

PUBLIC HEARING

before

ASSEMBLY INDEPENDENT AUTHORITIES AND COMMISSIONS SUBCOMMITTEE

on

SALE OF MONMOUTH PARK RACETRACK

Held:
June 17, 1985
Room 441
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Dennis L. Riley, Chairman
Assemblyman William E. Flynn

ALSO PRESENT:

Wayne Bockelman
Office of Legislative Services
Aide, Assembly Independent Authorities and Commissions Subcommittee

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WAYNE BOCKELMAN: The following people were requested to appear at today's hearing by the Chairman of the Subcommittee:

Mr. Reeve Schley, Jr., Chairman of the Board of the Monmouth Park Jockey Club, or an eligible representative,

Mr. Leon Hess,

Mr. John Hanson, of the Sports Authority, and

Mr. Robert Brennan, of the International Thoroughbred Breeders, Incorporated.

ASSEMBLYMAN DENNIS RILEY (Chairman): Senator Pallone is here. I believe he would like to make a statement regarding a bill.

SENATOR FRANK PALLONE, JR.: I testified before you at the last hearing, so I do not want to repeat anything I said at that time.

However, when you were so kind as to come down to Oceanport and let the local people get involved in your activities, I mentioned -- and I think I read part of this -- an editorial that raised some questions about the sale of Monmouth Park and the purchase of the Park by the Sports Authority. I don't think I made that editorial part of the record, so I wanted to give you a copy of it now.

If, during your deliberations, you try to find the answers to some of those questions, I think it would be helpful to the shore area, and to Oceanport in particular.

The main reason I came back today is to give you a copy of legislation that will be introduced in the Senate today. The legislation basically seeks to deal with two problems I raised at the last hearing. One problem involves the admissions tax, and the other problem deals with the fact that under the present legislation -- in other words, under the legislation that was adopted in December which permitted the Sports Authority to acquire Monmouth Park -- the municipality will not be able to exercise its planning and zoning ordinances over the Sports Authority.

So, there are two things in here, basically. If it is possible, I would like the Committee to recommend in its report that this legislation be adopted by both Houses and signed by the Governor.

One part of this legislation specifically says that the Authority shall be responsible for paying the admissions tax pursuant

to the section of law that applies to the admissions tax, where that tax is authorized by the appropriate ordinance or ordinances.

If you recall, it was my position at the last hearing that pursuant to the current legislation -- the legislation we adopted in December -- I felt the Authority would have to continue to pay the admissions tax because it was quite clear when we adopted that legislation -- at least from the deliberations on the Senate side -- we were trying to keep the municipality intact -- in this case, mainly Oceanport -- in terms of the receipts they were getting from local property taxes, and for any municipal school board and county taxes.

I felt that the admissions tax, because it was adopted by local ordinance, was the type of tax that would be included. I felt the Sports Authority would have to continue to collect this money. However, I suppose there is some question regarding that because the admissions tax is basically collected by the track; it is then sent to the State and it is distributed by the State to the various municipalities. I suppose there could be some question, at least on paper, as to whether or not that would be a municipal school board or county tax.

I know the Sports Authority made a commitment that night. They specifically made a commitment to me -- as I know they did to all the legislators from Monmouth County who were concerned about this -- that they intended to continue to collect all the taxes that were normally collected. Oceanport in particular would continue to receive all the taxes they had been receiving. So, I feel the admissions tax should be included. Even if it does not conform to the letter of the law, I think they have a responsibility to pay this tax because of the commitments that were made.

However, just in case, there is no reason why we should not include this legislation -- which would be an amendment to the bill -- with the bill that was passed in December. It specifically says that they will have to pay the admissions tax.

So, that is one part of the legislation. The other part says that notwithstanding any provisions of the law to the contrary, any project undertaken by the Sports Authority in conjunction with Monmouth

Park -- or, specifically, the racetrack facility outside the Meadowlands that they would be purchasing, which in this case is Monmouth Park -- would have to comply in all respects with the master plan and the zoning and planning ordinances of the municipality or municipalities in which the project is situated.

Again, the intent there, with regard to Monmouth Park, is that either existing facilities or the expansion or development of any other facilities would have to comply with the local master plan and the zoning ordinance. I understand that is not true pursuant to the current legislation for the Meadowlands, but this would make it true for Monmouth Park.

Again, I feel since this is an existing track and since it is basically in an area that is largely developed and has an existing master plan and zoning ordinance in effect, there is no reason why the local municipality should not be able to exercise its traditional right with regard to zoning anything the Sports Authority intends to do with Monmouth Park.

Again, I ask that you consider this and recommend that we adopt it in your final report, which I assume you are going to make. At the last hearing, I stated my basic objections to the Sports Authority purchasing Monmouth Park and getting involved in Monmouth Park, so I will not repeat all of that testimony today. It seems as though it is something that is pretty much a fait accompli at this point.

My main concern is to protect the local municipalities in the future with this legislation. Thank you once again.

ASSEMBLYMAN RILEY: Thank you.

