

NEW JERSEY RACING COMMISSION
FRIDAY, JUNE 18, 2010
THE GARDEN ROOM, CLUBHOUSE LEVEL
MONMOUTH PARK
OCEANPORT, NEW JERSEY

A meeting of the New Jersey Racing Commission was held on Friday, June 18, 2010, in the Garden Room of Monmouth Park, located in Oceanport, New Jersey.

The following were present:

Dennis A. Drazin, Chairman
James G. Aaron, Commissioner
Anthony T. Abbatiello, Commissioner
Peter J. Cofrancesco, III, Commissioner
Francis X. Keegan, Jr., Commissioner
Frank Zanzuccki, Executive Director
DAG Judith A. Nason

The following were absent:

Anthony R. Caputo, Commissioner
Noel Love Gross, Commissioner
Edward R. McGlynn, Commissioner

It is noted for the record that Commissioner Cofrancesco and DAG Judith A. Nason participated by telephone.

Executive Director Frank Zanzuccki read the following statement:

“This meeting today conforms with Chapter 231, P.L. 1975, called the “Open Public Meeting Law,” and as per the requirements of the statute, notification of this meeting has been filed with the Secretary of State and with the following newspapers: Daily Racing Form, Bergen Record, Asbury Park Press, Courier-Post and the Newark Star Ledger.

WHEREAS in order to protect the personal privacy and to avoid situations wherein the public interest might be disserved, the Open Public Meetings Act permits bodies to exclude the public from that portion of a meeting at which certain matters are discussed.

The Commission did not reconvene to executive session as there was no session scheduled.

CONSIDER APPROVAL OF THE NEW JERSEY RACING COMMISSION'S FY 2011 BUDGET

It was noted that a meeting was conducted on June 16, 2010 with Commission staff and industry representatives to discuss the proposed budget.

The proposed budget represents a decrease from FY 2010 of approximately 1.7 percent. The anticipated total budget for FY 2011 is \$9,638,819, compared to a budget of \$9.8 million in the previous fiscal year. The budget does not include salary increases for non-represented union employees. Upon approval of the proposed budget, the statute requires the budget be forwarded to the Treasurer for a thirty-day review period. Following this period, if no comments are received, the budget is deemed approved.

At this time, the budget was open for discussion. The Commission called upon Howard Bruno, General Manager, of Freehold Raceway. Mr. Bruno indicated the raceway's position is outlined in a letter submitted to the Commission. The concern of Freehold Raceway is an 18 percent reduction in race dates and no corresponding reduction in salary expenses. The other concern is a result of the reduction in thoroughbred dates in which Freehold must be charged for a larger portion of the budget, in particular, funding for the chemical testing program. Mr. Bruno believes the 25 percent allocated to the horsemen for payment of chemical testing is an arbitrary figure and the horsemen should be assessed a greater amount. Commissioner Aaron clarified that the issues raised by Mr. Bruno concerning the distribution of regulatory costs to the racetracks is legislative in nature. Mr. Bruno agreed but indicated that the current budget formula discourages Freehold from continuing to conduct the same number of days because its share of the budget is based upon the number of dates raced.

Chairman Drazin inquired if the addition of off-track wagering facilities would affect the budget. The Executive Director noted that pursuant to law, the off-track wagering facilities are assessed a percentage of the Commission's budget, therefore, the other permit holder's share of the budget would be reduced.

The Commission heard comments from Lennon Register, Senior Vice President of the New Jersey Sports and Exposition Authority (NJSEA). Mr. Register suggested that participants of the tracks, the horsemen's groups and the Commission could meet and brainstorm on more efficient ways of accomplishing the regulatory requirements. Chairman Drazin inquired if there were objections from any industry group to being responsible for a greater share of the budget due to the reduction in Monmouth Park dates. Mr. Register responded that no groups protested.

There was no comment from Atlantic City Race Course.

Comment was heard from Thomas Luchento, President of the New Jersey S.B.O.A. concerning the cost of chemical testing. He acknowledged that the Commission is continuing to study the cost effectiveness of the chemical testing program. Mr. Luchento indicated the S.B.O.A. is opposed to any increase in its regulatory costs and believes the issue of budgetary costs would have been alleviated if Freehold Raceway had constructed more off-track wagering facilities. Chairman Drazin inquired if the S.B.O.A. increased its share of the chemical testing program would that affect the horsemen's available purses at Freehold. Mr. Luchento responded yes and indicated that the S.B.O.A. cannot afford a reduction from the purse fund.

