

**NEW JERSEY RACING COMMISSION
WEDNESDAY, SEPTEMBER 16, 2015
“LIBRARY ROOM”
MONMOUTH PARK
OCEANPORT, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, September 16, 2015, in the Library Room, located at Monmouth Park, in Oceanport, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Manny E. Aponte, Commissioner (by phone)
Anthony T. Abbatiello, Commissioner
Michael J. Arnone, Commissioner
Anthony G. DePaola, Commissioner
David C. Gruskos, Commissioner
Peter T. Roselle, Commissioner (by phone)
Frank Zanzuccki, Executive Director
SDAG George N. Cohen

The following were absent:

Peter J. Cofrancesco, III, Commissioner
Francis X. Keegan, Jr., 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 regarding Public Agenda Item No. 3: consider the application of the New Jersey Sports and Exposition Authority (“Authority”), made pursuant to the “Off-Track and Account Wagering Act” (N.J.S.A. 5:5-127 et seq.) and the rules of the New Jersey Racing Commission (Chapter 74 of Title 13 of the New Jersey Administrative Code), for the issuance to the Authority of an off-track wagering license, which off-track wagering facility is to be located at the following premises within Hillsborough Township: 150 Route 206, Hillsborough, New Jersey 08844.
2. Legal advice regarding Public Agenda Item No. 4: in connection with the related application of the Authority, consider the application of the New Jersey Thoroughbred Horsemen’s Association, Inc. (“NJTHA”) for the issuance of an off-track wagering license and consider whether the NJTHA is qualified to hold the off-track wagering license.
3. Legal advice regarding Public Agenda Item No. 5: subject to a determination that the NJTHA is qualified to hold the off-track wagering license, consider the applications of the Authority and the NJTHA, made pursuant to the “Off-Track and Account Wagering Act” (N.J.S.A. 5:5-127 et seq.) and the rules of the New Jersey Racing Commission (Chapter 74 of Title 13 of the New Jersey Administrative Code), for the transfer or assignment to the NJTHA of any off-track wagering license issued to the Authority, pursuant to agenda item 1 above, to establish and operate an off-track wagering facility at the following premises within Hillsborough Township: 150 Route 206, Hillsborough, New Jersey 08844.
4. Legal advice regarding Public Agenda Item No. 6: subject to a determination to approve the transfer or assignment of said off-track wagering license from the Authority to the NJTHA in connection with the further application of the NJTHA as set forth in agenda item 5 below, consider whether Darby Development, LLC is qualified, pursuant to N.J.A.C. 13:74-4.2, to perform the functions subject of a contract or agreement authorizing it to conduct or operate the Hillsborough Township off-track wagering facility for the NJTHA and to act as the agent of the NJTHA in all off-track wagering matters approved by the Racing Commission.

5. Legal advice regarding Public Agenda Item No. 7: subject to a determination to approve the transfer or assignment of said off-track wagering license from the Authority to the NJTHA and further subject to a determination that Darby Development, LLC is determined qualified pursuant to agenda item 4 above, consider the additional application of the NJTHA for approval for its entering into a contract or agreement authorizing Darby Development, LLC to conduct or operate the Hillsborough Township off-track wagering facility for the NJTHA and to act as the agent of the NJTHA in all off-track wagering matters approved by the Racing Commission.
6. Legal advice regarding the distribution of the Casino Simulcasting Special Fund monies accumulated in 2014 in the amount of \$535,768.11.
7. Legal advice concerning the Appellate Division decision: NJTHA, Inc. v. ACRA Turf Club, LLC, Freehold Raceway Off-Track, LLC, Penn National Gaming, Inc., Pennwood Gaming, Inc., Penn National Holding Company, Pennwood Racing, Inc., Greenwood Racing, Inc., and F.R. Park Racing, L.P., New Jersey Racing Commission and Frank Zanzuccki, Individually and as Executive Director for the New Jersey Racing Commission; Docket Nos. A-2906-12T3, A-0267-13T3 (App. Div. August 11, 2015).
8. Legal advice concerning a proposed settlement: In the matter of Abrams v. New Jersey Racing Commission, OAL Docket No. RAC 13694-2014S.
9. 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.

Chairman Clyne motioned to adopt the resolution to adjourn. Commissioner DePaola seconded the motion. The Commission then adjourned to executive session.

The Commission ended the execution session and Commissioner DePaola moved to reconvene the public session. Commissioner Gruskos seconded the motion and the Commission concurring, the public session resumed. It was noted that Commissioner Aponte was no longer in attendance at the meeting.

CONSIDER APPROVAL OF THE MINUTES OF THE PUBLIC AND EXECUTIVE SESSIONS OF THE JULY 15 AND THE JULY 22, 2015 COMMISSION MEETINGS

Chairman Clyne made a motion to approve the public and executive minutes of the July 15, 2015 and the July 22, 2015 public meetings. Commissioner DePaola seconded the motion and all Commissioners voted yes.

CONSIDER THE APPLICATIONS OF THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY AND THE NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION, INC. FOR THE ISSUANCE OF AN INITIAL OFF-TRACK WAGERING LICENSE FOR AN OFF-TRACK WAGERING FACILITY IN HILLSBOROUGH, NEW JERSEY AND RELATED REQUESTS FOR RELIEF

Executive Director Zanzuccki read the following statement:

“Next, the Commission will consider agenda Item Numbers 3 through 7 which are all related to the applications received in connection with the proposed Hillsborough off-track wagering facility. On March 7, 2014, the New Jersey Sports and Exposition Authority and the New Jersey Thoroughbred Horsemen's Association, Inc. filed their respective parts of an application for an initial off-track wagering license, with the required filing fees included, seeking to establish an OTW facility at 150 Route 206 in Hillsborough Township, New Jersey. Subject to a determination that the Authority is qualified to hold the initial off-track wagering license, the applicants seek an immediate transfer or assignment of the OTW license from the Authority to the NJTHA pursuant to N.J.A.C. 13:74-4.1. Subject to a determination that the NJTHA is qualified to hold the OTW license, the NJTHA has petitioned the Commission to approve the NJTHA entering into a written contract or agreement with Darby Development, LLC to conduct or operate an off-track wagering facility for it and to act as its agent in all off-track wagering matters approved by the Commission pursuant to N.J.A.C. 13:74-4.2.

The NJTHA has amended and supplemented the application on numerous occasions in response to questions and concerns raised by Commission staff. Amendments and supplemental submissions continued over the course of a seventeen-month period. As a result, the record before the Commission is voluminous.

Each Commissioner has been provided with documents which include a copy of the application, attachments and supplemental submissions, a transcript of the public hearing, copies of all of the comments received, other documents compiled by staff and a draft Final Determination and Order. The Commission has also conferred with legal counsel as appropriate.

