

**NEW JERSEY RACING COMMISSION
TUESDAY, MARCH 21, 2017
EGG HARBOR TOWNSHIP MUNICIPAL BUILDING
COURT ROOM
3515 BARGAINTOWN ROAD
EGG HARBOR TOWNSHIP, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Tuesday, March 21, 2017 in the Egg Harbor Township Municipal Court Room located in Egg Harbor Township, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Michael J. Arnone, Commissioner
Peter J. Cofrancesco, III, Commissioner (by phone)
Francis X. Keegan, Jr., Commissioner
Peter T. Roselle, Commissioner (by phone)
Frank Zanzuccki, Executive Director
SDAG George Cohen

The following were absent:

Anthony T. Abbatiello, 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 related to the request of the New Jersey Thoroughbred Horsemen's Association to use purse monies pursuant to N.J.A.C. 5:5-189 to fund workers compensation insurance premiums for thoroughbred horse racing industry employees.
2. Legal advice related to the joint petition of the New Jersey Sports and Exposition Authority and Darby Development, LLC seeking approval pursuant to N.J.A.C. 13:74C-3.5 of an outside certified public accountant being proposed to conduct a comprehensive audit of exchange wagering revenues accumulated during the first year of operation.
3. Legal advice related to the requests of the New Jersey Sports and Exposition Authority, Darby Development, LLC and Betfair US LLC to extend the exchange wagering license, the exchange management agent license and the exchange services agent license from April 18, 2017 to December 31, 2017 pursuant to N.J.A.C. 13:74C-2.1.
4. Legal advice related to the settlement agreement in Jan Henriksen v. New Jersey Racing Commission, OAL Docket No. RAC 13528-2013S.
5. Legal advice related to the settlement agreement in Rebecca A. Linke, VMD v. New Jersey Racing Commission, OAL Docket No. RAC-05294-2016N.
6. Other matters requiring the advice of counsel.

Immediately after this meeting at 7:00 p.m., the Commission is conducting a public hearing. The purpose of this hearing is to allow the Commission to consider the application for an off-track wagering license filed by the New Jersey Sports and Exposition Authority and ACRA Turf Club LLC. The applicants have requested that any license issued to the Authority be transferred to ACRA Turf Club. ACRA Turf Club seeks to establish and operate an off-track wagering facility in an existing Chickie's & Pete's which is located in Egg Harbor Township at 6055 Black Horse Pike.

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

The Commission ended the execution session and Commissioner Keegan moved to reconvene the public session. Chairman Clyne seconded the motion and the Commission concurring, the public session resumed.

CONSIDER APPROVAL OF THE PUBLIC AND EXECUTIVE SESSION MINUTES OF THE JANUARY 18, 2017 COMMISSION MEETING

Commissioner Arnone made a motion to approve the public and executive minutes of the January 18, 2017 meeting. Commissioner Keegan seconded the motion and all Commissioners voted yes.

PURSUANT TO N.J.S.A. 5:5-189, CONSIDER THE REQUEST OF THE NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION TO USE PURSE MONIES TO FUND WORKERS' COMPENSATION INSURANCE PREMIUMS FOR THOROUGHBRED HORSE RACING INDUSTRY EMPLOYEES PURSUANT TO N.J.S.A. 34:15-134

Chairman Clyne made the following motion:

The Commission has considered this issue before. You may recall that at our May 2015 meeting, the Commission approved a THA agreement seeking to use thoroughbred purse money accumulated at Atlantic City Race Course prior to its closure to fund portions of the 2015 and 2016 thoroughbred workers' compensation premiums. In approving the agreement, the Commission found that the use of thoroughbred purse money to pay the cost of the thoroughbred premium "advances, preserves and enhances the overall economic well-being of the thoroughbred horse racing industry in New Jersey." I believe that the same finding is warranted here. As a result, I move that the Commission approve this THA agreement to use \$1,633,000 in thoroughbred purse money to fund the 2017 thoroughbred workers' compensation premium.

Commissioner Keegan seconded the motion and all Commissioners voted yes.

Michael Musto, Executive Director of the NJTHA thanked the Commission and acknowledged how Commission staff were instrumental in resolving this issue.

