

**NEW JERSEY RACING COMMISSION
WEDNESDAY, JANUARY 14, 2015
NEW MEADOWLANDS RACETRACK
“THE GALLERY” GRANDSTAND BUILDING
EAST RUTHERFORD, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, January 14, 2015, in the Gallery, located in the Grandstand Building at the New Meadowlands Racetrack.

The following were present:

Pamela J. Clyne, Commissioner
Anthony T. Abbatiello, Commissioner
Manny E. Aponte, Commissioner (by phone)
Anthony G. DePaola, Commissioner
Francis X. Keegan, Jr., Commissioner
Peter T. Roselle, Commissioner (by phone)
Frank Zanzuccki, Executive Director
DAG Todd A. Wigder (by phone)
DAG Susan C. Sharpe

The following were absent:

Michael J. Arnone, Commissioner
Peter J. Cofrancesco, III, Commissioner
David C. Gruskos, Commissioner

Executive Director Frank Zanzuccki read the following statement:

“This meeting today conforms with Chapter 231, P.L. 1975, called the “Open Public Meetings Act,” 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.

NOW, THEREFORE, be it resolved that consistent with the provision of N.J.S.A. 10:4-12(b), the New Jersey Racing Commission will now adjourn to executive session to obtain legal advice protected from disclosure by the attorney-client privilege on the following matters:

1. Legal advice concerning the Petition filed on behalf of the New Jersey Thoroughbred Horsemen's Association, Darby Development, LLC and Elite Consulting, LLC requesting modification and relief from the Orders of the Racing Commission issued on May 9, 2012 and December 12, 2013;
2. Legal advice concerning the request of the New Meadowlands Racetrack to add the following four additional standardbred racing dates to the 2015 racing season:
Friday, November 13 and Saturday November 14, 2015
Friday, November 20 and Saturday, November 21, 2015;
3. Legal advice concerning the NJTHA's 2015 budgets (2.9% statutory and .06% public purpose);
4. Legal advice concerning the Thoroughbred Breeders' Association of New Jersey 2015 budget;
5. Legal advice concerning the approval of the 2015 Backstretch Advisory Committee budget; and
5. Other legal advice and/or status of pending litigation.

Discussion of the above matters fall within the exceptions under the law; specifically matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the Commission's attorney to exercise his ethical duties as a lawyer and/or matters involving pending or anticipated litigation."

It was noted that Commissioner Aponte and Commissioner Roselle are participating by telephone.

Commissioner Aponte motioned to adopt the resolution to adjourn. Chairman Clyne seconded the motion. The Commission then adjourned to Executive Session.

The Commission ended the executive session and Commissioner DePaola moved to reconvene the public session. Commissioner Abbatiello seconded the motion and the Commission concurring, the public session resumed. Commissioner Roselle did not vote as he had not yet returned to the meeting by conference call.

CONSIDER APPROVAL OF THE MINUTES OF THE PUBLIC AND EXECUTIVE SESSIONS OF THE NOVEMBER 19, 2014 COMMISSION MEETING

Commissioner Abbatiello made a motion to approve the public and executive minutes of the November 20, 2013 public meeting. Commissioner Keegan seconded the motion and Commissioners Abbatiello, Aponte, Keegan and Chairman Clyne all voted yes. Commissioner DePaola abstained. Commissioner Roselle did not vote as he had not yet joined the meeting by conference call.

CONSIDER RATIFICATION OF THE NEW MEADOWLAND'S REQUEST TO OFFER ADVANCE, FULL-CARD WAGERING ON THE FOLLOWING TRACKS ON DECEMBER 31, 2014 AND JANUARY 1, 2015:

December 31:	Turfway Park, Delta Downs, Western Fair, Balmoral Park
January 1:	Dover Downs, Northfield Park, Delta Downs

Executive Director Zanzuccki stated that pursuant to N.J.S.A. 5:5-22.2(d), a copy of which has been provided to each Commissioner, approval is necessary whenever a racetrack or simulcasting facility does not offer its patrons the ability to view all live races that are available for wagering. Pointing out that the request was received on December 3, 2014, the Executive Director explained that extenuating circumstances required that he approve the request subject to the Commission's ratification because no December 2014 Commission meeting had been scheduled. The Executive Director also stated that these simulcast transmissions were also received and displayed under a simulcasting transmission agreement at other facilities in this State.