The record establishes that the NJTHA is a nonprofit corporation which represents thoroughbred horsemen in New Jersey. The daily business of the NJTHA is currently managed by its Officers: John Forbes (President), William Anderson (Vice President) and Michael Musto (Secretary and Executive Director). The NJTHA leased Monmouth Park from the Authority in 2012 and it is the permit holder for thoroughbred racing there and at Meadowlands Racetrack. Additionally, the NJTHA is the license holder for the Favorites at Woodbridge OTW facility and for the Pilot Program where an electronic wagering terminal will be established in Jamie's Cigar Bar and Restaurant in Clifton, New Jersey.

The NJTHA has contracted with Darby and Elite Equine Consulting, LLC for the management of its current interests as well as for the management and continued development of thoroughbred racing in the State, including the management and day-to-day operation of current and future OTW facilities. Darby's members are Brian Drazin, Esq. and Ronald Drazin, Esq. Darby's President, Robert Kulina, and Vice President, William Knauf, are prominently involved in the daily operations and management of Monmouth Park, thoroughbred racing at Meadowlands, and the Woodbridge OTW. It is anticipated that each will perform the same functions at the proposed Hillsborough OTW facility.

In establishing the Hillsborough OTW facility, the NJTHA will utilize a previously existing structure which was formerly operated as The Maestro 206 Restaurant. The proposed OTW facility will cover approximately 9400 square feet with an approximate seating capacity of 175 persons. The facility will include a pub-style bar and dining area to be managed and operated by McLoone's. Sportech Racing will serve as the facility's mutuel vendor. Currently, the proposed facility has 80 existing parking spaces. The NJTHA has indicated that it has rented 30 additional parking spots from an adjacent business for weekends and high volume event days and also plans to use valet parking services to maximize parking potential for patrons.

If approved by the Commission, the NJTHA will hire Darby to manage the daily operations of the proposed Hillsborough OTW facility through a downstream entity which has been incorporated as Favorites at Hillsborough LLC. Darby is the sole member of the new LLC. While a yet-to-be determined onsite management team will report directly to Kulina and Knauf, Michael Musto and Knauf have advised the Commission that the

NJTHA, through its Officers and Board of Directors, will maintain ultimate control over all business decisions and policy matters related to the proposed Hillsborough OTW facility.

Staff's investigation into the Authority, NJTHA and Darby revealed no derogatory information regarding any of the three entities and each is in good standing with the Commission.

The property for the proposed OTW was purchased by Darby for \$1.3 million in September 2013 with an additional expenditure of \$300,000 to purchase the liquor license. As part of the application process, the NJTHA and Darby filed with the Commission a copy of the Payment In-Lieu-of-Taxes Agreement, dated April 2, 2014, which Darby reached with Hillsborough Township. In the PILOT Agreement, Darby agreed to pay the Township \$32,000 per year for a five-year period commencing with the opening of the proposed OTW facility. Included with the PILOT Agreement was Hillsborough Township Ordinance Number 2014-05, which was adopted March 25, 2014 and published on April 3, 2014, which commemorated the PILOT Agreement between Darby and the Township.

In its investigation into the application, Commission staff identified regulatory concerns regarding the PILOT Agreement because N.J.S.A. 5:5-151.1 authorizes a private off-track wagering licensee to enter into a PILOT agreement with the municipality. If the Commission decides to issue a license for the proposed Hillsborough OTW, the NJTHA will be the private off-track wagering licensee -- not Darby. To address the Commission's regulatory concerns, the NJTHA supplemented its application by letter dated May 5, 2015, which enclosed a Deed transferring the property for the proposed OTW from Darby to the NJTHA and by letter dated June 2, 2015, which enclosed an "Agreement as to the Pilot" assigning the PILOT Agreement from Darby to the NJTHA.

By letter dated, June 9, 2015, I determined that the applications were complete and referred them for legal review in accordance with N.J.A.C. 13:74-2.1(i) to determine whether they were in due form and complied with applicable law in all respects. No legal issues were identified and a joint public hearing and public meeting was conducted at the Hillsborough High School, located at 466 Raider Boulevard, Hillsborough, New Jersey on July 22, 2015.

At the public meeting, the Authority and NJTHA presented testimony and other evidence in support of the grant of the OTW license and the other relief they seek. Additionally, comment was offered by public officials and citizens. The Commission voted to leave the record of the public hearing open for seven days to receive additional information and comment.

Although the Commission's motion clearly stated that the record would be closed as of July 30, 2015, the Commission received important contractual documents from the NJTHA that supplemented its application on July 30, 2015. The Commission also received one additional public comment on July 30th, two comments shortly thereafter on August 3rd and one comment on August 4th. These documents were received very soon after the record closed and the Commission has the discretion to accept them by extending the closure of the record until August 5, 2015. Given the importance of the contracts filed by the NJTHA and to further the public interest, staff would recommend that the Commission extend the closing of the record until August 5th. The record should reflect that the Commission received additional public comment on August 24, 2015. However, these comments were submitted several weeks after the record closed and it is staff's recommendation that they not be considered because they were filed so late."

The Executive Director asked if the Commission wished to make a motion to extend the record from the public hearing through and including August 4, 2015 and accept the documents filed with the Commission by that deadline. Commissioner DePaola motioned to extend the record to include the documents filed with the Commission through August 4, 2015. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

Executive Director Zanzuccki continued his statement:

"At the public hearing, Ralph Marra, Senior Vice President of Governmental & Legal Affairs, testified on behalf of the Authority. He indicated that it is the Authority's intent is to immediately transfer any issued OTW license to the NJTHA. Mr. Marra testified that the Authority fully endorses the NJTHA's application. Pointing out that the Authority has been the custodial landlord to the NJTHA since 2012, Mr. Marra stated that the NJTHA and Darby, its manager, have an excellent record in operating Monmouth Park and Favorites at Woodbridge.

The NJTHA presented testimony and evidence in support of its application. Uncontested evidence presented at the public hearing, in conjunction with documents already on file as part of the application, establish that the applicants have complied with several requirements set forth by statute and in the Commission's rules. Specifically, the applicants have established that the permit holders have complied with scheduling the minimum number of live race dates required by N.J.S.A. 5:5-156, the Authority has entered in a Master Off-Track Wagering Participation Agreement with all parties or successors in interest that held a valid race permit in 2000 in compliance with N.J.S.A. 5:5-130 and that the NJTHA, as the owner of the land, building and premises of the proposed OTW has reached an agreement with the local municipality establishing a payment in-lieu-of taxes it will pay for the first five years of operation pursuant to N.J.S.A. 5:5-151-1. The record also establishes that the proposed OTW is in an area zoned commercial by Hillsborough Township in compliance with N.J.S.A. 5:5-131(h).

At the public hearing, William Knauf provided testimony in support of the NJTHA's position that the proposed OTW was in an appropriate location and that this location was not inimical to the interests of a planned or existing OTW or racetrack as required by N.J.S.A. 5:5-131(i). Regarding the selection of the site, Mr. Knauf testified that census information for Hillsborough Township indicated a population of approximately 38,300 with a median household income of \$105,429. He added that Hillsborough is the largest township in Somerset County by area and the third largest township by population.