CONSIDER THE JOINT PETITION OF THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY AND DARBY DEVELOPMENT, LLC SEEKING APPROVAL PURSUANT TO N.J.A.C. 13:74C-3.5 OF AN OUTSIDE CERTIFIED PUBLIC ACCOUNTANT BEING PROPOSED TO CONDUCT A COMPREHENSIVE AUDIT OF EXCHANGE WAGERING REVENUES ACCUMULATED DURING THE FIRST YEAR OF OPERATION

Commissioner Keegan recused himself from this agenda item.

Executive Director Zanzuccki read the following introduction:

“Pursuant to the exchange wagering rules, the Commission must approve the selection of an outside and independent, certified public accountant to conduct a comprehensive audit of exchange wagering revenues. In their Joint Petition, the NJSEA and Darby Development, LLC proposed Perkowski and Associates as the primary candidate and the Churchin Group as the alternative candidate. At our January meeting, the Commission heard from both candidates. Both firms appear to be qualified to perform the audit and both firms have taken the position in their written filings, and again orally at the January meeting, that they do not have any conflicts of interest that would preclude them from performing the audit.

Mr. Perkowski disclosed that the firm provides audit and tax compliance services for the THA. These services include the preparation of the THA’s annual audited financial statements. As the Commissioners are aware, the THA and Darby are parties to the Exchange Wagering Agreement with Betfair US LLC. This Agreement sets forth terms and conditions for Betfair’s acceptance of exchange wagers on races run at Monmouth Park and other racetracks.

At the January meeting, Mr. Perkowski stated that he does not believe that the services his firm provides for the THA create a conflict of interest or compromises the firm’s independence. I asked Mr. Perkowski if he would be able to screen off the accountants who work on the THA’s audit from the accountants who would work on the exchange wagering audit. Mr. Perkowski indicated that although he could segregate the executives on each audit, he would not be able to “separate the people that are doing the actual audit work on a day-to-day basis.” He also indicated that he, as “the top guy,” would have to be involved in both audits.

The Churchin Group disclosed that the firm provides tax return preparation services to clients who own thoroughbreds and participate in horse racing in New Jersey. Mr. Snowden, the Managing Partner, disclosed that he provided internal control consultation services for the NJSEA's Big M Club Award Program in 2005 when he was employed by another accounting firm. The Churchin Group did not otherwise report any potential conflicts.

This matter is now before you to approve the selection of one of the two proposed accounting firms.”

Chairman Clyne made the following motion:

“The Commission would like to thank both accounting firms for attending the January meeting and answering questions. Both firms clearly appear to be qualified to perform the audit. The Joint Petitioners proposed the Perkowski firm as their primary candidate. However, Perkowski’s ongoing and long-standing relationship with the THA causes certain concerns.

The THA is a party to the Exchange Wagering Agreement. Although this may not constitute an actual conflict of interest, I think it does, at a minimum, create the appearance of a conflict. At our January meeting, Mr. Perkowski indicated that due to the firm’s small size, he would not be able to separate all of the people working on the THA audit from those who would be working on the exchange wagering audit. He would also have to work on both audits.

The Churchin Group, which the Joint Petitioners proposed as the alternative candidate, does not present any issues related to its independence. Churchin's tax preparation services provided to race horse owners licensed by the Commission and the services provided to the NJSEA by its managing partner while employed by another accounting firm 12 years ago would not preclude them from performing the audit. As a result, I move that the Commission approve The Churchin Group as the outside and independent, certified public accounting firm which will conduct the comprehensive audit of the exchange wagering revenues.”

Commissioner Arnone seconded the motion and all Commissioners voted yes with the exception of Commissioner Keegan who was recused.

CONSIDER THE REQUESTS OF THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY, DARBY DEVELOPMENT, LLC AND BETFAIR US LLC TO EXTEND THE EXCHANGE WAGERING LICENSE, THE EXCHANGE MANAGEMENT AGENT LICENSE AND THE EXCHANGE SERVICES AGENT LICENSE FROM APRIL 18, 2017 TO DECEMBER 31, 2017 PURSUANT TO N.J.A.C. 13:74C-2.1

The Executive Director indicated staff recommends approval subject to the conditions set forth in the Commission's November 19, 2015 Final Determination and Order and noted that any such extension shall be subject to the Attorney General's approval.

