

**NEW JERSEY RACING COMMISSION
WEDNESDAY, JULY 15, 2015
“LIBRARY ROOM”
MONMOUTH PARK
OCEANPORT, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, July 15, 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)
Peter J. Cofrancesco, III, Commissioner (by phone)
Anthony G. DePaola, Commissioner
David C. Gruskos, Commissioner
Francis X. Keegan, Jr., Commissioner
Peter T. Roselle, Commissioner
Frank Zanzuccki, Executive Director
DAG Susan C. Sharpe

The following were absent:

Anthony T. Abbatiello, Commissioner
Michael J. Arnone, Commissioner

Executive Director Frank Zanzuccki read the following statement:

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

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

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

1. Legal advice concerning the request of the Thoroughbred Breeders' Association of New Jersey for approval of a revised Incentive Award Program for 2015.
2. Legal advice concerning the approval of the NJSEA's petition to modify the Account Wagering Management Agreement, dated October 1, 2012, to provide that Darby shall act as the NJSEA's agent in accordance with the Appellate Division's decision: IMO Order of the New Jersey Racing Commission Approving the NJSEA's Application for Approval of an Account Wagering Management Agreement, Docket No. A-2194-12T1 and A-2353-13T1 (February 17, 2015) to provide that Darby shall act as the NJSEA's agent as ordered by the court.
3. Legal advice concerning the New Jersey Thoroughbred Horsemen's Association 2015 Budgets (2.9% Statutory and .06% Public Purpose).
4. Legal advice concerning Adrian Wisher v. New Jersey Racing Commission, OAL Docket No. RAC 15445-2013N.
5. Other legal advice and/or status of pending litigation.

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

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

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

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

CONSIDER APPROVAL OF THE MINUTES OF THE PUBLIC AND EXECUTIVE SESSIONS OF THE MAY 13, 2015 COMMISSION MEETING

Commissioner Keegan made a motion to approve the public and executive minutes of the May 13, 2015 public meeting. Commissioner DePaola seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF THE FOLLOWING HANDICAPPING CONTESTS:

- a) Borgata Racebook \$10,000 Handicapping Tournament on July 11, 2015;
 - b) Monmouth Park and Woodbine Racetrack Handicapping Challenge on July 5, 2015; and
 - c) Monmouth Park National Handicapping Championship on May 30, 2015.
-

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

CONSIDER APPROVAL OF OFFICIALS, POOLS, POST-TIME, ETC. FOR THE FREEHOLD RACEWAY 2015 SUMMER/FALL MEET

Chairman Clyne motioned to approve the race format for the Freehold Raceway 2015 summer/fall meet. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF DARBY DEVELOPMENT, LLC, ON BEHALF OF THE NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION, TO RESCIND TWO OF THE MEADOWLANDS' THOROUGHBRED TURF MEET DATES, SEPTEMBER 24 AND 25, AND TO BE RESCHEDULED ON OCTOBER 1 AND OCTOBER 8, 2015

Commissioner Keegan motioned to approve the request of Darby Development, LLC to revise the Meadowlands' thoroughbred turf dates. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE THOROUGHBRED BREEDERS' ASSOCIATION OF NEW JERSEY FOR APPROVAL OF A REVISED INCENTIVE AWARD PROGRAM

Chairman Clyne made a motion to table the agenda item because the Thoroughbred Breeders' Association is considering amending the revised incentive award program in order that the revisions comply with the statute. Commissioner Keegan seconded the motion and all Commissioners motioned to table the item.

CONSIDER APPROVAL OF THE NJSEA'S PETITION TO MODIFY THE ACCOUNT WAGERING MANAGEMENT AGREEMENT, DATED OCTOBER 1, 2012, TO PROVIDE THAT DARBY SHALL ACT AS THE NJSEA'S AGENT IN ACCORDANCE WITH THE APPELLATE DIVISION'S DECISION: IMO ORDER OF THE NEW JERSEY RACING COMMISSION APPROVING THE NJSEA'S APPLICATION FOR APPROVAL OF AN ACCOUNT WAGERING MANAGEMENT AGREEMENT, DOCKET NO. A-2194-12T1 AND A-2353-13T1 (FEB. 17, 2015) TO PROVIDE THAT DARBY SHALL ACT AS THE NJSEA'S AGENT AS ORDERED BY THE COURT

Executive Director Zanzuccki stated that at the March meeting the Commission complied with the Appellate Division's decision in this matter and pursuant to this decision, the Commission voted to modify three of its orders to require that the Authority shall amend the Account Wagering Management Agreement to provide that: 1) Darby is acting as the Authority's agent with respect to all account wagering systems matters; 2) that Darby has no final decision making authority and that the Authority retains all such control and decision making authority; and 3) that the Authority shall oversee and manage Darby.