Mr. Knauf testified there is no other racing representation in this western part of the State. The NJTHA's presentation included a map of New Jersey which pinpointed the locations of the existing OTWs and racetracks. The closest racing entity is the Woodbridge OTW which is approximately 20 miles away from the proposed site. As you are aware, the NJTHA holds the license for the Woodbridge OTW. The NJTHA takes the position that the proposed Hillsborough OTW will not be inimical to the Woodbridge OTW.

Regarding the remaining OTWs and racetracks, the proposed Hillsborough location is approximately 37.8 miles from the Bayonne OTW, 38.9 miles from Freehold Raceway, 44.7 miles from the Meadowlands, 46.1 miles from Monmouth Park, more than 70 miles from the Toms River OTW and Gloucester Township OTW and 97.2 miles from the Vineland OTW. No permit holder or OTW licensee has taken the position that the Hillsborough OTW will be inimical to their racetrack or OTW.

Mr. Knauf testified that the projected annual wagering handle for the proposed OTW is \$20 million which will generate approximately \$1.3 million for New Jersey purses.

Through its application and the public hearing, the NJTHA has presented information required by N.J.A.C. 13:74-2.1(c) related to the physical plan of the OTW, its location and proposed hours of operation, the space relationship between wagering and non-wagering areas, the number of jobs expected to be created, the gross revenues expected to be generated, the fire evacuation plan and the types of food and beverages to be available and documentation that the requirements of the Act have been satisfied regarding the liquor license. The NJTHA has also provided the Commission with written internal control procedures required by N.J.A.C. 13:74-2.1(d).

The NJTHA has also provided the Commission with documentation in support of its position that the NJTHA has sufficient financial resources to establish and conduct a quality off-track wagering facility with appropriately managed operations as required by N.J.A.C. 13:74-2.1(h). The testimony at the public hearing and documentation submitted by the NJTHA indicates that the premises of the proposed OTW are owned by the NJTHA without

any mortgage and the costs to renovate the facility have been paid. In addition, the NJTHA has indicated its willingness to dedicate its share of “distributable cash flow” generated from the Woodbridge OTW and the New Jersey account wagering system -- an amount projected to be approximately \$1.3 million -- to the proposed Hillsborough OTW. Darby has indicated that it is also prepared to financially support the proposed OTW, if needed, utilizing its share of “distributable cash flow” generated from the Woodbridge OTW and account wagering -- an amount projected to be approximately \$5.1 million.

The public hearing was well-attended and the Commission heard comments from public officials and residents of Hillsborough Township. Mayor Douglas Tomson spoke at the public hearing and stated that many Hillsborough residents contacted him to say that the process of locating an OTW in a municipality is fundamentally flawed since “Home Rule” has been taken away. As the Commission is aware, when the Off-Track and Account Wagering Act was first enacted, it included a provision requiring an OTW applicant to submit written notice of its intention to site an off-track wagering facility to the governing body of the municipality within which the facility would be sited. The Act gave the municipality the authority to promulgate a resolution disapproving of the proposed site.

However, the Legislature removed this provision from the law in 2011. At the same time, the Legislature removed the provision in the Act which required the OTW applicant to submit plans to the municipal planning board and comply with the approval process set forth in the Municipal Land Use Law. The Legislature also amended the Act to clearly state that “[n]otwithstanding the provisions of any law, rule or regulation to the contrary, an off-track wagering facility shall be permitted use in all commercial and industrial districts of a municipality.” As a result, municipalities can no longer disapprove the siting of an OTW within its borders if located in a commercial or industrial district.

Mayor Tomson indicated that legislation has been introduced that would restore a municipality’s ability to reject an OTW and stated that the Hillsborough Township Committee unanimously supports this legislation.

Assemblyman Jack Ciattarelli, who is the Primary Sponsor of the proposed legislation, also spoke at the public hearing in opposition to the proposed OTW. Although the Assemblyman recognized that the proposed OTW “may very well be what the racing industry desperately needs” he took the position that “it is not what Hillsborough desperately needs.” The Assemblyman indicated his belief that OTWs belong in densely populated urban areas, raised concerns about the expansion of gambling and questioned the integrity of the Commission’s regulatory procedure for considering applications for off-track wagering licenses. Citing the NJTHA’s investment of \$3.6 million into the proposed OTW

site, the Assemblyman asked “why would anyone invest that kind of money, if this isn’t a done deal?”

The Assemblyman also raised questions as to when the application for the Hillsborough license would be considered a public document pursuant to OPRA. The record should reflect that in the two weeks following the public hearing, the Commission received four OPRA requests seeking the application and other related documents. The Commission released the entire application, attachments and supplemental submissions of the applicants as well as other related documents that were requested. Hillsborough Township posted most of these documents on its website.

At the public hearing, the Commission was presented with a petition with 1,365 signatures demanding that the Commission “reject off-track betting in Hillsborough.” The petition asserts that an off-track betting facility in Hillsborough would bring in many out of town gamblers, create safety and traffic problems and put a strain on municipal resources. Pointing out that Hillsborough is a “family town,” the petition states that Hillsborough does not resemble the other OTW locations.

At the hearing, a total of 17 persons commented, including the Mayor and Assemblyman. Although 3 persons spoke in favor of the proposed OTW, 14 appeared to be opposed. From the public, the Commission has received a total of 29 written submissions. Whereas 3 submissions asked questions or did not take a position, 18 expressed opposition to the proposed OTW and 8 supported it.

In addition to citing most of the concerns already mentioned, the comments in opposition included assertions that the proposed OTW: is not wanted in Hillsborough, will increase crime, does not have enough parking, is located approximately 100 feet from a municipal park, will bring an undesirable “low-life” element into Hillsborough, will cause property values to fall, and will increase noise as well as the potential for loitering and other unwanted behaviors. Other comments expressed a general opposition to gambling and/or racing, argued that pub food does not constitute fine dining, stated that taxpayers will be supporting the proposed OTW because of the PILOT agreement, criticized the procedure for public comment and suggested that the applicants should voluntarily allow the Township to decide whether the proposed OTW should be located there. Citing testimony from the public hearing that numerous patrons of Monmouth Park live within a ten-mile radius of Hillsborough, some commenters argued that the proposed OTW will be inimical to the Woodbridge OTW and Monmouth Park.

Eleven verbal and written comments supported the proposed OTW. One comment, from the owner of the business across the street, stated that he had met the applicants and indicated that they are good local business people and that he hopes the Commission issues the license. The other comments included statements that the commenters were eager for the OTW to open because it will give residents an opportunity to enjoy horse racing closer to home, create employment opportunities, provide another place to eat and will be no more harmful than a bar. Certain commenters opposed the stereotyping of racing patrons as “low-lives,” pointed out that people who do not want to wager do not have to go to the OTW and doubted that criminals and drug addicts would frequent the OTW.

