

**NEW JERSEY RACING COMMISSION
FRIDAY, JULY 29, 2011
LIBRARY ROOM
MONMOUTH PARK
OCEANPORT, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Friday, July 29, 2011, in the Library Room of Monmouth Park, located in Oceanport, New Jersey.

The following were present:

Dennis A. Drazin, Chairman
Anthony T. Abbatiello, Commissioner
Manny E. Aponte, Commissioner
Francis X. Keegan, Jr., Commissioner
Frank Zanzuccki, Executive Director
DAG Judith A. Nason

The following were absent:

Anthony R. Caputo, Commissioner
Peter J. Cofrancesco, III, Commissioner

Executive Director Frank Zanzuccki read the following statement:

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

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

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

1. Legal advice concerning the application of Monmouth Park Racing, LLC (Morris Bailey is the sole member of Monmouth Park & Entertainment, LLC, who, in turn, is the sole member of the Monmouth Park Racing, LLC) to acquire a Permit to operate Monmouth Park Racetrack, pursuant to a Memorandum of Understanding (“MOU”) entered into by Morris Bailey and the New Jersey Sports & Exposition Authority (“NJSEA”), the current racing permit holder for Monmouth Park Racetrack, to be supplemented by a lease agreement to be entered into between the NJSEA and the applicant.
 - a) Subject to any Racing Commission approval regarding item 4 above, consider the application of Monmouth Park Racing, LLC to transmit and receive, at Monmouth Park Racetrack, interstate and intrastate simulcast horse race meetings/races to and from all horse racing racetracks/outlets that are presently approved for the permit holder Monmouth Park Racetrack.
 - b) Subject to any Racing Commission approval regarding item 4 above, consider the application of Monmouth Park Racing, LLC, --to participate in casino simulcasting to the same extent that is presently approved for the permit holder at Monmouth Park Racetrack.
 - c) Subject to any Racing Commission approval regarding item 4 above, consider the application and/or petition of Monmouth Park OTW, LLC (Morris Bailey is the sole member of Monmouth Park & Entertainment, LLC, who, in turn, is the sole member of Monmouth Park OTW, LLC), on the effective date that Monmouth Park Racing, LLC assumes operational control of Monmouth Park Racetrack, for Monmouth Park OTW, LLC (or any entity controlled by Monmouth Park & Entertainment, LLC) to be issued a permit authorizing it to assume operation and control of Favorites at Woodbridge, an Off-Track Wagering Facility pursuant to an assignment by the NJSEA.
 - d) Subject to any Racing Commission approval regarding agenda item 4 above, consider whether Monmouth Park Account Wagering, LLC (Morris Bailey is the sole member of Monmouth Park & Entertainment, LLC, who, in turn, is the sole member of Monmouth Park Account Wagering, LLC), is suitable as a “qualifier” to the account wagering license held by the New Jersey Sports and Exposition Authority, and if so, whether Monmouth Park Account Wagering, LLC, may therefore, acquire an interest related to the account wagering licensee (limited to the revenue share generated by said licensee as set forth in the above-referenced Memorandum of Understanding between the NJSEA and Monmouth Park Racing, LLC).

2. Legal advice concerning the distribution of the Casino Simulcasting Special Fund monies (accumulated in 2010) pursuant to N.J.S.A. 5:12-205d.
3. Legal advice concerning various personnel matters.
4. Legal advice concerning the status of pending legal matters.
5. Other matters requiring the legal advice of counsel.

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 her ethical duties as a lawyer."

Chairman Drazin motioned to adopt the resolution to adjourn. Commissioner Keegan seconded the motion and the Commission adjourned to Executive Session.

The Commission ended the executive session and the public session resumed.

CONSIDER APPROVAL OF THE MINUTES OF THE PUBLIC AND EXECUTIVE SESSIONS OF THE JUNE 29, 2011 COMMISSION MEETING

Chairman Drazin made a motion to approve the public and executive session minutes of the June 29, 2011 public meeting (with the exception of the item vetoed by the Governor), subject to the amendment discussed in the executive session. Commissioner Keegan seconded the motion and all Commissioners voted yes with the exception of Commissioner Aponte who abstained.

CONSIDER APPROVAL OF THE BILLS

Commissioner Abbatiello made a motion to approve the bills as certified to by staff. Commissioner Keegan seconded the motion and all Commissioners voted to approve the bills as certified to by staff.