Commissioner DePaola motioned to ratify approval granted to the New Meadowlands Racetrack to conduct advance, full-card wagering. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF MONMOUTH PARK'S REQUEST TO CONDUCT THE 2015 SIMULCAST SERIES CHALLENGE ON SATURDAY, JANUARY 10, 2015 WHICH IS LIMITED TO RACES FROM AQUEDUCT, GULFSTREAM PARK AND TAMPA BAY DOWNS

Commissioner Keegan motioned to ratify approval granted to Monmouth Park. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE NEW MEADOWLANDS RACETRACK'S REQUEST TO CONDUCT THE \$200 HARNESS HANDICAPPING CONTESTS ON SATURDAY, JANUARY 24, 2015

Commissioner DePaola motioned to approve the request of the New Meadowlands Racetrack. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER FREEHOLD RACEWAY'S REQUEST FOR A RENEWAL LICENSE FOR CALENDAR YEAR 2015 FOR "FAVORITES AT GLOUCESTER TOWNSHIP"

Commissioner Keegan motioned to approve the request of Freehold Raceway to renew the license for Favorites at Gloucester Township which will cause the license renewal for the off-track wagering facility to again occur on a calendar year basis starting in 2016. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER THE PETITION FILED ON BEHALF OF THE NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION, DARBY DEVELOPMENT, LLC AND ELITE CONSULTING, LLC REQUESTING MODIFICATION AND RELIEF FROM THE ORDERS OF THE RACING COMMISSION ISSUED ON MAY 9, 2012 AND DECEMBER 12, 2013

Executive Director Zanzuccki read the following statement:

"The NJTHA, Darby and Elite have filed a joint petition asking that the Commission relieve them from Condition 34 and Condition 35 of the May 9, 2012 Order. This order approved the issuance of the Monmouth Park and Meadowlands thoroughbred race permits to the NJTHA consistent with the terms of the ground lease and related agreements between the NJTHA and the New Jersey Sports and Exposition Authority. Condition 34 mandates that the NJTHA shall require Darby and Elite to provide the NJTHA Board of Directors, with a copy to the Commission, the results of a full and complete independent audit, conducted by a certified public accounting firm licensed in New Jersey, of all funds under

the direct or indirect control of Darby and/or Elite, including all funds held on behalf of the NJTHA. Condition 35 requires that the NJTHA shall provide the Commission with written bi-monthly status reports setting forth any significant developments (both positive and negative) related to the NJTHA's activities and financial stability as permit holder and off-track wagering licensee. Conditions 34 and 35 were continued in subsequent orders issued by the Commission to require the filing of audits and status reports for 2013, 2014 and 2015. Since the filing of this Petition, the NJTHA has complied with Condition 34 for 2012 and 2013. As a result, Petitioners request to be relieved of Condition 34 for 2012 and 2013 is moot. However, Petitioners still seek relief from Condition 34 for 2014 and moving forward.

The NJTHA has also complied with Condition 35 by filing written bi-monthly status reports for 2012 and in each year to date. Although their request to be relieved of Condition 35 for prior years is moot, Petitioners seek relief from this condition moving forward. Petitioners ask that the bi-monthly reporting requirement be removed given the track record the NJTHA has demonstrated over the past years.

Regarding Condition 34, the Petitioners ask the Commission to modify the current requirement of a full and complete independent audit by a public, certified accountant to instead require only "an annual accountant's review for each year that Darby and Elite receive fees." Because the language of the Petition and the supporting certifications are not entirely clear, it also appears that the NJTHA is asking the Commission to likewise modify Condition 34 as applied to the NJTHA itself.