The Commission, here today, will be deciding the matters detailed in our public meeting agenda as Item Numbers 3 through 7. The Commission must decide whether to issue an initial OTW license to the Authority for the proposed Hillsborough location, whether the NJTHA is qualified to hold the OTW license, whether to approve the transfer or assignment of the OTW license from the Authority to the NJTHA, whether Darby Development LLC is qualified to conduct or operate an OTW facility for the NJTHA and act as its agent in all off-track wagering matters approved by the Commission and whether to approve the NJTHA’s entry into a contract or agreement which would allow Darby to conduct or operate the OTW.

In rendering a decision today, I would note that, by law, the Commission is required to submit its determination to the Attorney General for his review and approval and that the decision of the Attorney General constitutes a final decision with regard to this matter.”

Chairman Clyne made the following motion:

“The Commission must decide whether to grant an initial license to the New Jersey Sports and Exposition Authority to establish an off-track wagering facility at 150 Route 206 in Hillsborough Township. If the license is granted, the Authority seeks the Commission’s immediate approval to transfer or assign that license to the New Jersey Thoroughbred Horsemen’s Association. There are numerous statutory and regulatory requirements which the applicants must meet and they will be addressed today.

In making this motion, I propose findings of fact which, I believe, are amply supported by the record before the Commission in accordance with the requirements of law. I would ask that my fellow Commissioners confirm their agreement with these findings by voting in the affirmative on this motion.

Pursuant to N.J.A.C. 13:74-2.1(h), the Authority and the NJTHA must demonstrate their suitability for licensure by clear and convincing evidence in accordance with the requirements of the rule. These requirements include proof of financial resources sufficient to enable the applicant to establish a quality OTW with appropriately staffed and managed operations; evidence of good character; absence of conviction of certain crimes; and the related criteria set forth in N.J.A.C. 13:74-5.8.

In my estimation, I find that the Authority has demonstrated by clear and convincing evidence that it meets the requirements of N.J.A.C. 13:74-2.1(h) and is qualified to receive the initial OTW license. This Commission has already issued five initial OTW licenses to the Authority. Although each of these licenses has been assigned or transferred to a permit holder who then operated the OTW, the Authority itself successfully operated the Woodbridge OTW for several years before the license was transferred to the NJTHA. Staff's investigation into the Authority's application revealed no derogatory information and the Authority is in good standing with the Commission.

The Authority intends to immediately assign or transfer the license for the proposed OTW to the NJTHA. The Authority has indicated that it fully supports and endorses the application of the NJTHA.

I find that the NJTHA has demonstrated by clear and convincing evidence that it meets all of the requirements of N.J.A.C. 13:74-2.1(h). I find that the NJTHA has demonstrated the required proof of financial resources sufficient to enable it to conduct a quality and appropriately managed OTW. As indicated by Executive Director Zanzuccki, the NJTHA has indicated its willingness to dedicate its shares of "distributable cash flow" generated from the Woodbridge OTW and from the New Jersey account wagering system to the proposed Hillsborough OTW -- an amount projected to be \$1.3 million. The property for the proposed OTW is owned outright and the costs for the extensive renovations have been paid. Staff's investigation into the NJTHA revealed no derogatory information and the NJTHA is in good standing with the Commission.

In order for the Commission to approve the transfer of the OTW license to the NJTHA pursuant to N.J.A.C. 13:74-4.1 and approve the NJTHA's entry into a contract or agreement which would allow Darby to conduct or operate the proposed OTW pursuant to N.J.A.C. 13:74-4.2, the NJTHA must demonstrate that it is qualified to hold the license and Darby must establish it is qualified to operate the proposed OTW.

I find that the record establishes that the NJTHA and Darby have met their burdens of proof in demonstrating that they have met the requirements in N.J.A.C. 13:74-4.1 and 4.2. As is the case with the Authority, the NJTHA has held multiple permits and licenses issued by the Commission. Darby, its manager, is also well known to this Commission. The NJTHA and Darby have successfully operated Monmouth Park and the Woodbridge OTW and conducted thoroughbred meets at New Meadowlands Racetrack since 2012. The Commission has also issued the Pilot Program license to the NJTHA to establish an electronic wagering terminal in Jamie's Cigar Bar and Restaurant in Clifton, New Jersey. Darby will also manage that operation.

In addition to operating Monmouth Park, Darby currently manages the Woodbridge OTW which the record indicates is the highest wagering OTW in the country. Moreover, since Darby took over management of the New Jersey account wagering system for the Authority in 2012, the total handle has doubled. Darby will manage the proposed Hillsborough OTW consistent with the terms of the Amended Management and Development Agreement, dated February 24, 2012. Staff's investigation of Darby revealed no derogatory information and Darby is also in good standing with the Commission. Based upon the record before the Commission, I find that the NJTHA and Darby have demonstrated by clear and convincing evidence that they and their employees are qualified in accordance with the requirements of N.J.A.C. 13:74-4.1 and 4.2.

I also find that the applicants have demonstrated by clear and convincing evidence that the plans for the proposed OTW include appropriate standards of quality for the premises and services it will provide as required by N.J.A.C. 13:74-2.1(j) and N.J.S.A. 5:5-133. The record includes detailed information about the size, seating capacity, parking and services to be provided. In addition, several Commissioners had the opportunity to tour the proposed location prior to the public hearing and to see it for ourselves. The NJTHA and Darby have done an impressive job with their renovations to the former restaurant.

There are 22-inch, flat panel televisions and wagering tablets at each of the 86 wagering terminals and more than 100 televisions with Direct TV sports packages throughout the building. At the center of the facility is a 20-foot bar with a dining area that will be managed and operated by McLoone's. McLoone's is also known to the Commission as it currently provides bar and restaurant services for the Woodbridge OTW and Bayonne OTW. Although the Commission received comments arguing that the proposed menu for McLoone's does not constitute fine dining, I find that McLoone's has an established track record of providing appropriate standards of quality at New Jersey's OTWs that clearly meet the statutory and regulatory requirements.

Based upon the record and what we have seen, I find that the applicants have demonstrated by clear and convincing evidence that the proposed OTW will constitute a first class establishment which will comport with the requirements of the Act and the Commission's rules in all respects. The NJTHA has demonstrated that the physical plan for the facility, its location, the space relationship between wagering and non-wagering related amenities, the internal control procedures for the facility, as well as the dining amenities for the facility, all meet or exceed our regulatory requirements and standards. The NJTHA has shown that the plan and specifications for the proposed facility, including its size, seating capacity, parking and services to be offered reflect appropriate standards of quality, and that the plan and specifications of the facility promote maximum comfort and safety for patrons and the efficient operation of the facility, as well as viewing of simulcast races by patrons in a comfortable manner, which is not obtrusive to the additional amenities offered.

Next the Commission must determine whether the applicants have "demonstrated by clear and convincing evidence that establishment of the proposed off-track wagering facility will not be inimical to the interests of the public and the horse racing industry in this State" as required by N.J.S.A. 5:5-133.

I, along with other Commissioners here today, was present at the July 22nd public hearing. The Executive Director has summarized many of the verbal comments made at the public hearing and the written comments received by the Commission. We have had the opportunity to review the transcript along with all of the written comments filed with the Commission.