Chairman Clyne made a motion to approve this extension of the licenses until the end of the calendar year subject to the conditions set forth in the Commission's November 19, 2015 Final Determination and Order. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER FREEHOLD RACEWAY'S REQUEST AND THE NEW MEADOWLAND'S REQUEST TO CANCEL LIVE RACING ON FEBRUARY 9, 2017 DUE TO SEVERE WEATHER CONDITIONS

The Executive Director documented the severe weather conditions existing on February 9, 2017. It was noted that the loss of the February 9th race day does not impact the racetracks' ability to participate in casino simulcasting.

Chairman Clyne motioned to approve the cancellation request. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF DARBY DEVELOPMENT, LLC d.b.a. MONMOUTH PARK FOR APPROVAL OF DEPARTMENT HEADS, RACING OFFICIALS, RACE FORMAT, DAILY WAGERING FORMAT, POST-TIME, ETC. FOR MONMOUTH PARK'S 2017 RACE MEETING

Executive Director Zanzuccki asked Monmouth Park representative John Heims, Esq. if Monmouth Park is planning to open on May 13th and whether the THA will race at the Meadowlands on May 5th and 6th. Mr. Heims replied that Monmouth Park will open on May 13th. He indicated that Darby Development will be submitting a request to change the May 5th and May 6th dates at the Meadowlands.

Chairman Clyne motioned to approved the race format for Monmouth Park. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE ADVERTISEMENT FOR PUBLIC COMMENT IN THE NEW JERSEY REGISTER OF THE READOPTION OF THE RULES AT N.J.A.C. FOR THE SELF-EXCLUSION LIST 13:74A WHICH ARE DUE TO EXPIRE ON APRIL 14, 2017

Chairman Clyne motioned to approve the advertisement of the rules for readoption. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE ADVERTISEMENT, FOR PUBLIC COMMENT IN THE NEW JERSEY REGISTER, OF PROPOSED NEW THOROUGHBRED AND STANDARD BRED RULES N.J.A.C. 13:70-14A.18 AND N.J.A.C. 13:71-23.17 (SHOCK WAVE THERAPY) AND N.J.A.C. 13:70-14A.18A AND N.J.A.C. 13:71-23.17A (PENALTIES FOR VIOLATING THE SHOCK WAVE THERAPY RULES) AS WELL AS PROPOSED AMENDMENTS TO N.J.A.C. 13:70-2.1 (DEFINITIONS)

Commissioner Keegan motioned to approve the advertisement of the rules as a proposal. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER THE NEW JERSEY JOCKEY'S HEALTH AND WELFARE TRUST ESTIMATED BUDGET FOR 2017/2018

Chairman Clyne motioned to approve the 2017/2018 Jockey's Health and Welfare Trust budget of \$221,179. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE SETTLEMENT AGREEMENT IN JAN HENRIKSEN V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 13528-2013S

Commissioner Arnone made a motion to approve the settlement agreement in the matter of Jan Henriksen which includes a 3-year period of license ineligibility. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE SETTLEMENT AGREEMENT IN REBECCA A. LINKE, VMD V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC-05294-2016N

Chairman Clyne motioned to approve the settlement agreement in the matter of Rebecca A. Linke which includes a 20-day license suspension and a \$4,000 fine. Commissioner Keegan seconded the motion and all Commissioners voted yes.

AGENDA ITEMS FOR DISCUSSION AND INFORMATION

The Commission acknowledged the receipt of the audited financial statements for the year ended December 31, 2016 of the Thoroughbred Breeder's Association, and the Standardbred Breeders' & Owners' Association

The Commission recognized Commissioner Peter J. Cofrancesco, III for his induction into the American Quarterhorse Hall of Fame.

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

After the conclusion of the meeting, a public hearing was conducted at 7:00 p.m. At the public hearing, the Commission accepted information and public comments regarding the application filed by the New Jersey Sports and Exposition Authority and ACRA Turf Club, LLC seeking an initial license to operate an off-track wagering facility in the Chickie's & Pete's located at 6055 Black Horse Pike, Egg harbor Township, New Jersey.

ATTEST:



Executive Director Frank Zanzuccki