In support of its request, Petitioners largely assert that they cannot afford the cost of full, complete and independent audits. According to Petitioners, "the cost differential for a full and complete independent audit by a certified accountant versus a full accountant's review by a certified public accountant is \$100,000 more." Petitioners state that relaxing and modifying the Commission's orders would be in the best interest of racing because "the NJTHA has assumed the lease obligations from the NJSEA in order to attempt to revive thoroughbred racing at Monmouth Park and to eliminate the losses that the thoroughbred industry had been facing under the NJSEA." Petitioners raise several other arguments in the Petition, supplemental Petition, certifications and other supporting documents which the Commission has considered."

Chairman Clyne then made the following motion:

The NJTHA, Darby and Elite have filed a joint petition asking that the Commission relieve them from Condition 34 and Condition 35 of the May 9, 2012 Order. The conditions which the Commission imposed must be considered within the context of the facts which warranted their imposition. In February 2012, the NJTHA entered into a Racetrack Ground Lease with the Sports and Exposition Authority for Monmouth Park racetrack which also assigned the Authority's rights to five off-track wagering licenses to the NJTHA and 50% of the Authority's share in account wagering revenue. The NJTHA filed an application with the Commission to acquire the 2012 thoroughbred racing permits and the license for the Woodbridge OTW. In the application, the NJTHA indicated that it intended to hire Darby and Elite as independent consultants to manage, oversee and provide for the day-to-day operations of Monmouth Park and the OTW.

In considering the application, the Commission voiced regulatory concerns related to the NJTHA's inexperience and its employment of Darby, a newly formed entity, as the manager of Monmouth Park. The NJTHA had filed the application to obtain the permit to operate the racetrack pursuant to N.J.S.A. 5:5-47. However, this statute clearly states that "[n]o such permit shall be transferable." Based upon a review of the submitted documents and management agreement, the Commission found that "racetrack permit conditions, as well as OTW license conditions, are needed to assure that the NJTHA Board of Directors will maintain sufficient controls and oversights." The Commission was concerned that "while the NJTHA structure appeared to be consistent with financial stability considerations," anticipated revenues and expenditures would be handled by recently formed Darby and not by the NJTHA. The Commission proposed conditions "[f]or integrity assurance purposes, so that the Commission may properly monitor the receipt and expenditure of those revenues by Darby to confirm conformance with the racing laws (inclusive of the 'Off-Track and Account Wagering Act'), and so that the Commission may monitor the financial aspects of the permit holder's operations as relevant to our continued financial stability evaluation. . . ." In proposing these conditions, which included Conditions 34 and 35, the Commission indicated that "these conditions, as they include a simultaneous reporting responsibility to the NJTHA Board, will also prove to be of benefit to the Board in insuring that its overall mission is responsibly met, and therefore, that the interests of its constituents are being advanced."

The Commission has broad authority to attach conditions to racing permits and OTW licenses and it routinely does so. The record before the Commission indicated that Conditions 34 and 35 were not only warranted but also necessary given the NJTHA's lack of experience in conducting live race meets, parimutuel wagering and off-track wagering.

As a result, I move that the Commission deny the relief sought in the Petition. Petitioners' request to modify Condition 34 is primarily based upon the assertion that they cannot afford the cost of a full and complete independent audit for the NJTHA, Darby and Elite. Nevertheless, each has complied with the requirement of Condition 34 for calendar years 2012 and 2013. The condition has not proven to be an unnecessary hardship or an unduly burdensome requirement. A thorough review of these financial statements, which is still ongoing, is important as the information set forth therein may directly impact the future of thoroughbred racing in this State.

I think that the Commission must deny the Petitioners' request to be relieved of Condition 35's requirement of written bi-monthly status reports. The Commission has not yet had ample time to fully consider the 2012 and 2013 audits which the NJTHA filed on September 26, 2014. There may come a time when we are comfortable in removing Condition 35 but I do not think that the Commission is there yet.