The public hearing was required by law and gave the Commission the ability to hear the Hillsborough residents' concerns. Many appeared to be frustrated by the current state of the law. As Executive Director Zanzuccki has pointed out, municipalities no longer have the legal right to reject the siting of an off-track wagering facility within their borders. Mayor Tomson, the Assemblyman and numerous residents spoke out against placing the proposed OTW in Hillsborough. At the same time, the law clearly states that "an off-track wagering facility shall be a permitted use in all commercial and industrial districts of a municipality." The record indicates that the location of the proposed Hillsborough OTW is zoned commercial.

Nevertheless, I think the Commission must consider the comments received in carrying out the mandate in N.J.S.A. 5:5-133 to determine if the applicants have "demonstrated by clear and convincing evidence that establishment of the proposed off-track wagering facility will not be inimical to the interests of the public and the horse racing industry in this State."

One comment I'd like to address immediately was made by Assemblyman Ciattarelli and repeated by several people who commented after him. The Assemblyman asked why would the NJTHA have invested \$3.6 million into the proposed OTW site if the

Commission's consideration and approval of the application "isn't a done deal." In raising this question, the Assemblyman has challenged the integrity and ethics of each and every Commissioner on this Commission. I would like to state clearly for the record that this Commission acts in accordance with the Open Public Meetings Act and all other applicable laws. This Commission unequivocally refutes any suggestion that the determinations which we must reach today have been, in any way, preordained.

The Commission has carefully considered the comments it has received, both verbally and in writing. Many of the comments anticipated that the proposed OTW will have a negative impact on Hillsborough through increased traffic, crime, noise and other effects.

Regarding the commenters' concerns that the proposed OTW will increase traffic on 206, the NJTHA presented testimony that the OTW will open at 11:00 a.m. every day and that the last race will end at approximately 11:00 p.m. on Monday through Thursday, closer to midnight or 12:30 a.m. on Friday and Saturday and around 10:00 p.m. on Sunday. As a result, the NJTHA asserted that the proposed OTW would not conflict with commuter traffic. The NJTHA also pointed out that the proposed OTW would be closing earlier than typical bar establishments. I would also like to note that restaurants were previously operated at this location and likely had hours similar to the proposed OTW. The record does not indicate that these restaurants created any undue traffic concerns such as those being raised in connection with the proposed OTW.

In examining the concerns of those opposed to the OTW, it is difficult to gauge their validity without having the benefit of data related to the success and the volume of business at the proposed OTW. Some of these concerns can be addressed by imposing conditions on any license to be issued to require the licensee to monitor the local effects of the proposed OTW on traffic, parking and crime and to report them to the Commission for consideration if and when an application is received to renew the license.

At the same time, the Commission must also consider the positive public commentary and the positive public interest ramifications of the proposed OTW. The record establishes that the proposed OTW will create approximately 40 full and part-time employment opportunities in connection with the parimutuel wagering and another 40 full and part-time employment opportunities for the bar and restaurant. As pointed out in the

comments we received, the proposed OTW will provide an additional recreational opportunity for those residents who choose to wager on horse racing or dine at the proposed facility. I would also like to note the comments received that oppose the stereotyping of off-track wagering and racetrack patrons as “lowlifes.”

In evaluating the record before us, we are appreciative of the comments received and have appropriately weighed the concerns expressed in opposition to the proposed OTW. However, the Commission must be mindful that the Legislature has determined that an off-track wagering facility shall be a permitted use in a commercial district of a municipality. Moreover, it bears noting that although the comments opposing the OTW appeared genuine and sincere, we cannot say that those opposing the proposed OTW represent the majority of Hillsborough residents. As set forth in the record, census data reflects that the Township has approximately 38,000 residents. Including the petition with 1,365 signatures, the Commission received 1,397 comments opposed to the proposed OTW. This comprises less than 5% of the Township’s population.

Weighing the record before the Commission and considering the status of current law, I find that the applicants have met their burden of establishing that the proposed OTW is in an appropriate location as required by N.J.A.C. 13:74-2.1(j) and that it “will not be inimical to the interests of the public” as required by N.J.S.A. 5:5-133. Based upon the record, I find that the proposed OTW will present no additional, measurable, adverse impact when compared to that presented by businesses not related to racing or wagering which could be situated at the same location.

N.J.S.A. 5:5-133 also requires the Commission to determine if the applicants have demonstrated by clear and convincing evidence that establishment of the proposed off-track wagering facility will not be inimical to the interests of the horse racing industry. Here, the Commission’s task becomes easier. I find that the record clearly establishes that the applicants have met their burden as the proposed Hillsborough OTW will benefit the horse racing industry. The projected annual handle for the proposed OTW is \$20 million. If these projections are met, the OTW will generate a much needed \$1.3 million for New Jersey purses. The proposed OTW will enhance New Jersey’s racing industry, improve this State’s competitive position with regard to neighboring racing states and positively impact ancillary industries and open space considerations. As a result, I find that the applicants have met the burden imposed upon them by N.J.S.A. 5:5-133.

Finally, N.J.S.A. 5:5-131 requires that the Commission consider whether the establishment of the OTW at its proposed location “would be inimical to the interests of another planned or established off-track wagering facility, or to a State racetrack.” As indicated by Executive Director Zanzuccki, the NJTHA presented evidence which pinpointed the locations of the existing OTWs and racetracks. The racing entity closest to the proposed Hillsborough site is the Woodbridge OTW which is approximately 20 miles away. The NJTHA holds the license for the Woodbridge OTW and takes the position that the proposed Hillsborough OTW will not be inimical to the Woodbridge OTW. No permit holder or OTW licensee has taken the position that the Hillsborough OTW will be inimical to their racetrack or OTW.

As the Executive Director mentioned, citing testimony from the public hearing that numerous patrons of Monmouth Park live within a ten-mile radius of Hillsborough, some of the comments which the Commission received argued that the proposed OTW will be inimical to both the Woodbridge OTW and Monmouth Park. Counsel for the NJTHA responded to these comments in a timely-filed post-hearing submission. The submission took the position that if the Hillsborough OTW is allowed to open, the number of people who already do wager at the Woodbridge OTW or Monmouth Park will have a more convenient location to travel to and the probability is they will spend even more money than they presently do. Pointing out that the Western part of the State has no viable opportunities for wagering on horse racing, the NJTHA’s submission asserts that this untapped market will provide a significant net increase to the wagering handle.

Based upon the record before us, I find that the applicants have established by clear and convincing evidence that the proposed Hillsborough OTW will not be inimical to the interests of another OTW or racetrack.

As a result, relying upon all of the proposed findings set forth above, I MOVE that the Commission grant an initial off-track wagering license to the Authority as applied for. The grant of this off-track wagering license shall be subject to the conditions set forth in the draft Final Determination and Order provided by staff which are consistent with the conditions imposed upon all of the off-track wagering licensees. I would note that in response to the comments received, certain conditions will be imposed which require that once the Hillsborough OTW is operational, the off-track wagering licensee will be required to file a document request with the Hillsborough Township Police Department Records Bureau to obtain Police Reports and Motor Vehicle Accident Reports related to traffic, parking, disorderly persons and criminal violations and motor vehicle accidents occurring within one-half mile of the OTW’s location. The off-track wagering licensee shall be required to file a summary report setting forth the details of these Police Reports and Motor Vehicle Accident Reports with the Commission every three months.

