussion, Chairman Boehm asked the Director to take the roll. Director Meyer called the roll as follows:

Commissioner Arthaud	-	(had left the meeting)
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Boehm	-	Yes

The motion passed.

Director Meyer stated there was one other item which I didn't put on the agenda because I didn't have a response and that was Steve Keplin who was fined and he wrote us a letter that he had a \$200 fine for not scratching his horses. I sent copies to Les Schmidt and Randy Blaseg. I got a response from Randy by phone. Director Meyer continued Chad was ordered off the ground. Les Schmidt stated that is absolutely wrong he was not ordered off the grounds. Director Meyer stated then Chad was fined \$200 for not attending his appeal hearing. When he sent the letter the appeal hearing was going to be held on teleconference call. Randy Blaseg explained originally he was going to come to the track for the hearing and then Chad called and wanted to have it by teleconference. We agreed on a date and on that date the three stewards were waiting 35 to 40 minutes in our office for the call. We did not get any contact from him and we agreed on a ruling. The fines were two parts.

Director Meyer presented phone records that Chad had four calls in an hour to the number he had been given. I would ask that we look at two different deals.

Legal Counsel Peterson suggested I remember seeing those documents but I don't have them right now. I have notes here about his appeal was not within 14 days which is required for appeals, but I can't tell for lack of information when he was notified of the order and so I would suggested that the commission table this until we can get all the information together and I can make a recommendation.

Since this item was not on the agenda a motion was not required to table this item.

Mike Cichy stated he had one more question. On this off-share handle we are still ok to set up the infrastructure and do testing with the tote system and we are not going to run any money through there. What I would like to do is get it set up so that there is something there so when I come back to explain it. I would like some knowledge back and forth that we are going to do some electronic testing. Legal Counsel Peterson stated I don't think there are any laws against running computer tests.

Jim Tilton stated in the spirit in good communications, I would like to make the commission aware of something that is pending and also for the sake of the Executive Director I will tell you that last year at the race track that there was an opportunity offered to Fair Circuit Racing Association to have a position on our board. They were supposed to submit a name which we never received. There was that opportunity for them to do that. We have also requested that the Horse Race North Dakota be on the horse council because there always seems to be questions and comments about the race track but there is never anybody from the Fargo race track and we hear about it second hand so just to make you aware of that.

Jim Tilton stated they are looking at the possibility and will be seeking approval from the Racing Commission to have a licensed simulcast site at the Fargo race track. We have hired a General Manager, Mr. Rob Lynch. In a few months, we are also looking to submit a simulcast application so that we can directly simulcast to and from the ND Horse Park. We are looking at putting a building at the site.

AGENDA ITEM #15

15. Adjournment

With no further business, Commissioner Frederick made the motion to adjourn the meeting. Commissioner Clement seconded the motion.

Chairman Boehm asked for all in favor of the motion to say aye. **All commissioners voted aye and with no oppositions the motion passed.**