Commissioner Aponte seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE NEW MEADOWLANDS RACETRACK TO ADD THE FOLLOWING FOUR ADDITIONAL STANDARD BRED RACING DATES TO THE 2015 RACING SEASON:

Friday, November 13 and Saturday November 14, 2015

Friday, November 20 and Saturday, November 21, 2015;

Darrin Zoccali, Director of Racing Operations for the New Meadowlands Racetrack stated to the Commission that the racetrack has worked in conjunction with the SBOA for a fall final four days to be conducted in November. There were no comments received from representatives of Freehold Raceway, Monmouth Park or the Thoroughbred Breeders' Association concerning the additional four racing dates. There were no representatives present from Atlantic City Race Course, the SBOA and the NJTHA.

Commissioner DePaola motioned to approve the additional four dates requested of the New Meadowlands Racetrack subject to those conditions imposed upon racing dates at the November 19, 2014 public meeting. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION'S 2015 BUDGETS (2.9% STATUTORY AND .06% PUBLIC PURPOSE)

Commissioner Keegan made a motion to table consideration of these budgets because there is no representative of the NJTHA present and there are some unresolved questions to be addressed prior to the Commission considering this item. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER THE THOROUGHBRED BREEDERS' ASSOCIATION OF NEW JERSEY 2015 BUDGET

The Executive Director indicated that the proposed 2015 budget is for \$201,229 which is approximately \$12,000 less than the 2014 budget, and after deducting the projected in-house revenue of \$22,500, the TBA is requesting approval to utilize \$178,700 from the Breeders' Award account. This deduction represents approximately \$11,000 less than in the previous year.

Commissioner Keegan motioned to approve the budget as submitted. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER READOPTION OF THE OFF-TRACK WAGERING AND ACCOUNT WAGERING RULES, N.J.A.C. 13:74

Executive Director Zanzuccki recommended that this matter be tabled pending further review. The readoption will be considered at a telephone meeting prior to the March 18, 2014 Commission meeting.

Commissioner Aponte motioned to table the item. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF 2015 BACKSTRETCH ADVISORY COMMITTEE BUDGET

The Executive Director stated that the proposed 2015 Backstretch Budget is \$183,725 which is an increase of approximately \$16,000 from the prior year. He indicated that staff has reviewed this budget and disagrees with some of the proposed increases, believes they are excessive and recommends that a budget be approved in the reduced amount of \$171,084. Last year's budget which was \$167,700.

Chairman Clyne motioned to modify the budget in the amount of \$171,084. Commissioner DePaola seconded the motion. The Executive Director commented that the Backstretch Community Assistance Program is a great program and the counselor who manages the program does an outstanding job and great services are provided through the program for the backstretch employees. The Executive Director stated that on behalf of the Commission, he commends the counselor for doing an outstanding job. A roll call of the Commission indicated that all Commissioners voted yes.

ITEMS FOR DISCUSSION AND INFORMATION

STATISTICS REGARDING THE 2014 EQUINE AND HUMAN DRUG TESTING PROGRAMS

The Executive Director announced the following statistics:

Human Drug Testing Program:

In 2014, 322 samples were tested with no positive results
Specifically, in 2014, 64 samples were tested on thoroughbred participants and 258 samples were tested on standardbred participants.
(In 2013, 328 samples were tested resulting in four positives)

Equine Testing Program:

In 2014, 29,062 samples were tested producing 41 positives.
Specifically, in 2014, 22,242 samples were tested during standardbred racing and 6,820 samples were tested during thoroughbred racing
In addition, the samples tested include out-of-competition and TCO2 testing, both of which revealed no positive results.
(In 2013, 28,581 samples were tested producing 31 positives)

Commissioner Abbatiello congratulated Mr. Jeff Gural for his improvements at the New Meadowlands Racetrack and for his efforts in prohibiting equine drug use.

There being no further discussion or comments from the public, Commissioner Keegan moved that the meeting be adjourned subject to the provisions of the "Open Public Meetings Act." Commissioner DePaola seconded the motion and it was approved unanimously.

ATTEST:



Executive Director Frank Zanzuccki