

**NEW JERSEY RACING COMMISSION
WEDNESDAY, JULY 19, 2017
“LIBRARY ROOM”
MONMOUTH PARK
OCEANPORT, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, July 19, 2017 in the Library Room, located at Monmouth Park, Oceanport, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Michael J. Arnone, Commissioner
Peter J. Cofrancesco, III, Commissioner
John A. Hoffman, Commissioner
Francis X. Keegan, Jr., Commissioner
Frank Zanzuccki, Executive Director
SDAG George Cohen

The following were absent:

Anthony T. Abbatiello, Commissioner
Peter T. Roselle, 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 N.J.S.A. 10:4-12(b), the Commission will now adjourn to executive session to obtain legal advice protected from disclosure by the attorney-client privilege on the following matters:

1. Consider petition for rulemaking permitting New Jersey residents to place wagers with the New Jersey Account Wagering system while temporarily outside the state of New Jersey;

2. Legal advice related to the settlement agreement in Tara Hynes v. New Jersey Racing Commission;
3. Legal advice related to the initial decision in the matter of Mark Ford v. New Jersey Racing Commission, OAL Docket No. RAC 13611-2014N; and
4. Other matters requiring the advice of counsel.

Discussion of the above matters falls 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."

Commissioner Keegan motioned to adopt the resolution to adjourn. Commissioner Arnone seconded the motion. All of the Commissioners present voted to affirm. The Commission then adjourned to Executive Session.

Chairman Clyne made a motion to adjourn from Executive Session into the Public Session. Commissioner Keegan seconded the motion and the Commissioners voted to affirm. The Executive Session ended.

CONSIDER APPROVAL OF THE PUBLIC AND EXECUTIVE SESSION MINUTES OF THE MAY 17, 2017 COMMISSION MEETING

Commissioner Cofrancesco made a motion to approve the public and executive minutes of the May 17, 2017 public meeting. Commissioner Hoffman seconded the motion and all Commissioners voted yes.

CONSIDER READOPTION OF THE SELF-EXCLUSION LIST RULES AT N.J.A.C. 13:70-74A-1.1 ET SEQ.

Commissioner Keegan motioned to approve the readoption of the Self-Exclusion List rules. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER PETITION FOR RULEMAKING PERMITTING NEW JERSEY RESIDENTS TO PLACE WAGERS WITH THE NEW JERSEY ACCOUNT WAGERING SYSTEM WHILE TEMPORARILY OUTSIDE THE STATE OF NEW JERSEY

Executive Director Zanzuccki stated that upon receipt of this petition, staff requested legal advice and the Commission has received that legal advice today in executive session. Based on that legal advice, this petition must be denied because to do so would be inconsistent with the existing law which requires the system to be an intra-state system only. The Executive Director stated that in addition to the petition, the Commission has received letters of support from Darby Development, LLC and TVG-Betfair which have been circulated to the Commissioners.

Mr. Lewis Stein, the petitioner, was present at the meeting and made the following comments:

Mr. Lewis Stein believed that he set forth in the petition an argument that challenges the legal soundness of the prior position of the Commission. He pointed out that there is no language in the statute enabling act which prohibits accepting wagers while temporarily out of the state in the New Jersey system. Mr. Stein added that there's no logical reason why the people of the state of New Jersey should be denied the availability of access to their accounts because they may be away from for a month or two weeks which results in the people of New Jersey being denied income from New Jersey residents while they are outside the state. He also said that it doesn't make sense because a New Jersey resident cannot obtain entry into any other state's system. Mr. Stein asked for the basis of the Commission's legal position.

Executive Director Zanzuccki stated that the Commission has responded to this question as it is the interpretation of the Commission's counsel that the account wagering system is an intra-state system and that to approve the request would be inconsistent with the law. The Executive Director indicated to Mr. Stein that he has the right to challenge this decision, but the Commission is subject to comply with the existing law as we know it and understand it. As a result of that, the recommendation to the Commission will be to deny the request.

Michael Vukceovich, Director of Regulatory Affairs for Darby Development, LLC, agreed with Mr. Stein's perspective on this issue and thought that the rule-making process would be an opportunity for this matter to receive comments from various members of the public including people of the racing industry and be an opportunity to reevaluate the contents of the law. He added that the denial of this petition would be a great injustice to the New Jersey racing community, racetracks and most particularly the players who we value.

Mr. Stein added that in order to preserve the argument if he has to proceed further, he questioned whether the State can preclude its citizens from entering into contracts with other states as a restraint under the commerce as a constitutional matter and he made this comment only because he does not want someone to say that he did not raise this issue of illegal restraint of trade.

Commissioner Keegan made a motion to deny the petition. Commissioner Cofrancesco seconded the motion and all Commissioners voted yes.

**CONSIDER APPROVAL OF THE OFFICIALS, POOLS, POST-TIMES AND PRICES FOR
ADMISSION, PARKING AND PROGRAMS FOR THE FREEHOLD RACEWAY 2017
SUMMER/FALL MEET**

Chairman Clyne motioned to approve the race format for the Freehold Raceway 2017 summer/fall meet. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE OFFICIALS, POOLS, POST TIMES AND PRICES FOR ADMISSION, PARKING AND PROGRAMS FOR THE MONMOUTH PARK AT THE NEW MEADOWLANDS RACETRACK 2017 THOROUGHBRED RACE MEET

Chairman Clyne motioned to approve the race format for the Monmouth Park at the New Meadowlands Racetrack 2017 thoroughbred meet. Commissioner Keegan seconded the motion and all Commissioners voted yes. Michael Vukceovich, on behalf of Darby Development, LLC, indicated that they will seek approval of the Commission to reduce the Meadowlands' thoroughbred dates if the pending legislation is enacted.

CONSIDER THE REQUEST OF DARBY DEVELOPMENT, LLC FOR AN EXTENSION OF TIME FOR THE FILING OF THE AUDIT OF THE EXCHANGE WAGERING REVENUES

Commissioner Cofrancesco made a motion to approve the extension of time for the filing of the exchange wagering revenue audit. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER THE SETTLEMENT AGREEMENT IN TARA HYNES V. NEW JERSEY RACING COMMISSION

Commissioner Cofrancesco motioned to approve the settlement agreement in the Tara Hynes matter. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE INITIAL DECISION IN THE MATTER OF MARK FORD V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 13611-2014N

Executive Director Zanzuccki noted stated that Dennis Dowd, Esq., attorney for Mark Ford requested to be heard, however, according to Commission policy, no additional comments can be permitted as the record is closed.

Chairman Clyne made a motion to accept the initial decision in the Mark Ford matter. Commissioner Keegan seconded the motion and all Commissioners voted yes.

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.

ATTEST:



Executive Director Frank Zanzuccki