Michael Musto, Executive Director of the New Jersey T.H.A., commented that according to the statute governing racing, the horsemen's group is not obligated to take money from the horsemen's association to pay for chemical testing and the T.H.A. is opposed to any further payment for testing and believes this year the NJSEA and Atlantic City Race Course are funding the share for the T.H.A. The Executive Director clarified with Mr. Musto that while the horsemen's group contends it is not statutorily required to contribute from purses to pay for chemical testing, this obligation is secured through the horsemen's contract with the track associations. Mr. Musto indicated that the T.H.A. has contracted this obligation in the past, however, there is no provision in the 2010 contract for chemical testing payments. The Executive Director called upon Mr. Register to confirm whether or not the NJSEA will be paying the horsemen's share for chemical testing in 2010. Mr. Musto answered that in past contracts, the horsemen authorized the racetracks to deduct a portion from the purses to pay for chemical testing. This year, however, the horsemen have not authorized the deduction from purse accounts. Mr. Lennon responded that the money for testing was not deducted from purse accounts for this year, however, the T.H.A.'s obligation has been paid by the NJSEA on behalf of the horsemen.

There was no comment received by the New Jersey Thoroughbred Breeders' Association.

Chairman Drazin indicated that in light of the current economy, he is concerned that the proposed FY 2011 budget is providing increases in salaries to represented employees, but has eliminated the increases for the unrepresented class. The Chairman inquired as to which employees are considered to be unrepresented. Executive Director Zanzuccki responded that the veterinarians, animal health, and licensing personnel are represented employees. The remaining employees, *i.e.*, stewards, administrative staff and investigators are considered unrepresented employees. The proposed budget contains salary increases for those represented employees that are contractually required to receive increases for FY 2011.

It was discussed that more than half of Commission employees would be denied raises and inequities are occurring in that there are supervisors earning less than their subordinates. As a result, there is an impact on not only current salaries but on future retirement benefits as well. The Executive Director explained that retirement benefits are based upon an employee's highest three years' salary, therefore, if an employee does not receive an increase, the pension benefit would be reduced. Chairman Drazin stated that while the proposed budget does not contain increases for the noted individuals, however, if there was an increase to the budget would that impact the state budget or would the monies be expended by the industry. The Executive Director responded that the entire Commission budget is funded by the industry and any increase or decrease to the budget does not impact the state in any way. Chairman Drazin also inquired if employees have voiced complaints concerning this issue. The Executive Director stated that while employees have voiced concern, they are continuing to perform their jobs in a professional manner.

The industry participants were asked to comment on this issue. Howard Bruno, representing Freehold Raceway, stated that while the racetracks are sympathetic to the issues, the tracks are financially distressed and are not in a position to fund the current budget let alone any increases to that budget. Mr. Lennon Register commented that there have been no salary increases in the past four years for NJSEA unrepresented employees, however, they have been obligated to honor contractual increases for represented employees.

It was noted that the proposed budget does not include funding to advocate for the industry nor have previous budgets contained this funding.

There was no further discussion or comments. Chairman Drazin motioned to approve the budget for FY 2011. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF APPROVAL OF THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY'S REQUEST TO CONDUCT THE FOLLOWING HANDICAPPING CONTESTS:

Monmouth Park/Woodbine Handicapping Challenge on June 20, 2010

Meadowlands/Mohawk Racetrack Handicapping Challenge on June 26, 2010

Commissioner Aaron motioned to ratify approval granted to the NJSEA to conduct the noted handicapping contests. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY TO WAIVE A SECTION OF N.J.A.C. 13:71-16.5 (ENTRIES) CONSISTENT WITH 13:71-1.34 (WAIVER OF THE COMMISSION'S RULES) FOR THE FOLLOWING RACES:

Titan Cup - \$200,000e 7-3-10
Meadowlands Pace Consolation - \$100,000g 7-17-10
NJSS 2 year old colt pace final - \$200,000g 7-17-10
NJSS 2 year old colt trot final - \$200,000g 7-17-10
NJSS 2 year old filly trot final - \$200,000g 7-17-10
NJSS 2 year old colt trot final - \$200,000g 7-17-10
Stanley Dancer 3 year old colt trot \$370,000e 7-17-10
Tarport Hap 3 year old filly pace \$150,000e 7-24-10
Countess Adios 2 year old fillies \$150,000e 8-5-10
Niatross 2 year old colt pace \$145,000e 8-5-10
Lady Liberty aged mares \$246,000e 8-7-10
Mistletoe Shallee 3 year old fillies \$400,000e 8-7-10
Nat Ray aged trotters \$300,000g 8-7-10
Oliver Wendell Holmes 3 year old colt pace \$230,000e 8-7-10
Golden Girls aged mares \$200,000e 8-21-10
Woodrow Wilson 2 year old colt pace \$450,000e 8-21-10
Sweetheart 2 year old filly pace \$440,000e 8-21-10

The Executive Director stated that the request is asking approval to have the ability to uncouple commonly owned horses in the noted races listed on the agenda if they have less than eight (8) wagering interests.