ASSEMBLYMAN FLYNN: Senator, I think that is an excellent suggestion. Of course, at the last meeting we spent considerable time trying to figure out ways to ensure that the people most affected by this would have some input. I certainly--

ASSEMBLYMAN RILEY: (interrupting) Will someone please shut that door?

ASSEMBLYMAN FLYNN: (continuing) I certainly will vote, as a member of this Subcommittee, to not only endorse such legislation, but

I am also going to sponsor similar legislation in the Assembly because I think something such as this should move rapidly. If we can get this going in both Houses, I think it is an excellent idea.

SENATOR PALLONE: I appreciate that, Assemblyman Flynn. I neglected to mention that you offered to sponsor such legislation, so it will be introduced today, hopefully, in both the Assembly and the Senate.

ASSEMBLYMAN FLYNN: Fine. There is one other thing I want to mention: One of my biggest concerns is that the tourist industry in Monmouth County -- which I think utilizes the racetrack to a large degree -- continues to flourish. We have a verbal commitment from the Authority to continue to operate Monmouth as a first-class racetrack. Do you think that we can draw up legislation which would more or less guarantee the continuance of Monmouth Racetrack as a first-class operation? Or, if we cannot guarantee it, do you think we can at least require some legislative act before Monmouth Park could either be closed or sold to someone else? What do you think of that idea?

SENATOR PALLONE: I think you may be hitting, in part, on one of the concerns raised at the last hearing regarding the number of racing days. We wanted to make sure that Monmouth Park would have a certain number of racing days. I suppose, in addition, we wanted to make sure they had a certain number of days with regard to simulcasting. I am hopeful that simulcasting will become legal through referendum in November. I am hopeful that it is on the ballot and that it passes. Obviously, we mentioned that simulcasting is very important to the future of the track, in terms of its ability to make money.

One thing you might do -- although I realize there are certain limits in the legislation in terms of the number of racing days -- is to make sure that, both for simulcasting and racing, we are guaranteed a certain number of racing days.

I don't know if you can specifically legislate that they have to remain open; I don't know how we can manage that.

ASSEMBLYMAN FLYNN: I was thinking in terms of their wanting to close the track, or to significantly change it; it would take legislation to do that.

SENATOR PALLONE: You see, I don't know how you would actually be able to say they have to open, especially if they are not making money.

ASSEMBLYMAN RILEY: What if they go into a venture, Senator, where they know from the outset what the numbers are, and this is a guise to close the track and redevelop it into something else? Again, don't you think that should be done under the dictates of legislation?

The Sports Authority is now buying a facility that is making \$324 thousand at last report, with simulcasting in place. Right now there is no mortgage on the track, but there is \$45 million in bonds that is going to have to be retired. They know the numbers beforehand.

Since they are doing this under the guise of a piece of legislation which is called the "baseball bill," don't you think that maybe we should have some input by saying, "Fine, if you want to play the game, then you are going to play it all the way; you are not going to destroy a racetrack which you are supposedly buying to protect the future of racing." It seems as though this is a contradictory position, and I think we could defend it on nothing else but that basis, couldn't we?

SENATOR PALLONE: Oh, I agree. Obviously, as far as I am concerned, it is crucial to the whole area and economy of Monmouth County, and, in particular, to the coastal Monmouth County area, that this track continues as a first-class facility -- as you term it -- and that it continues to operate with a certain number of days. No effort should be made to change that significantly, so that the track will go downhill and it will no longer be the type of operation we now have.

I just do not know how we would specifically formulate that.

ASSEMBLYMAN FLYNN: We do have that commitment from the present management of the Sports Authority. I have no reason to think they will not do that. But, they are not going to be there forever. You know, five or ten years from now we may have a whole new regime in the Sports Authority and they may say, "Well, we can make more money doing something else," or they may even develop it into condominiums or something like that.

SENATOR PALLONE: That is another thing I brought up at the last hearing: My concern is in the way I read the legislation. I think Mr. Mulcahy disagreed with me at the time. The legislation is very open-ended in terms of the types of things they can do if they want to develop in alternate directions: In terms of entertainment events, a stadium, a conference center, hotels, motels, and restaurants. All of that is permissible, the way I read the legislation.

That is one of the reasons why I am concerned that if we adopt this bill, we have to make sure, if they ever decide to go that route, they have to conform with the local zoning ordinances.

We might even want to put in some restrictions in terms of the type of development that would go beyond the racetrack itself. However, they have made a commitment that they do not intend to go into those types of facilities. They said they were not going into the hotel/motel business; they are not going to build a stadium in Monmouth Park; and, they are not going to build a conference center, etc. But, there is nothing in the legislation which would prohibit them from doing that. At least if they did it now, they would have to go by the local zoning ordinance; that is my main concern. But, you might even want to put in certain restrictions in terms of the open-endedness of what they are allowed to do. The way I read it, they can do practically anything. They say "auxiliary to racing," and then they specify lodgings and everything, really; I don't see what the limits are.

ASSEMBLYMAN RILEY: All the way to an aquarium, 100 miles from there.

SENATOR PALLONE: Well, we wouldn't mind if they wanted to build an aquarium in the area. I might be interested in that.

ASSEMBLYMAN RILEY: I understand that's in Camden.

