

**NEW JERSEY RACING COMMISSION
WEDNESDAY, MAY 16, 2018
“LIBRARY ROOM”
MONMOUTH PARK RACETRACK
OCEANPORT, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, May 16, 2018 in the Library Room located at Monmouth Park Racetrack in Oceanport, New Jersey.

The following were present:

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

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. Legal advice related to the request of the Thoroughbred Breeders’ Association of New Jersey to utilize 2017 surplus monies to pay awards pursuant to N.J.S.A. 5:10-7(2)(c)(iii) to breeders or owners of New Jersey bred horses who earn portions of purses in out-of-state races;
2. Legal advice related to the request of the Thoroughbred Breeders’ Association of New Jersey to utilize \$10,000 from revenue generated in 2018 for the MATCH Series pursuant to N.J.S.A. 5:10-7(2)(c)(ii);

3. Legal advice related to the request of Darby Development, LLC (“Darby”) that the Commission reconsider Darby’s application pursuant to N.J.A.C. 13:70-1.39, for the temporary waiver of N.J.A.C. 13:70-6.5 (“Coupled horses”) on an experimental basis, to allow uncoupling of horses regardless of common ownership interest at Monmouth Park’s 2018 race meet;
4. Legal advice related to the initial decision issued in Dennis Watson v. NJRC, OAL Docket No. RAC 12951-2016S;
5. Legal advice related to the request of Thomas Fanning that the Commission reconsider the March 28, 2018 final decision which modifies the initial decision issued in Thomas Fanning v. NJRC, OAL Docket No. RAC 08693-2014S; and
6. Other legal advice.

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. Chairman Clyne seconded the motion. All of the Commissioners present voted to affirm. The Commission then adjourned to Executive Session.

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

CONSIDER APPROVAL OF THE PUBLIC AND EXECUTIVE SESSION MINUTES OF THE MARCH 28, 2018 COMMISSION MEETING

Commissioner Keegan made a motion to approve the public and executive minutes of the March 28, 2018 public meeting. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE NEW MEADOWLANDS RACETRACK, LLC FOR APPROVAL TO OFFER A NEW WAGER ENTITLED THE 2018 HAMBLETONIAN FUTURE WAGER

Commissioner Keegan made a motion to approve the New Meadowlands Racetrack’s request to offer the 2018 Hambletonian Future Wager subject to N.J.A.C. 13:71-27.64 and to the standard conditions imposed by the Commission. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE THOROUGHBRED BREEDERS' ASSOCIATION OF NEW JERSEY TO UTILIZE 2017 SURPLUS MONIES TO PAY AWARDS PURSUANT TO N.J.S.A. 5:10-7(2)(c)(iii) TO BREEDERS OR OWNERS OF NEW JERSEY BRED HORSES WHO EARN PORTIONS OF PURSES IN OUT-OF-STATE RACES

Executive Director Zanzuccki stated that this matter was contained on the March 28, 2018 meeting agenda and it was withdrawn because of a technicality. He indicated the statute that is referenced in the request does not specifically authorize the use of this money to pay out-of-state awards, however the general language of the statute would allow the Commission to approve the request if it is determined that the program is beneficial to the breeding industry in the state. The Executive Director stated that the TBA Board has unanimously approved this request and feel that the use of the surplus monies will benefit the industry and expand the earning of awards from the 58-day race meeting to a ten-month period. Staff has confirmed that a surplus does exist.

Michael Campbell, Executive Director of the TBA clarified that the 2017 surplus after expenses is \$631,000 and the TBA will utilize \$566,957 to pay awards in connection with out-of-state races. Mr. Campbell explained that the number for the awards is derived from a report generated by the Jockey Club which lists all the New Jersey-bred horses that competed in the country in 2017. Commissioner Hoffman asked Michael Campbell to clarify the surplus amount and Mr. Campbell explained that the auditors confirmed that the final surplus amount is \$635,000 after expenses and this amount was confirmed with the Commission.

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

CONSIDER THE REQUEST OF THE THOROUGHBRED BREEDERS' ASSOCIATION OF NEW JERSEY TO UTILIZE \$10,000 FROM REVENUE GENERATED IN 2018 FOR THE MATCH SERIES PURSUANT TO N.J.S.A. 5:10-7(2)(c)(ii)

This request was withdrawn by Michael Campbell, Executive Director of the TBA.

CONSIDER APPROVAL OF THE THOROUGHBRED BREEDERS' ASSOCIATION OF NEW JERSEY PROPOSED BUDGET FOR THE YEAR 2018

Michael Campbell, Executive Director of the TBA, indicated to the Commission that the TBA would like to amend the budget to include the \$10,000 for the MATCH Series and he also indicated that there is additional revenue that has been added since the budget was submitted to the Commission which brings the total revenue to \$76,138. Therefore, the 2018 TBA budget is amended to the amount of \$168,969. Commissioner Hoffman requested that the TBA submit a revised budget to the Commission. Executive Director Zanzuccki stated that staff recommends approval of the amended budget with these modifications.

Chairman Clyne made a motion to approve the amended budget. Commissioner Keegan seconded the motion and all Commissioners voted yes.

It was noted that there were several new items added to the TBA budget which include a \$50,000 contribution from the TBA toward the \$75,000 purse of the Jersey Girl Handicap which will be conducted at Monmouth Park. The racetrack will be contributing the remaining \$25,000.

CONSIDER THE REQUEST OF DARBY DEVELOPMENT, LLC ("DARBY") THAT THE COMMISSION RECONSIDER DARBY'S APPLICATION PURSUANT TO N.J.A.C. 13:70-1.39, FOR THE TEMPORARY WAIVER OF N.J.A.C. 13:70-6.5 ("COUPLED HORSES") ON AN EXPERIMENTAL BASIS, TO ALLOW UNCOUPLING OF HORSES REGARDLESS OF COMMON OWNERSHIP INTEREST AT MONMOUTH PARK'S 2018 RACE MEETING

Commissioner Arnone made a motion to reconsider the request of Darby Development. Commissioner Keegan seconded the motion and all Commissioners voted yes.