CONSIDER THE APPLICATION OF MONMOUTH PARK RACING, LLC (MORRIS BAILEY IS THE SOLE MEMBER OF MONMOUTH PARK & ENTERTAINMENT, LLC, WHO, IN TURN, IS THE SOLE MEMBER OF THE MONMOUTH PARK RACING, LLC) TO ACQUIRE A PERMIT TO OPERATE MONMOUTH PARK RACETRACK, PURSUANT TO A MEMORANDUM OF UNDERSTANDING ("MOU") ENTERED INTO BY MORRIS BAILEY AND THE NEW JERSEY SPORTS & EXPOSITION AUTHORITY ("NJSEA"), THE CURRENT RACING PERMIT HOLDER FOR MONMOUTH PARK RACETRACK, TO BE SUPPLEMENTED BY A LEASE AGREEMENT TO BE ENTERED INTO BETWEEN THE NJSEA AND THE APPLICANT

- a) Subject to any Racing Commission approval regarding item 4 above, consider the application of Monmouth Park Racing, LLC to transmit and receive, at Monmouth Park Racetrack, interstate and intrastate simulcast horse race meetings/races to and from all horse racing racetracks/outlets that are presently approved for the permit holder Monmouth Park Racetrack.
- b) Subject to any Racing Commission approval regarding item 4 above, consider the application of Monmouth Park Racing, LLC, --to participate in casino simulcasting to the same extent that is presently approved for the permit holder at Monmouth Park Racetrack.
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- d) Subject to any Racing Commission approval regarding agenda item 4 above, consider whether Monmouth Park Account Wagering, LLC (Morris Bailey is the sole member of Monmouth Park & Entertainment, LLC, who, in turn, is the sole member of Monmouth Park Account Wagering, LLC), is suitable as a “qualifier” to the account wagering license held by the New Jersey Sports and Exposition Authority, and if so, whether Monmouth Park Account Wagering, LLC, may therefore, acquire an interest related to the account wagering licensee (limited to the revenue share generated by said licensee as set forth in the above-referenced Memorandum of Understanding between the NJSEA and Monmouth Park Racing, LLC).

Commissioner Abbatiello made a motion to table this matter and to have the item rescheduled for consideration by the Commission within a two-week period. Commissioner Keegan seconded the motion and all Commissioners voted yes with the exception of Chairman Drazin who abstained.

CONSIDER DISTRIBUTION OF THE CASINO SIMULCASTING SPECIAL FUND MONIES (ACCUMULATED IN 2010) PURSUANT TO N.J.S.A. 5:12-205d

It was noted for the record that Chairman Drazin recused himself from this agenda item, therefore, there was no quorum of Commissioners to consider the matter.

CONSIDER RATIFICATION OF THE APPROVAL GRANTED REGARDING THE FOLLOWING HANDICAPPING CONTESTS:

- a) June 5, 2011 handicapping contest on races from Monmouth Park and Woodbine Racetracks.
- b) June 18, 2011 Meadowlands/Mohawk Racetrack Handicapping Challenge.
- c) July 2, 2011 DRF/NTRA Super Qualifier involving races from Monmouth Park, Belmont Park and Hollywood Park Racetracks.
- d) July 9, 2011 Harness Racing Handicapping Challenge Final Tournament at the Meadowlands Racetrack. (7 Meadowlands races and one race from Balmoral, Mohawk and Tioga Racetracks)

Commissioner Abbatiello motioned to ratify approval granted to the New Jersey Sports and Exposition Authority to conduct the noted handicapping contests. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE BORGATA HOTEL & CASINO SPA TO OFFER A HANDICAPPING CONTEST ON AUGUST 28, 2011, INVOLVING RACES FROM SARATOGA, MONMOUTH PARK AND CALDER

Chairman Drazin motioned to approve the request of the Borgata Hotel & Casino Spa to offer the noted handicapping contest. Commissioner Abbatiello seconded the motion. Chairman Drazin amended the motion to include approval subject to conditions by staff. Commissioner Keegan second the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF FREEHOLD RACEWAY FOR APPROVAL OF OFFICIALS, MUTUEL POOLS, POST-TIME, ETC. CONCERNING THE 2011 SUMMER/FALL RACE MEET

Chairman Drazin made a motion to approve the request of Freehold Raceway of the 2011 summer/fall race meet. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY FOR APPROVAL TO OFFER THE V86 WAGER FROM SWEDEN AT THE MEADOWLANDS AND MONMOUTH PARK RACETRACKS, FAVORITES AT WOODBRIDGE AND THE NEW JERSEY ACCOUNT WAGERING SYSTEM

Chairman Drazin motioned to approve the request of the NJSEA to offer the V86 wager from Sweden subject to conditions of staff, and to extend the approval to the Toms River and Vineland off-track wagering facilities, if they desire to offer the wager. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST FROM KENNEDY, JENNIK & MURRAY, PC, ATTORNEYS REPRESENTING THE NEW JERSEY JOCKEY'S HEALTH AND WELFARE TRUST, TO APPROVE THE OPERATING STRUCTURE OF THE TRUST AND RELEASE OF FUNDING CURRENTLY HELD BY THE RACING COMMISSION

Commissioner Aponte made a motion to table the matter. Commissioner Abbatiello seconded the motion and all Commissioners voted yes with the exception of Chairman Drazin who recused himself.