Commissioner Aaron motioned to approve the waiver of N.J.A.C. 13:71-16.5 pursuant to N.J.A.C. 13:71-1.34 for the listed races. Commissioner Abbatiello seconded the motion and all Commissioners voted yes. There was no opposition noted from the S.B.O.A.

CONSIDER ADVERTISEMENT OF PROPOSED RULE IN THE EVENT OF A STATE GOVERNMENT SHUTDOWN ON JULY 1, 2010

Based upon advice from counsel, the Commission considered a proposed regulation that would identify the continuation of racing pursuant to N.J.S.A. 5:5-22.3 in the event a state of emergency is declared due to the failure to enact a general appropriation law by the deadline set forth in the New Jersey Constitution. It was indicated that the Commission would ratify the proposal of this rule de novo at its next meeting in July 2010.

The proposed regulation is as follows:

1. In the event that a state of emergency is declared due to the failure to enact a general appropriation law by the deadline prescribed by the New Jersey Constitution, which prevents employees of the Racing Commission from performing their normal duties, a holder of a permit to conduct a horse race meeting may continue to hold scheduled races and simulcast operations for a period not to exceed seven calendar days.

2. A permit holder that intends to conduct a horse race meeting pursuant to Section 1, shall provide advance notice to the Racing Commission. Such notice shall be provided to the Racing Commission in writing no later than twelve hours after the state of emergency is declared. . The permit holder shall identify in that notice which of the previously scheduled races will be held during the seven-day period..

3. A permit holder conducting a horse race meeting pursuant to Section 1 shall comply with all relevant provisions of the New Jersey Constitution and all relevant statutes and regulations. In addition, the permit holder shall maintain detailed, written records of that compliance.

4. (a) A permit holder who chooses to race and continue simulcast operations shall ensure that qualified persons be hired to fill the necessary regulatory positions set forth below in subsection (b) of this rule in order for racing to continue. Persons hired by the permit holder shall be able to serve in these positions without an impermissible conflict of interest or violation of the ethics laws. The permit holder shall present a list to the Commission prior to July 1st of all persons that will be hired. The permit holder shall specify the qualifications and experience of each person on the list and identify the regulatory position to be filled by each identified person.

(b) The permit holder shall ensure that the following positions shall be filled with qualified persons at each track that is racing pursuant to this rule:

- i) Three Stewards/Judges;
- ii) Four Veterinarians;
- iii) Two Mutual Managers;
- iv) Eight Specimen Collectors; and
- v) One Investigator;

(c) All personnel hired to fill the positions set forth in subsection (b) shall be present at all races held by the permit holder and shall be responsible for insuring compliance with all applicable statutory and regulatory provisions.

5. All samples collected for all race meetings held pursuant to Section 1 shall be maintained at the track in a manner designed to insure their integrity and preservation. All samples shall be sent to the State Police Equine Testing Lab for analysis once the state of emergency has been declared to be over.

6. Any application for a stay of any penalty previously imposed by the Racing Commission, or of a penalty which is imposed by the stewards or judges during the period covered by these regulations, which application is filed during the period covered by these regulations, shall be addressed directly to the Superior Court, Appellate Division.

Commissioner Aaron clarified that in the event of a government shutdown, as long as the statutory rules and regulations were complied with by the racing industry and the licensees, the permit holders would be able to continue racing operations.

The Commission was advised by DAG Nason that due to the emergent nature of a possible government shutdown on July 1, 2010, the Commission's approval of the proposed regulation is warranted and the decision to propose this rule can be ratified at the July 2010 meeting to remedy the Commission's inability to provide the public with 48 hours notice of this item.

The Commission was advised in response to a question that any racetrack which seeks to continue to run the scheduled races and participate in simulcast operations must comply with all existing statutes and rules pursuant to N.J.S.A. 5:5-22.3 and that the proposed rule is consistent with the requirements of this statute.

There was no further discussion and Commissioner Aaron motioned the approval of the proposed regulations. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

OTHER BUSINESS

Commissioner Keegan inquired as to the status of the Commission's investigation involving the use of purse money by Atlantic City Race Course for stabling costs. It was reported that the investigation is still pending and it is anticipated it will be completed next month. Chairman Drazin explained there was a meeting conducted between the horsemen's group and Atlantic City representatives attempting to resolve the issue by adding fall race dates at the Atlantic City Race Course. Chairman Drazin recused himself from the issue and asked if Commissioner Keegan would like to meet with the parties to further resolve the situation. Executive Director Zanzuccki recommended that the matter be listed on the next scheduled Commission meeting agenda for consideration to establish a committee to review the matter and provide assistance in resolving the issue. The Commissioners were in agreement with proceeding in this manner.

There being no further discussion or comments from the public, Commissioner Aaron moved that the meeting be adjourned. Chairman Drazin seconded the motion and it was approved unanimously.

ATTEST:

Executive Director Frank Zanzuccki