John Heims, Race Secretary at Monmouth Park, stated that significant wagering handle will increase with the uncoupling of common entries. Specifically, in the last two years, 97 additional betting interests would have resulted had uncoupling of common entries been allowed which would equate to \$4 million in additional handle. He indicated that New Jersey-bred horses are the most penalized as they have the most coupled entries.

Commissioner Keegan made a motion to approve the request on an experimental basis for the 2018 Monmouth Park and Meadowlands (thoroughbred) race meetings to allow for the uncoupling of horses regardless of common ownership with the caveat that the Executive Director shall have the sole discretion to terminate the experiment.

Dennis Drazin, Esq., stated that in the event the Executive Director exercises his sole discretion to terminate the experiment, Monmouth Park will not appeal that decision and will cease the uncoupling of common owners.

Commissioner Arnone seconded the motion and all Commissioners voted yes. It was indicated that the uncoupling may begin this weekend, May 19, 2018.

CONSIDER THE REQUEST OF THOMAS FANNING THAT THE COMMISSION RECONSIDER THE MARCH 28, 2018 FINAL DECISION WHICH MODIFIES THE INITIAL DECISION ISSUED IN THOMAS FANNING V. NJRC, OAL DKT. NO. RAC 08693-2014S

Executive Director Zanzuccki stated that this matter appears on the agenda because of the rescheduling of the March 21st meeting due to a severe snow storm to a week later on March 28, 2018. He stated that pursuant to the Open Public Meetings Act, a notice was issued, however, due to the short turnaround time, many of those notices were not received in the mail by the time the March 28th meeting occurred. As a result, Mr. Fanning and his counsel were unaware that the meeting was rescheduled on March 28th and the Commission received a letter from Mr. Fanning's attorney indicating that they wanted to be present in order to ensure that inaccurate

information was not provided to the Commission prior to the Commission acting on the OAL decision. The Executive Director indicated that Mr. Taylor requested a copy of the audio recording of the meeting which was provided to him. The Executive Director recommended that Mr. Taylor, on behalf of his client, inform the Commission of any inaccuracies that were presented to the Commission at the March 28th meeting.

Mr. Taylor stated that he cannot honestly say there were inaccuracies and stated that he has concerns that the Commission's final decision was pre-determined before the meeting took place and the Executive Director was advising the Commission on the final determination. Mr. Taylor felt this has the appearance of impropriety. The Executive Director asked Mr. Taylor if there were any inaccuracies that he knows of that were represented to the Commission during the public meeting. Mr. Taylor responded that no inaccuracies were made during the public meeting but he has no record of what was given to the Commission in executive session.

Commissioner Hoffman made a motion to not reconsider the matter and to reaffirm the original final decision. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE INITIAL DECISION ISSUED IN DENNIS WATSON V. NJRC, OAL DOCKET NO. RAC 12951-2016S

Executive Director Zanzuccki stated that this case arose during the period from April 21, 2016 to April 29, 2016 when on four occasions horses trained by Dennis Watson tested positive for a variety of illegal substances foreign to the natural horse. A hearing was conducted by the Board of Judges in which the Judges determined that Dennis Watson was in violation of various regulations and a suspension was issued totally 60 days and a fine imposed of \$2,000 and disqualification of purse monies. Dennis Watson appealed the matter to the OAL and the Commission is in receipt of an initial summary decision issued by the OAL affirming the penalties imposed by the Board of Judges. The matter is now before the Commission to accept, reject or modify. Staff recommends the adoption of the initial summary decision.

Commissioner Hoffman motioned to adopt the summary initial decision. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER ADDITIONAL COMMENTS REGARDING THE PILOT PROGRAM AS AUTHORIZED BY N.J.S.A. 5:5-186

The Executive Director read the following statement:

"The Commission must file a report with the Governor and Legislature by June 18, 2018 which evaluates the Pilot Program, sets forth an opinion whether the Pilot Program should be continued and if so makes recommendations for further improvement and implementation. In 2011, the Legislature enacted the Pilot Program Act and the Act authorized pari-mutuel wagering on horse racing at a limited number of taverns, restaurants and similar venues in certain counties of the State through the use of electronic wagering terminals. The Act also limited the amount of wagering terminals in total that could be utilized during the Pilot Program. The Pilot Program,

as mentioned, venues could only be located in certain counties, mostly northern counties of the state and the Legislature required that within three years of the issuance of the initial license, the Commission must file said report. The license was issued in June 2015. Unfortunately due to various reasons, the program never was activated. Nonetheless, the Commission must submit the report and we had requested written comment previous to this meeting and received comments from Darby Development and Freehold Raceway. We are now offering another opportunity to provide additional comments concerning whether or not the Pilot Program should go forward.

There were no additional comments from the industry.

The Executive Director indicated that the Commission will prepare the report, including the information contained in the written submissions, and circulate it to the Commission prior to submission to the Governor and Legislature.

AGENDA ITEMS FOR DISCUSSION AND INFORMATION

Executive Director Zanzuccki announced that he will be retiring effective July 1, 2018 and was very happy with the support that he has received over the years from the Commission, his staff and members of the industry.

Michael Musto, Executive Director of the THA and Jason Settlemoir, General Manager of the New Meadowlands Racetrack, thanked Executive Director Zanzuccki for his leadership and guidance and wished the Executive Director good luck in retirement.

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

ATTEST:



Frank Zanzuccki, Executive Director