The amended orders were executed and issued to the industry by letter dated April 14, 2015. On March 4, 2015, counsel for the Authority filed a letter petition with the Commission seeking approval of an amendment to the Account Wagering Management Agreement in accordance with the Appellate Division's decision. On March 10, 2015, counsel for the New Jersey Account Wagering, LLC, submitted a letter opposing the petition and arguing that the amendment did not comply with the Court's decision. Counsel for the Authority disagreed. The letter petition, the NJAW comments and the Authority's response are all included in the record.

On June 17, 2015, the Authority submitted a revised amendment to the Account Wagering Management Agreement which added language specifying that the Authority is required to oversee and manage Darby. No comments were filed on behalf of NJAW. On July 2, 2015, counsel for NJAW filed a request to comment verbally on the revised amendment at today's meeting. The request to comment verbally was filed one day late.

The decision whether or not to allow verbal comment lies within the Commission's discretion. If the Commission is inclined to grant the NJAW's request, staff recommends the Authority also be granted the right to comment verbally should it wish to do so.

Chairman Clyne motioned to allow the NJAW to comment verbally at today's meeting. Commissioner Keegan seconded the motion and all Commissioners voted yes.

Kellen Murphy, Esq., on behalf of NJAW, stated that their comments were set forth in its March 10 letter which indicated that the revised agreement sought should comply with the court's decision.

Dennis Drazin, Esq., stated that in Ralph Marra's absence, Mr. Marra asked that he convey to the Commission that the Authority's position is that the revised agreement submitted complies with the Appellate Division opinion.

Commissioner DePaola made a motion to approve the NJSEA's petition to modify the Account Wagering Management Agreement. Chairman Clyne seconded the motion and all Commissioners voted yes.

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

The Executive Director indicated that Commission staff found the 2.9% statutory budget complies with the regulations and as such the Commission can act to approve the budget. Commissioner Keegan motioned to approve the 2.9% budget. Commissioner DePaola seconded the motion and all Commissioners voted yes with the exception of Commissioner Aponte who voted no as he believes the budget is top-heavy with too much budgeted for legal expenses and less for program expenses.

The Executive Director indicated that a legal issue arose which requires additional consideration by Racing Commission counsel. As a result, staff is recommending that the .06% public purpose budget be tabled at this time. Commissioner Keegan motioned to table the item. Commissioner Roselle seconded the motion and all Commissioners voted yes.

CONSIDER THE MATTER OF ADRIAN WISHER V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 15445-2013N

Commissioner DePaola motioned to adopt the Initial Decision of the ALJ which upholds the Board of Judge's decision. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF TVG TO WAIVE THE CURRENT PRACTICE OF PAYING HOST TRACK PRICES ON RACES FROM THE HONG KONG JOCKEY CLUB AND ALLOW 4NJBETS TO REFUND WAGERS WHEN COMMINGLING OF POOLS CANNOT OCCUR

The Executive Director stated that the Commission established the policy of paying host track prices many years ago because it was determined that based on a fairness argument that if a patron possess a winning ticket and the horses win, they should be paid the host track prices regardless of whether there was a technical malfunction which prevented that particular bet from being commingled. The request being considered today is an exception to that policy in order for the Hong Kong races to be offered by 4NJBets.

John Hindman, Esq., representing TVG, stated that Hong Kong wagering has been offered throughout the country (with the exception of New Jersey) for approximately one year and TVG is interested in offering these races to its New Jersey customers. He indicated that wagering on Hong Kong races has done well and the average national handle is in the range of \$150,000 a night. Mr. Hindman explained the procedure if a commingling malfunction were to occur and indicated that the frequency of malfunctions is rare.

Commissioner Gruskos made a motion to approve the request of TVG to refund wagers on races from Hong Kong when TVG can prove a major malfunction has occurred. Commissioner DePaola seconded the motion and all Commissioners voted yes with the exception of Commissioner Aponte who voted no and Commissioner Roselle who abstained. The motion carried and the request was approved.

AGENDA ITEMS FOR DISCUSSION AND INFORMATION

Betfair provided a demonstration and discussion concerning Exchange Wagering to the Commissioners and the public.

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

ATTEST:



Executive Director Frank Zanzuccki