SENATOR PALLONE: Oh, that's right. That's supposed to be in the South.

ASSEMBLYMAN RILEY: Thank you, Frank.

SENATOR PALLONE: All right. Thank's a lot.

ASSEMBLYMAN RILEY: It is my understanding there is no one here from the Sports Authority, nor from the Monmouth Park Jockey Club, is that correct?

MR. BOCKELMAN: No one has called nor responded to our request.

ASSEMBLYMAN RILEY: Okay. Nor is there anyone here from International Thoroughbred. I understand they called.

MR. BOCKELMAN: My Brenner is out of the country.

ASSEMBLYMAN RILEY: So, hopefully, what we are going to do at this point is, Mr. Flynn, Mr. Muziani, and I will sit down at a possible future date to prepare a temporary report. The nonappearances have made it very difficult to try and proceed in order to hit bottom on this. We have been put through everything from innuendos to threats. I have even been threatened with law suits for proceeding. I don't know what that means; I presume the Legislature is not supposed to look into what is being done. I presume we are not supposed to know the ramifications of our own actions.

We were even told that the hearing today was cancelled. I was informed of that. I think it is rather ironic that de facto and de jure cancellations are now effective in the Legislature.

I think that important questions still remain unanswered. I certainly think we have to know whether we should set up another meeting -- or whatever is necessary -- in order to find out exactly where we have to go insofar as getting some of the important players in front of us is concerned. We have to find out what the real intentions are behind this sale. We have been receiving letters saying that the final agreement has not as yet been signed; therefore, that is the reason why they cannot proceed. That includes a letter from Monmouth Park.

I would like to state that we are extremely disappointed. We are personally offended by the failure of the Monmouth Park officials to appear at the May 21, 1985 hearing to give testimony. Specifically, anyone who did attend that hearing knew that quite a few people from Monmouth and Oceanport were rather disappointed that these people did not appear, and we did not have input from the primary players:

the Monmouth Park officials and the Sports Authority. Of course, the Sports Authority refused to answer every question. The only question they answered specifically -- for the benefit of anyone who was not there -- insofar as a baseball field was concerned, was that they would construct a temporary baseball field. As far as I am concerned, that was an insult to the intelligence of the citizens of New Jersey, much less to this Legislature, or this Subcommittee. That was obviously an incredible answer, "a temporary baseball field." That would mean that they believe none of us knows what a major league team is, I presume.

I think numerous questions remain unanswered, and I think we specifically have to consider further study of the legislation which was passed in a ramrod fashion.

Senator Pallone pointed out, and obviously we are now seeing huge loopholes which have created a problem, and will create a problem, for the municipality. I think it is obvious that we already know we must have some type of local autonomy; there must be some type of zoning protection so that this very pretty area is not eliminated. I had the privilege of seeing it for the first time three weeks ago, and I think we must do something to protect that area in Monmouth County -- in particular, the Monmouth Park Jockey Club as it is now situated.

I think we have to go into the area. We have a situation where the trust of the State of New Jersey is involved. We have a \$45 million purchase that we have to make sure is not placed in jeopardy. I think the integrity of the Legislature may be in jeopardy. We are in this thing. If we continue to have non-response, we must do something to try and make sure the people of the State are protected in this financial situation.

Obviously, several days after our hearing, it was leaked that the Pirates would be coming to New Jersey. This was supposedly confirmed. Again, being a doubting Thomas -- I am originally from Illinois and that is close enough to Missouri -- I have to be shown. In any case, I think the editorial in the Currier Sunday was very apropos; it was about pirating the Pirates. As it says, I don't think New Jersey should become a predator.

The Authority is autonomous, but it bears the State's name. It depends upon the State for its power and it reflects the character of the State. I think that is the basic point.

We started out here and we were unable to go very far because no one wanted to proceed. They are all saying that in a couple of weeks they will have the agreements, or at least the agreements will be signed. I think maybe we will wait and see. I am not going to prejudge an agreement, but I think we have a situation here where we have to protect everything, including the integrity of the Legislature which I think was placed in jeopardy by this bill.

ASSEMBLYMAN FLYNN: Mr. Chairman, I think after the full Committee sits down, discusses this, and goes over the questions we still have unanswered, perhaps we ought to then make a recommendation to the Speaker that the Committee be given subpoena power over those witnesses who we think are important enough to appear and who have, thus far, refused, or who have had lame excuses.

ASSEMBLYMAN RILEY: I agree. I would like to see the whole Committee sit down together because I think there are questions regarding this bill, as Senator Pallone indicated, which have to be answered. I think if our meetings can be de facto or de jure cancelled by either lobbyists or by the requests of witnesses, that is a slap and an insult to the Legislature in general.

Therefore, if we do sit down to discuss this -- and I think Assemblyman Flynn's suggestion is a good one -- maybe what we should do at this point is to request authorization for subpoena power because I think we have a situation here where questions have to be answered. There are too many things involved regarding negotiations, money, zoning, and autonomy; there are many unanswered questions, and I think they have to be answered.

This hearing is now adjourned.

(HEARING CONCLUDED)

APPENDIX

JUL 17 1985



