

**NEW YORK STATE THOROUGHBRED BREEDING AND
DEVELOPMENT FUND CORPORATION**

**MINUTES OF THE MEETING OF THE BOARD OF
DIRECTORS HELD DECEMBER 13, 2022**

A meeting of the Board of Directors of the New York State Thoroughbred Breeding and Development Fund Corporation (the “Fund”) was held at 11:00 a.m. on December 13, 2022 at the Fasig Tipton Stables in Saratoga Springs, New York.

Present

Brian O’Dwyer	Chairman
Richard Ball	Commissioner, Agriculture & Markets
Joseph McMahon	Member
William Wilmot, DVM	Member
Najja Thompson	NYTB, Executive Director
John Hicks	Member
Patricia Cifuentes, DVM	Member
Tracy Egan	Executive Director
Kim Kurtzner	Comptroller
Adam Lawrence	Registrar
Kyle Flaherty	Counsel
Ralph Scunziano	Guest, Gaming Commission
Elizabeth Wolters	Guest, Agriculture & Markets

The meeting was called to order by Chairman O’Dwyer. As the first order of business, Chairman O’Dwyer sought approval of the Minutes of the October 19, 2022 Board of Directors’ meeting. After review, a motion to adopt the October 2022 Minutes was duly made and seconded and was unanimously approved.

As the next order of business, Comptroller Kim Kurtzner presented the Fund’s Financial Report through October 2022. Ms. Kurtzner noted that through October the Fund is on budget. She further noted that if the Breeding Fund stays on budget for the final two months of the year, the Fund should experience an increase of \$895,000 in net income from the prior year. In addition, Ms. Kurtzner noted that after VLT recapture, the Breeding Fund is projected to have annual revenue of \$21.8 million and have a \$1.9 million surplus for 2022. Ms. Kurtzner gave a brief report on accounts receivables from the OTB payors and advised that Capitol and Nassau OTBs are paid to date but that Catskill OTB remain delinquent. A motion to accept the Financial Report was made, duly seconded and unanimously approved.

As the next order of business, Ms. Kurtzner sought approval for certain expenditures by the Fund. She explained that the Breeding Fund's information technology support consultant has advised that the Fund is in need of a server upgrade as the server has not been upgraded for some time. The consultant has provided an estimate of \$6,007 for hardware and labor for this project. After some discussion regarding the necessity for this upgrade and the Fund's prior experience with the consultant, a motion was made, duly seconded and approved to authorize the Fund to pay up to \$7,500 for the server upgrade.

As the next order of business, the Board considered a draft Purse Enrichment Agreement for Finger Lakes Racing Association ("FLRA"). Ms. Kurtzner noted that in the fall, FLRA had notified the Breeding Fund that FLRA had spent all of its purse enrichment for the year and requested additional purse enrichment to cover the last few months of 2022. It was noted that the Board had declined to do that but had directed Fund counsel to draft a new FLRA Purse Enrichment Agreement for 2023 that would address the issue raised by FLRA and ensure that it does not occur going forward. Fund counsel proceeded to review with the Board a draft Purse Enrichment Agreement that had been circulated in advance of the meeting and shared with the Board members certain language changes that differ from the draft that had been circulated to them. An extensive discussion ensued about amending certain provisions of that draft agreement to better protect against FLRA exhausting its purse enrichment before the end of the 2023 meet as it had done in 2022. After considering all of the suggested changes by the Board members, Fund counsel was directed to modify the draft Purse Enrichment Agreement and circulate it to the Board members for their final review and comment. A motion was made, seconded and unanimously approved authorizing Chairman O'Dwyer to approve the Purse Enrichment Agreement upon receiving comments from Board members after their review of the modified draft Agreement.

Chairman O'Dwyer noted that the Breeding Fund should similarly require a written contract with NYRA for the payment of purse enrichment in 2023 and future years and authorized Fund counsel to contact NYRA for that purpose and to report back to the Board at the March meeting. The consensus of the Board members was that it would be appropriate to have purse enrichment agreements with both racing associations. A discussion then ensued about the New York Stakes Stallion series at NYRA and the challenges that many stallion owners are facing in New York. Board member Joseph McMahon spoke to the need to create new incentives to breed to New York stallions, including, for example increases to the New York-sired awards. After some discussion, Chairman O'Dwyer created a subcommittee consisting of Mr. McMahon, Najja Thompson, William Wilmot and Patricia Cifuentes to meet with NYRA to discuss potential ways to create better incentives for New York stallions and to report back to the Board in March.

The next order of business was an update of the 2022 foal crop. Breeding Fund Executive Director informed the Board members that there were 1,500 new foals in New York State in 2022. 581 of the foals or 38.7% were by registered NY sires and 919 (61.3%) were by other stallions, mostly Kentucky sires but also 8 stallions that stood in NY but are not registered with the breeding fund.

As the next order of business, Fund counsel was asked to discuss with the Board members potential new guidelines for allowing, in specific circumstances, remote attendance for Board members. Chairman O'Dwyer then called for the meeting to be declared a public hearing as required under New York State law. A motion was then duly made, seconded and unanimously

passed to declare the meeting a public hearing. Chairman O'Dwyer then asked if there is anyone who wishes to comment on the issue. Hearing none, the Chair asked for a motion to withdraw from public hearing, whereupon a motion to withdraw from public hearing was made, seconded and unanimously passed. Fund counsel then reviewed a proposed Resolution regarding Videoconferencing under the New York State Open Meetings Law that had been provided to the Board members. He further reviewed with the Board proposed Procedures for Member Videoconferencing pursuant to Public Officers Law Section 103-a. After some discussion, a motion was made, duly seconded and unanimously approved to adopt the Resolution.

Chairman O'Dwyer then asked Dr. Wilmot to provide a report on the important work being done by the Zweig Fund, which the Breeding Fund supports as provided by statute. Dr. Wilmot gave a brief report of the equine veterinarian research work that the Zweig Fund has worked on and continues to work on, including various types of cutting-edge equine research.

A motion was then made, duly seconded and unanimously adopted for the Board to go into Executive Session to discuss potential litigation. After discussion, the Board emerged from Executive Session and resumed the meeting. For the record, Chairman O'Dwyer reported that in Executive Session the Board spoke with Fund counsel about the Catskill OTB delinquency and directed Fund counsel to advise Catskill OTB that if their delinquency was not cured by a date certain, the Breeding Fund would pursue litigation.

Chairman O'Dwyer then reported that for 2023 Board meeting dates, the Board is currently scheduled to meet on March 28, June 6, July 25 and December 12. Under new or old business, Dr. Wilmot noted that the Promotional Committee typically gets together at the end of each year to allocate Fund monies to various responsible aftercare organizations, some of which are large, some of which are medium sized and others of which are smaller. It was reported that for 2022, the Breeding Fund had allocated approximately \$580,000, in the aggregate, from the Promotional budget to eleven different aftercare organizations. The 11 aftercare organizations that received funds from the Breeding Fund in 2022 are Akindale Thoroughbred Rescue, Rerun, Inc., New Vocations through North Country Horses, Finger Lakes Thoroughbred Adoption Program, Second Chance Thoroughbreds, Old Friends at Cabin Creek, ACCT Naturally, Lucky Orphans, Unbridled Thoroughbred Foundation, Equine Rescue Resource, and Therapeutic Horses of Saratoga.

Chairman O'Dwyer suggested, and the Board members agreed, that the Breeding Fund should consider showcasing the Fund's payment of such contributions during winner's circle presentations and asked Ms. Egan to follow-up on that.

With no further business pending before the Board, the meeting was adjourned.