

**NEW YORK STATE THOROUGHBRED BREEDING AND
DEVELOPMENT FUND CORPORATION
MINUTES OF THE MEETING OF THE BOARD OF
DIRECTORS HELD OCTOBER 19, 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 October 19, 2022 at the Fasig Tipton Pavilion in Saratoga Springs, New York.

Present

Brian O’Dwyer	Chairman
Richard Ball	Commissioner, Agriculture & Markets
Joseph McMahan	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
Ron Ochrym	Guest, Gaming Commission
Ralph Scunziano	Guest, Gaming Commission
Elizabeth Wolters	Guest, Agriculture & Markets
Geoff Palmer	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 August 9, 2022 Board of Directors’ meeting. After review, a motion to adopt the August 2022 Minutes was duly made and seconded and was unanimously approved.

As the next order of business, Comptroller Kim Kurtzner was asked to present the Fund’s Financial Report through September 2022. Ms. Kurtzner noted that through September, the Fund is approximately \$500,000 ahead of budget and explained that a significant part of this surplus as compared to budget is due to awards being lower than expected on a year-to-date basis. A discussion ensued about Catskill OTB’s delinquency with the Fund and the Fund’s efforts to collect on this delinquency. After discussion, a motion was made, duly seconded and adopted authorizing Fund counsel to communicate with Catskill OTB that the Fund will commence a lawsuit against Catskill OTB if payment of these outstanding obligations is not received within 60 days. 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 the Fund to retain Marvin & Company, an independent audit firm, for 2023 under the same terms that currently exist. It was noted that the plan is for the Fund to conduct an RFP for this work next year. A motion was made, duly seconded and approved to retain Marvin & Company to provide auditing services to the Fund for 2023 under the same terms as currently exist.

Chairman O'Dwyer then asked Ms. Kurtzner to address the issue of purse enrichment adjustments for Finger Lakes Racing Association and NYRA. Ms. Kurtzner and Executive Director Tracy Egan noted that Finger Lakes had communicated with the Fund that it needed additional purse enrichment from the Fund in order to maintain its purse schedules for the year. The Finger Lakes representative noted that they were experiencing a crisis as they could not pay the scheduled purse enrichment without additional support from the Fund. It was noted that an additional \$200,000 in purse enrichment would be needed for Finger Lakes Racing Association in 2022. After a number of questions by the Board members as to how this crisis occurred, it was noted that in 2022 Finger Lakes Racing Association wrote more races with higher conditions, which resulted in greater purse enrichments and that the race track appears to have not properly monitored their purse expenditures over the year. A lengthy discussion ensued regarding the Fund's historical policy of paying purse enrichment monies to Finger Lakes Racing Association, the Association's level of accountability with regard to its use of those funds and the need to impose more stringent guardrails or other conditions on a going-forward basis regarding how purse enrichment is utilized. A motion was made and duly seconded to authorize Fund counsel to draft a memorandum of agreement for Finger Lakes Racing Association to present it to the Board at the next meeting. The motion was unanimously approved.

As the next order of business, the Board considered whether it should adjust or maintain its current 10% awards holdback rate for 2023. A discussion ensued regarding the history and purpose of using an awards holdback by the Fund. After discussion, a motion was made and duly seconded for the Fund to utilize a 10% awards holdback in 2023. This motion passed unanimously.

The next order of business was consideration of the Fund's agreement with New York Racing Association for 2023, which involves an expenditure of more than \$25,000 and requires Board approval. Dr. Wilmot described the Fund's on-going arrangement with NYRA for this promotional expenditure and explained the numerous promotional benefits that the Breeding Fund receives under this arrangement with NYRA. Dr. Wilmot noted that the terms of the 2023 agreement with NYRA mirror the terms of the parties' current agreement and has been reviewed by Fund counsel. After further discussion, a motion was made and duly seconded to approve the Fund's 2023 contract with NYRA at an annual cost of \$125,000. This motion passed unanimously.

As the next order of business, Chairman O'Dwyer asked Board member Najja Thompson to address the agenda item relating to increasing the cap on breeder awards to the statutory maximum. After some discussion regarding the purpose for this action, Mr. Thompson requested that the Board consider allowing the 2022 breeders awards to be paid in full to their statutory maximums as contemplated by the Racing Law. A motion to allow the Breeding Fund to pay breeders awards for 2022 up to the statutory maximum was made, duly seconded and unanimously approved.

The next order of business concerned establishing tentative dates for the Fund's Board meetings in 2023. It was noted that the tentative dates for the Fund's 2023 Board meetings are March 28, 2023, June 6, 2023, July 25, 2023 and December 12, 2023, subject to Board members confirming that those dates are acceptable.

As the next order of business, Chairman O'Dwyer asked Adam Lawrence, Fund Registrar, to provide an update on auction mares entering New York under the Fund's recent rule change that is designed to increase the number of mares and foals in New York State. Mr. Lawrence started by providing a brief overview of the Fund's recent rule changes regarding mares purchased at sales auctions, which was done in an effort to increase the mare population in the State. He distributed a one-page document entitled "\$50,000+ Sale Mares New to the State," which shows the number of new mares and resulting foals in New York in 2021 and 2022. Mr. Lawrence reported that under this rule change, New York State experienced an increase of 79 new mares and 73 resulting foals in 2021 and 2022.

Under new and old business, Fund counsel noted that changes to the New York Opening Meetings Law have been made that permit public authorities and their governing bodies to conduct videoconferencing Board meetings under certain conditions. Fund counsel suggested that the Board authorize him to draft written procedures that would permit videoconferencing to the greatest extent permitted by law and to circulate those written procedures for the Board's consideration at the next meeting. After some discussion, a motion was made, duly seconded and approved granting Fund counsel the authority to take that action.

As the final order of business, Commissioner Ball reported that former Deputy Commissioner of Agriculture & Markets Jackie Moody Czub has retired from her position but will continue to serve in some capacity for the department. The Board members and Ms. Egan expressed their gratitude for Ms. Czub's service to the Breeding Fund over the years. Commissioner Ball also introduced his colleagues Deputy Commissioner Elizabeth Wolters and Deputy Commissioner Geoff Palmer to the Board members.

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