CONSIDER ADOPTION OF AMENDMENTS TO N.J.A.C. 13:70-14A.9 AND 13:71-23.8 ADMINISTRATION OF NON-STEROIDAL ANTI-INFLAMMATORY DRUGS (Reduces the permissible level of Phenylbutazone)

Commissioner Abbatiello motioned to approve the adoption of N.J.A.C. 13:70-14A.9 and 13:71-23.8, which allows for the reduction in the permissible level of Phenylbutazone from 5 to 2 micrograms per milliliter.

The motion was amended to address one comment which was received during the proposal. The comment was submitted by "Jean Public" who is opposed to this amendment. The commenter believes that Phenylbutazone should be banned for reasons including that permitting race horses to compete with drugs is abusive. The commenter also believes that the administration of medication to a horse such as Flunixin while in a restrictive fashion allowed by this same rule, but not the subject of the proposed rule amendment, should also be disallowed.

The Racing Commission did not accept the comment as Phenylbutazone is an accepted medication for race horses and the proposed amendment's reduction of the permissible level is geared toward improving the rule and addressing the concerns surrounding the veterinarians' improved ability to evaluate the soundness of horses. Although the rule proposal does not seek to change the Flunixin aspect of the rule, which the commenter also addresses, the Commission does not agree with her comment in that regard as Flunixin, as is Phenylbutazone, is widely accepted as a race day medication when properly regulated as per the rules of the New Jersey Racing Commission.

Commissioner Abbatiello amended his motion to include the Commission's response to the submitted comment.

Robert Kulina, Vice President of Monmouth Park inquired of the thoroughbred horsemen's position on this amendment. Michael Musto, Executive Director of the T.H.A. responded that the reduced level of Phenylbutazone is in line with the Mid-Atlantic racing jurisdictions.

Thomas Luchento, President of the S.B.O.A. began to provide his comments to the Commission.

However, the Executive Director informed the Commission that the comment period on this rule proposal has expired and, therefore, recommended that the comment period should not be reopened by allowing further comments from persons attending the meeting.

Chairman Drazin motioned to second the amended motion, however, asked for clarification on the distinction between a discussion of the agenda item and comments provided by the public. The Executive Director explained that counsel has given the Commission legal advice on this issue before. He explained that Commissioners may conduct a discussion of any agenda matter, however, in connection with a rule proposal which comment period has expired, permitting persons attending the meeting to comment, after the close of the comment period, results in an unfair advantage because the general public-at-large will not have the same opportunity to comment.

There was no further discussion and a roll call of the Commissioners indicated that all Commissioners voted yes to the adoption.

CONSIDER RATIFICATION OF THE APPROVAL OF THE REQUEST OF MONMOUTH PARK TO CANCEL RACING DUE TO WEATHER CONDITIONS ON FRIDAY, JULY 22, 2011 AND RESCHEDULE THE JULY 22, 2011 RACE CARD FOR MONDAY, JULY 25, 2011

Commissioner Aponte motioned to ratify approval granted to Monmouth Park to cancel the July 22, 2011 race card due to weather conditions and reschedule the card for July 25, 2011. Chairman Drazin seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF THE APPROVAL OF THE REQUEST OF MONMOUTH PARK TO WAIVE THE JOCKEY WEIGHT ALLOWANCE RULE FOR SATURDAY, JULY 23, 2011

Monmouth Park clarified its request by explaining that it was not just seeking ratification of the waiver that took place on July 23, 2011. Instead, Monmouth Park was asking the Commission to waive its rules applicable to jockey weight allowance on any day with excessively high heat days in order to protect the safety of the jockeys and allow them to hydrate.

The Chairman directed staff to draft a rule change to allow for a jockey weight allowance on excessively high heat days. The Chairman also directed staff to prepare a directive in the interim authorizing the Executive Director to waive the weight allowances and to provide guidelines to the racetracks on implementing a procedure to make the public aware of the weight allowance.

Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF MONMOUTH PARK TO SCHEDULE A DOUBLE HEADER RACE CARD FOR AUGUST 27, 2011 AS A MAKE-UP DATE

The Commission informed Monmouth Park that if it was requesting that the proposed double-header race card be counted as two race dates, then approval cannot be granted. The Executive Director indicated that the law requires Monmouth Park and the Meadowlands thoroughbred permit holders to conduct an aggregate number of 141 dates.

A discussion among the Commissioners took place in which they asked if they could allow Monmouth Park to reduce the required number of race dates based upon pending legislation which will lower the number of thoroughbred days from 141 to 71. The Commissioners were informed that legal advice has been provided to the Commission on prior occasions and this advice indicated that the Commission could not approve a reduction in race dates below the minimum required until legislation permitting it is enacted.

Robert Kulina, Vice President of Monmouth Park withdrew the request and will address the rescheduling issue at the next Commission meeting.

Commissioner Abbatiello motioned to table the item. Commissioner Aponte seconded the motion and all Commissioners voted yes with the exception of Chairman Drazin who abstained.

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

ATTEST:



Executive Director Frank Zanzuccki