Second, I MOVE that the Commission approve the transfer or assignment of the initial off-track wagering license from the Authority to the NJTHA, subject to the conditions set forth in the Final Determination and Order.

Third, I MOVE that the Commission approve the NJTHA's application to enter into a written contract or agreement with Darby Development, LLC to conduct or operate the off-track wagering facility for it and to act as the NJTHA's agent in all off-track wagering matters approved by the Commission. The Commission's approval shall also be subject to the conditions set forth in the Final Determination and Order.

Finally, I MOVE that the Commission direct the Executive Director to conform the draft Final Determination and Order provided to the Commission to reflect the actions taken at this meeting and to execute the Final Determination and Order on our behalf. The Final Determination and Order shall of course be subject to the review and approval of the Attorney General as required by N.J.S.A. 5:5-133.

This concludes my motion.”

It was noticed by the Commission that a revised motion had been prepared and the Chairman was reading from the prior version. The Executive Director asked if the Chairman would amend her motion to include the following two paragraphs

Chairman Clyne agreed and amended her motion to add the following two paragraphs:

“Finally, the Commission voted to extend the record from the public hearing through and including August 4, 2015 to allow for the acceptance of contractual documents filed by the NJTHA that supplement its application and four additional public comments. We just received these documents today and need time to review them. I MOVE that the Commission direct the Executive Director to conform the draft Final Determination and Order provided to the Commission to reflect the actions taken at this meeting and to execute the Final Determination and Order on our behalf under the following conditions which are also part of this motion.

If any Commissioner believes that the documents received today would alter his or her vote, the Commissioner shall contact the Executive Director and inform him of this fact on or before Sunday, September 20, 2015. If the Executive Director is contacted by a number of Commissioners that would materially alter the result of the vote on this motion, the Executive Director shall convene a public meeting of this Commission, which may be

by telephone, on or before the September 28, 2015 deadline for acting on the applications. If the Executive Director is not contacted by a number of Commissioners that would materially alter the result of the vote on this motion, then the Executive Director shall execute the conformed Final Determination and Order on our behalf on Monday, September 21, 2015. The Final Determination and Order shall, of course, be subject to the review and approval of Attorney General as required by N.J.S.A. 5:5-133.”

Commissioner DePaola seconded the motion and all Commissioners voted yes.

The Racing Commission then received comments from the following persons who were in attendance at the meeting:

Assemblyman Jack Ciattarelli
Susan Gulliford, Hillsborough, New Jersey
Brian Tarantino, Hillsborough
Maria Janucik, Hillsborough, New Jersey
Frederick Schneider, Local 108
Mayor Tomson, Hillsborough, New Jersey
Darin Zoccali, New Meadowlands Racetrack

The Racing Commission thanked those persons for their comments.

CONSIDER APPROVAL OF THE WAGERING FORMAT AND RACING OFFICIALS FOR THE 2015 MONMOUTH PARK AT THE MEADOWLANDS THOROUGHBRED FALL RACE MEET COMMENCING ON OCTOBER 1 THROUGH OCTOBER 31, 2015

Commissioner Gruskos motioned to approve the 2015 format with the exclusion of offering exchange wagering on the Monmouth Park at the Meadowlands fall race meet.

Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE WAGERING FORMAT AND RACING OFFICIALS FOR NEW MEADOWLANDS RACING’S HARNESS 2015 FALL MEET COMMENCING ON NOVEMBER 13 THROUGH DECEMBER 26, 2015

Commissioner DePaola motioned to approve the 2015 New Meadowlands’ harness fall meet. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER DISTRIBUTION OF THE CASINO SIMULCASTING SPECIAL FUND MONIES ACCUMULATED IN 2014 IN THE AMOUNT OF \$535,768.11

Commissioner Roselle recused himself from this agenda item.

The Racing Commission provided the applicants with the opportunity to verbally supplement their written submissions previously filed with the Commission.

None of the parties supplemented their submissions except for Monmouth Park. Vice President William Knauf stated that the racetrack is requesting a significant portion of the casino simulcasting special fund money due to the track continuing to be negatively affected by casino simulcasting. Under the point that Monmouth Park is eligible under the financial distress category, Mr. Knauf indicated that in 2014, the racetrack showed a loss of approximately \$5 million dollars, he noted that Monmouth Park is the only track in New Jersey supporting a backstretch area and he pointed out the enormous financial burden associated with that. Mr. Knauf stated that the racetrack has not had the financial resources to augment capital projects, and this is certainly an area where the money will be utilized.

Executive Director Zanzuccki indicated that staff has asked for legal advice concerning the distribution of funds to Atlantic City Race Course and inquired of the parties what effect, if any, would a delay in the distribution of the CSSF funds have on each racetrack and horsemen's association. It was the consensus of the interested parties that a delay in distributing the funds would not have a significant impact on the operation of the racetracks or horsemen's associations.

Commissioner DePaola made a motion to go forward with the distribution of funds as recommended by the Committee but to delay the consideration of funds to Atlantic City Race Course, pending receipt of legal advice before that matter would be considered at a future meeting. Commissioner Arnone seconded the motion and all Commissioners voted yes.

Executive Director Zanzuccki stated that in advance of the meeting, each Commissioner has been provided with materials and correspondence from all racetracks and horsemen's groups regarding the aforementioned distributions submitted for the year in question.

The Executive Director indicated that the Commission received written requests for CSSF monies seeking the following amounts:

- Monmouth Park (“Monmouth”) - “substantial amount”;
- Meadowlands Racetrack (“Meadowlands”) - “Appropriate share”;
- Freehold Raceway (“Freehold”) - \$250,000;
- Thoroughbred Breeders’ Association of New Jersey (“TBA”) - \$133,942;
- New Jersey Thoroughbred Horsemen’s Association, Inc. (“THA”) - 50% of available funds after distribution of priority d1 and d2;
- Standardbred Breeders & Owners Association of New Jersey, Inc. (“SBOA”) - \$200,000 + 7,500 for retired racehorses; and
- Atlantic City Race Course (“ACRC”) - \$482,191.

The Executive Director noted that every year, the racetracks and horsemen’s groups set forth compassionate need for casino simulcasting special fund monies. However, the Commission cannot logistically fulfill the requests of each interest group for any single year due to the fact that we are working with limited funds. This Fund continues to decline year after year with the 2014 amount being almost \$290,000 (35% decline) less than the 2013 amount, since only one casino offered simulcasting in 2014.

The Executive Director added that although the Commission can allocate these monies as it considers appropriate, in exercising its discretion, it must follow the statutory guidelines and priorities established by law. The Commission must give the highest priority to any racetrack which demonstrates that its financial well-being has been negatively affected by casino simulcasting, then to any racetrack which demonstrates that it is financially distressed, then to any horsemen’s organization which will use the money to fund a project that the Commission determines will be beneficial to the racing industry, and finally, if there are any monies left following our application of these tiered levels of priority, the remaining monies are required to be equally divided amongst each racetrack.

