

NEW JERSEY RACING COMMISSION
WEDNESDAY, JANUARY 20, 2010
“HAMBLETONIAN ROOM,” MEADOWLANDS RACETRACK
EAST RUTHERFORD, NEW JERSEY

A meeting of the New Jersey Racing Commission was held on Wednesday, January 20, 2010, in the Hambletonian Room of the Meadowlands Racetrack, located in East Rutherford, New Jersey.

The following were present:

James G. Aaron, Commissioner
Anthony T. Abbatiello, Commissioner
Anthony R. Caputo, Commissioner
Francis X. Keegan, Jr., Commissioner
Edward R. McGlynn, Commissioner
Frank Zanzuccki, Executive Director
DAG Judith A. Nason

The following were absent:

Noel Love Gross, 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:

Legal advice concerning the matter of Bruce Levine v. New Jersey Racing Commission, OAL Docket No. RAC 10255-09S;

Legal advice concerning a “Petition for Rulemaking” received from Barbara Sachau prohibiting New Jersey race horse owners from sending their retired horses to slaughter and further requiring all New Jersey horse owners to contribute \$5,000 per year to a fund, administered by the New Jersey Racing Commission, for the care of said retired horses.

Legal advice concerning approval of the New Jersey Jockey’s Health and Welfare Trust 2010 budget pursuant to N.J.A.C. 13:70-1.30;

Legal advice concerning a “Petition for Rulemaking” received from Natalia Posada, Assistant Manager, Eight Belles Legacy, to adopt an anti-slaughter horse policy.

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 her ethical duties as a lawyer.”

Commissioner McGlynn motioned to adopt the resolution to adjourn. Commissioner Aaron seconded the motion and the Commission adjourned to Executive Session.

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

CONSIDER APPROVAL OF MINUTES OF THE PUBLIC AND EXECUTIVE SESSIONS OF THE NOVEMBER 18, 2009 MEETING AND THE PUBLIC SESSION MINUTES OF THE DECEMBER 16, , 2009 COMMISSION MEETING

Commissioner Aaron motioned to approve the public and executive session minutes of the November 18, 2009 meeting and the December 16, 2009 public meeting. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE BILLS

Commissioner McGlynn 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 REQUEST OF THE APPROVED CASINOS TO ENTER INTO AN AGREEMENT (WHICH MAY CALL FOR THE PAYMENT OF MORE THAN THREE PERCENT OF THE CASINO PARI-MUTUEL POOL TO THE SENDING TRACK) TO RECEIVE THE SIGNAL OF THE FOLLOWING RACES PURSUANT TO N.J.S.A. 5:12-201B

Six percent for the Eddie Read from Del Mar on July 24, 2010
Six percent for the Whitney Handicap from Saratoga on August 7, 2010
Six percent for the John C. Mabee from Del Mar on August 15, 2010
Six percent for the Malibu Stakes from Santa Anita on December 26, 2010

Commissioner McGlynn motioned to approve the request of the approved casinos. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF THE REQUEST OF THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY TO CONDUCT A HANDICAPPING CONTEST (2010 SIMULCAST SERIES CHALLENGE) ON JANUARY 16, 2010 AT MONMOUTH PARK

Commissioner Aaron motioned to approve the handicapping contest. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE THOROUGHBRED BREEDERS' ASSOCIATION OF NEW JERSEY 2010 BUDGET PURSUANT TO N.J.A.C. 13:70-1.30

_____ Executive Director Zanzuccki stated that the 2010 budget of \$325,000 is more than \$52,000 above the previous year which represents an approximate increase of 20 percent. The expense categories which reflect the most increase from the 2009 budget are the Thoroughbred Breeders' Association Festival and the Governor's Commission on Horse Racing Study. To balance the 2010 budget, the T.B.A. is requesting that \$251,550 be taken from the breeder award money to balance the cost of administering the awards.

The Executive Director asked Michael Campbell, Executive Director of the T.B.A. to elaborate regarding the increase in expenses and inquired as to whether the T.B.A. Board of Directors recognize that by increasing these expenses the amount of money available for awards is reduced. Mr. Campbell indicated that the Board of Directors is aware of this reduction in awards and he advised the Commission that the T.B.A. is seeking to offset the increases by removing the \$25,000 designated for the Governor's Study and obtain more sponsorship for the Thoroughbred Festival.

_____ Mr. Campbell then advised the Commission that the line item regarding lobbying costs needs to be adjusted to \$43,000 (from \$40,000). It was clarified that this expense represents money paid to a lobbyist and not monies used for political contributions.

The Commission recommended that in the event the Governor's Study is reconstituted, the T.B.A. return to the Commission seeking approval of the \$25,000 expense.

Commissioner McGlynn motioned to approve the T.B.A. 2010 budget with the above-noted condition. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE STANDARD BRED BREEDERS' AND OWNERS' ASSOCIATION 2010 BUDGET PURSUANT TO N.J.A.C. 13:71-1.25

Executive Director Zanzuccki stated that the S.B.O.A. is projecting a budget of \$1,653,000, or a 5.6 percent increase over the 2009 actual expenditures and a decrease of more than \$232,000 from the 2009 budget. The S.B.O.A. is projecting a reduction in income of approximately \$163,000 from the racetracks in 2010 as a result in the decline in pari-mutuel handle. The Director indicated that the benevolence-related expenses equals 68 percent of the required 70 percent for statutory funding. The statute, however, grants the Commission the authority to approve a budget less than 70 percent if by majority rule.

Commissioner Aaron made a motion to approve the S.B.O.A. 2010 budget. Commissioner McGlynn seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE NEW JERSEY JOCKEY'S HEALTH AND WELFARE TRUST 2010 BUDGET PURSUANT TO N.J.A.C. 13:70-1.30

Executive Director Zanzuccki stated the budget as submitted by the New Jersey Jockey's Health and Welfare Trust appears to be straightforward and more than 93 percent of the money generated from the statute is used for health insurance premiums for eligible jockeys. The Trust is projecting a net loss in 2010 of \$17,000 and has recommended that the existing balances under control of the Racing Commission be used to balance the budget. It was noted that as of this date, the account balance of the Trust is \$536,737 and is sufficient to fund the shortfall.

The Executive Director noted that in addition to requesting Commission approval of the 2010 budget, the Trust is asking the Commission to consider several other matters such as the waiver of legal conditions placed on the Trust. Staff informed Trust representatives that those matters would not be considered at this meeting because they were not listed on the agenda. Those matters will be considered following receipt of all information requested by the Commission. The Trust has provided the Commission with significant information and has made a number of changes as recommended by the Commission in regard to their bylaws, however, the remaining issues need to be resolved prior to considering other matters. Staff recommends approval of the budget so as to continue the health insurance for eligible participants, subject to the Trust providing the additional information as requested by the Commission.

Commissioner Aaron motioned to approve the 2010 budget and indicated that the motion does not include approval for any other relief sought by the Trust. Commissioner McGlynn seconded the motion and all Commissioners voted yes.

Comment was provided by Liz Pelecki, Esq., representative of the Jockey's Health and Welfare Trust. Ms. Pelecki stated that the Trust intends to respond to the various requests of the Commission. Commissioner Aaron expressed his views that he is not inclined to approve the co-mingling of funds for any purpose and prefers the separation of funds in order to maintain the control of cash flow.

CONSIDER A “PETITION FOR RULEMAKING” RECEIVED FROM BARBARA SACHAU PROHIBITING NEW JERSEY RACE HORSE OWNERS FROM SENDING THEIR RETIRED HORSES TO SLAUGHTER AND FURTHER REQUIRING ALL NEW JERSEY HORSE OWNERS TO CONTRIBUTE \$5,000 PER YEAR TO A FUND, ADMINISTERED BY THE NEW JERSEY RACING COMMISSION, FOR THE CARE OF SAID RETIRED HORSES

_____The Executive Director referenced the written comments submitted by the Thoroughbred Horsemen’s Association in opposition to the rulemaking petition and noted that the Racing Commission received advice by counsel concerning the agency’s authority to advertise and consider adoption of such a rule proposal. Based upon the legal advice which indicated the Commission does not have the authority to promulgate the rule set forth in the petition, staff recommends that the petition be rejected.

Commissioner Aaron voiced opposition to the slaughter of race horses and indicated that while the Commission’s authority is limited on this issue, there are other avenues to pursue such as the Legislature and the federal government. Commissioner Aaron motioned to reject the petition based upon the lack of authority of the Commission. Commissioner Caputo seconded the motion and all Commissioners voted yes.

CONSIDER A “PETITION FOR RULEMAKING” RECEIVED FROM NATALIA POSADA, ASSISTANT MANGER, EIGHT BELLES LEGACY TO ADOPT AN ANTI-SLAUGHTER HORSE POLICY

_____Commissioner Aaron motioned to reject the rulemaking petition. Commissioner Caputo seconded the motion and all Commissioners voted yes to reject the petition.

_____It was noted that the rule petition referenced action taken by the State of New York when in fact that action was taken by the track associations and not the New York regulatory body. It was also noted that it is anticipated that this subject will be addressed by the Association of Racing Commissioners International on behalf of all state regulators and the Commission will be open to comments at that time.

CONSIDER APPROVAL OF THE 2010 CHARITY DAYS PURSUANT TO N.J.S.A. 5:5-44.2, 44.7, 44.8 AND 44.9

____ Commissioner Abbatiello motioned to approve the 2010 charity days (appended to these minutes). Commissioner McGlynn seconded the motion and all Commissioners voted yes.

CONSIDER THE MATTER OF BRUCE LEVINE V. NJRC, OAL DKT. NO. RAC 10255-09S

____ Commissioner Aaron motioned to table this matter in response to the request of Dennis A. Drazin, Esq., counsel for Bruce Levine. Commissioner McGlynn seconded the motion and all Commissioners voted yes.

2009 HUMAN AND EQUINE DRUG TESTING STATISTICS

The Executive Director read the following statistics for 2009:

Human Drug Testing Program: 795 samples tested with 6 positives

Equine Testing Program: 36,516 samples were tested producing 46 positives
(In 2008, 39,760 samples were tested producing 56 positives)

GENERAL DISCUSSION

Dennis Dowd, Senior Vice President of Legal and Governmental Affairs, at the New Jersey Sports and Exposition Authority, provided a status report to the Commission on the negotiations with TrackNet and on the status of the Bayonne off-track wagering facility.

A discussion occurred concerning the issue that no progress is being made to develop an off-track wagering facility to be situated at the former Garden State Park racetrack location. It was suggested that the Commission place this matter on the meeting agenda with notice to the parties involved so that they may have an opportunity to address the Commission concerning the development of an off-track wagering facility in the Cherry Hill area.

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

ATTEST:

Executive Director Frank Zanzuccki