The Executive Director stated that the CSSF Committee met on September 10, 2015 to review all documentation and reasoning regarding this matter in order to report back to the Commissioners. The Committee’s members are Commissioners Aponte, Arnone and Chairman Clyne.

The Executive Director indicated that Chairman Clyne asked him to report the committee's findings. The Executive Director stated that the total amount to be distributed is \$535,768.11 and noted that the statute governing distribution of Casino Simulcasting Special Funds designates an order of priority by which allocation of these funds to racetracks and horsemen's groups can and should be made.

The Executive Director pointed out that the Commission must start with Priority Category No. 1 - any racetrack that can demonstrate to the Commission that its financial well-being is negatively affected by casino simulcasting. The Executive Director reported the Committee's findings that the one casino simulcasting facility and casino gaming in general continue to negatively impact our four racetracks. As the Commission determined in the past, based on gaming and transportation reports, casinos market to all areas of the State, provide transportation services and offer incentives to visit Atlantic City such as free rooms and beverages. Because of these statewide marketing efforts, a racetrack's proximity to the Atlantic City casinos is not a determining factor in this priority. In addition, there is substantial competition for the gaming dollar from facilities in surrounding jurisdictions that impacts the revenues for New Jersey racetracks and casinos. The Committee reported that all racetracks have submitted documentation and/or testified having been negatively impacted by casino simulcasting and historically the Commission has found this to be the case when previously allocating these funds.

With the exception of Atlantic City Race Course which was removed from consideration today, the Executive Director asked whether the Commissioners agree that all racetracks are negatively affected by casino simulcasting. All Racing Commissioners were in agreement with the Committee's findings that, with the exception of Atlantic City, all racetracks are negatively affected by casino simulcasting.

The Commission moved to Priority Category No. 2 - any racetrack in this State which the Commission finds to be financially distressed. The Committee reported that we all are aware of the financial hardships facing the horse racing industry in New Jersey. All three racetracks, we are excluding Atlantic City, have stated that they are financially distressed. It is believed that they all have successfully stated their financial distress and thus all racetracks qualify for funds under this priority.

The Executive Director asked whether the Commissioners agree, with the exception of the Atlantic City Race Course, that all of the racetracks are financially distressed and qualify. All of the Commissioners were in agreement of the Committee's determination that all racetracks are financially distressed and qualify for funds.

The Commission then discussed allocations among the affected racetracks under the top two priorities. The Executive Director, reading the Committee's findings, reported that as each year passes, the regional draw of Atlantic City casinos and the impact of casino simulcasting on our racetracks becomes less related to a particular racetrack's proximity to Atlantic City. This was documented in the Commission's 1999 distribution and also upheld by the Appellate Division in 2003. Following a careful review of all facts in the record, it is our belief that the most viable racetracks are affected the greatest and those that offer meaningful and substantial racing opportunities should receive the largest distribution of these funds. Atlantic City Race Course has maintained in its correspondence that they are impacted to the greatest degree due to their close proximity to the Atlantic City casinos. We feel that Atlantic City Race Course's six-day live race meet does not represent a significant and viable racing opportunity when compared to the State's other racetracks - Monmouth Park/Meadowlands Thoroughbred: 71 dates; Freehold Raceway: 108 dates; New Meadowlands Harness: 82 dates. Yet, Atlantic City Race Course continues to request 90% of the funds.

The Executive Director asked if the Commissioners agree that Atlantic City Race Course should not receive the bulk of the funds. All Commissioners were in agreement with the Committee's findings that Atlantic City should not receive the bulk of the funds.

The Executive Director stated that with the foregoing facts in mind and giving due consideration to the reduced funds accumulated in 2014, the Committee proposes that under the first two priorities, the four racetracks receive 80% of the available funds to be distributed as follows: Monmouth Park, New Meadowlands and Freehold to receive 70% of the funds in equal amounts of \$125,012 each.

Noting again that the Commission was tabling any consideration and the recommendation of Atlantic City Race Course, the Executive Director stated that the Committee, at the time, had recommended that Atlantic City receive the other 10% of that amount which would be \$53,576.80.

The Commission moved to Priority Category No. 3 - any horsemen's organization which will use the money to fund a project which the Commission determines will be beneficial to the racing industry. The Executive Director stated that based on its review of their submissions, the Committee believes the three horsemen's associations which have submitted requests for funds qualify, for the most part, since they intend to use the funds allotted for the benefit of the industry by helping fund health and welfare programs for horsemen and to help sustain and or increase New Jersey Breeders' awards programs. The

SBOA submitted a request to fund its Health Benefits Program and to also fund standardbred horse retirement programs. The amount requested is \$200,000 for its Health Benefits Program and \$7,500 for funding standardbred retirement programs. The Executive Director asked the Commissioners if the SBOA's proposed uses of money are appropriate and comply with the regulations. All of the Commissioners were in agreement with the Committee's finding that the SBOA's proposed use of funds was appropriate and complied with the regulations.

The Executive Director stated that the THA submitted requests for funds for use in its Backstretch Health and Welfare program and noted that the Committee recommends the Commission grant an appropriate share of these funds for this use to assist in maintaining current levels of coverage. The Executive Director asked if the Commissioners believe the funds should be used for this purpose. All Commissioners were in agreement with the Committee's determination to grant an appropriate share of funds for use in maintaining current levels of Backstretch Health and Welfare coverage.

The Executive Director stated that the TBA requests \$133,942 to provide monies to cover the payment of 2015 breeders awards. He noted that the Commission has always found this to be a viable use of these funds and that the Committee recommends the Commission award an appropriate amount to support their breeders' awards program. The Executive Director asked whether the Commissioners agree with this use of funds. All of the Commissioners were in agreement with the determination of the Committee to award an appropriation of funds to support the breeders' awards program.

The Executive Director pointed out that after allocating funding under Priority Categories 1 and 2, there remains a balance of \$107,153.60 for distribution under Priority Category No. 3. He stated the Committee recommends that the funds be divided equally by breed. Each breed provides significant live racing opportunities, each provides opportunities for employment, each provides substantial open space by virtue of the land devoted to horse breeding and training and each provides recreational opportunities for our residents.

The Executive Director asked whether the Commissioners agree that the funds should be divided equally by breed. Commissioner Gruskos was not in agreement and stated that he believes that the distribution should be proportionate based on the dollars wagered on each breed. He stated that he does not believe Monmouth Park is the only thoroughbred entity because the Meadowlands qualifies as a thoroughbred racetrack. The Executive Director clarified that the Commissioners were considering Priority Category No. 3, which is the distribution of funds among horsemen's organizations and not the distribution of

monies among the racetracks. The Executive Director noted that the Commission was considering the Committee's proposal that 20% of the fund be divided equally between standardbred entities and thoroughbred entities for the proposed uses which comply with the Commission's regulations. Commissioner Gruskos indicated his agreement with the horsemen's groups' use of the funds, but stated that he does not agree with the distribution of the funds under Priority Category Nos. 1 and 2.

Following this discussion, all Commissioners were in agreement with the Committee's findings that an even distribution between the standardbred horsemen's association and the thoroughbred horsemen's associations is appropriate.

The Executive Director pointed out that the standardbreds are represented by one organization, the SBOA. The thoroughbreds are represented by two groups, the THA and the TBA. He stated that the Committee recommends that half of the remaining funds should go to the SBOA, which is \$53,576.80 of which \$5,000 can be used for funding retired racehorse programs, and the remaining funds to be split evenly between the two thoroughbred horsemen's organizations with \$26,788.40 to the THA and \$26,788.40 to the TBA.

The Executive Director stated that no funds remain for distribution under Priority Category No. 4 - for all racetracks in this State on an equal basis.

The Executive Director noted that the Committee had requested that staff prepare a draft motion that reflected its recommendations for distribution of 2014 Casino Simulcasting Special Funds.

Chairman Clyne made the following motion:

"Regarding the 2014 accumulated fund monies, which totals \$535,768.11, I would note that this represents a 35% percent decrease in the funds available for distribution compared to the prior year. For comparison purposes, in 1999 this fund had over \$2.2 million available for distribution.

We have received applications from each racetrack, and from each horsemen's group. In these applications, all of the racetracks have requested that funds be distributed to them pursuant to N.J.S.A. 5:12-205d(1) (the racetrack can demonstrate that its financial well-being has been negatively affected by casino simulcasting) and 205d(2) (the Commission finds the racetrack to be financially distressed).

Specifically, the Commission has received written requests for CSSF's seeking the following amounts: Monmouth Park - substantial amount; Meadowlands Racetrack - "Appropriate share"; Freehold Raceway - \$250,000; and Atlantic City Race Course, which we are not considering today, has asked for \$482,191.

Under priority 205d(3) (any horsemen's organization which will use the money to fund a project which the Commission determines will be beneficial to the racing industry), the following are the written requests for CSSF monies from horsemen's groups. New Jersey Thoroughbred Horsemen's Association, Inc. - No specific amount. It requests balance after distribution of priority d1 and d2. Standardbred Breeders & Owners Association of New Jersey, Inc. - \$200,000 plus \$7,500. Thoroughbred Breeders' Association of New Jersey - \$133,942.

At this September 16, 2015 meeting, the Commission gave all of the interested parties the opportunity to provide additional, verbal comments regarding the distribution of the Casino Simulcasting Special Funds. The representative for Monmouth Park gave additional comment explaining casino simulcasting's negative effect on its operations and noted that it continues to be financially distressed.

The Commission has reviewed the written documents and heard oral presentations and determines that all racetracks presented documentation and statements that they have suffered a negative financial impact from Atlantic City casino simulcasting and as in the past, the Commission agrees that all racetracks qualify under N.J.S.A. 5:12-205d(1), the highest priority. All racetracks have documented again that they are financially distressed. The Commission agrees all racetracks qualify under N.J.S.A. 5:12-205d(2), the second highest priority. The horsemen's groups have again properly applied for funds under N.J.S.A. 5:12-205d(3) the third highest priority and, for the most part, they have suggested uses of the funds that could be considered appropriate.

Based on the discussions at this meeting and the CSSF Committee recommendations, I believe that the Meadowlands, Monmouth Park, Freehold racetracks qualify under priority 1 and 2 and I make a motion to distribute to the racetracks the following: Monmouth Park \$125,012.55, Meadowlands \$125,012.56 and Freehold \$125,012.60, pursuant to paragraphs d(1) and d(2) of the statute; and ACRC (tabled) to receive \$53,576.80, pursuant to paragraph d(1) and d(2) to the statute.

Next is the third priority category and \$107,153.60 remains available after the above distributions under the higher priority provisions. The third priority category authorizes the Commission to allocate funds, in the amount it deems appropriate, to any horsemen's group which will use the money to fund a project beneficial to racing. I believe that the remaining funds be shared by breed with the SBOA receiving 50 percent and the THA and TBA 25 percent each.

Accordingly, the funds I propose for distribution to the SBOA may be used for their health and welfare programs to cover ever increasing health insurance costs and up to \$5,000 may be used for funding the Standardbred Retirement Program. As concerns the TBA, it is expected that the TBA will use any allocated monies to fund its breeders award programs. The THA will use its funds for its health and benefits program.

Based on the discussions at this meeting and the CSSF Committee recommendations, I make a motion to distribute to the horsemen's groups the following: \$53,576.80 to the SBOA, as the horsemen's organization representing the standardbred horsemen; and

\$26,788.40 each to the THA and TBA, as the horsemen's organizations representing the thoroughbred horsemen."

Commissioner Abbatiello seconded the motion and all Commissioners voted yes with the exception of Commissioner Gruskos who voted no and Commissioner Roselle who was recused.

Commissioner Gruskos then needed to leave the meeting due to another commitment.

Dennis Drazin, Esq. asked to be heard and stated that if the Commission is going to consider the Atlantic City Race Course distribution after legal advice, some consideration be given to allocating that money to offset the thoroughbred expenses for Monmouth's meet at the Meadowlands.

CONSIDER RATIFICATION OF THE FOLLOWING HANDICAPPING CONTESTS:

- a) National Handicapping Championship handicapping contest held at Monmouth Park on Saturday, July 25, 2015;
- b) National Handicapping Championship handicapping contest held at Monmouth Park on Saturday, August 29, 2015; and

- c) Monmouth Park and Woodbine Handicapping Challenge held at Monmouth Park on Sunday, September 13, 2015.

Commissioner Abbatiello made a motion to approve ratification of the noted handicapping contests. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER A PROPOSED SETTLEMENT IN THE MATTER OF RONALD ABRAMS v. NEW JERSEY RACING COMMISSION, OAL DKT. NUMBER RAC 13694-2014S

Chairman Clyne made a motion to approve the settlement in the matter of Ronald Abrams which includes a 75-day license suspension (with credit for two days served) and \$1,000 fine for violation of N.J.A.C. 13:70-1.15 and 13:70-14A.8. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

AGENDA ITEMS FOR DISCUSSION AND INFORMATION

The Commission acknowledged receipt of the New Jersey Jockey's Health and Welfare Trust audited financial statements for the 2014 calendar year.

Darrin Zoccali, Director of Racing Operations at the New Meadowlands Racetrack, requested that there be a comment period provided to the interested parties in regard to the issue of the distribution of Casino Simulcasting Special Fund monies to Atlantic City Race Course.

Commissioner DePaola thanked the management of Monmouth Park and the New Meadowlands Racetracks for hosting the Haskell and Hambletonian events.

Dennis Drazin, Esq., asked for guidance from the Commission as to when exchange wagering will be approved and the Executive Director responded that staff is currently working on the applications.

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

ATTEST:


