

**NEW JERSEY RACING COMMISSION
WEDNESDAY, NOVEMBER 18, 2015
RACING COMMISSION OFFICE
140 EAST FRONT STREET, 8th FLOOR
TRENTON, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, November 18, 2015, in the Racing Commission office located at 140 East Front Street, in Trenton, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Anthony T. Abbatiello, Commissioner
Manny E. Aponte, Commissioner (by phone)
Michael J. Arnone, Commissioner (by phone)
Peter J. Cofrancesco, III, Commissioner
David C. Gruskos, Commissioner
Francis X. Keegan, Jr., Commissioner
Peter T. Roselle, Commissioner (by phone)
Frank Zanzuccki, Executive Director
SDAG George Cohen

The following were absent:

Anthony G. DePaola, 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 Darby's request, on behalf of the NJTHA, to cancel races on October 2, October 3, and October 9 due to rain soaked turf course.
2. Legal advice regarding public agenda item 17: consider the application of the Authority for the issuance of the initial exchange wagering license, the application of Darby for the issuance of an exchange management agent license and the application of Betfair US LLC ("Betfair") for the issuance of an exchange services agent license, all filed with the Commission pursuant to the Exchange Wagering Act, N.J.S.A. 5:5-168 et seq.
 - a) Consider the joint petition of the Authority and Darby, filed pursuant to N.J.A.C. 13:74C-3.2(a), seeking approval for the Authority to enter into an exchange wagering management agreement with Darby to conduct or operate the exchange wagering system and to act as the agent of the Authority.
 - b) Consider the joint petition of the Authority, Darby and Betfair, filed pursuant to N.J.A.C. 13:74C-3.2(c), seeking approval of the Exchange Wagering Agreement between Darby and Betfair, dated March 5, 2013.
 - c) Consider the joint petition of the Authority, Darby and Betfair, filed pursuant to N.J.A.C. 13:74C-3.3(a), seeking a waiver of the requirement that all exchange wagering business activities and functions shall be conducted and situated within the State of New Jersey.
 - d) Consider the joint petition of the Authority, Darby and Betfair, filed pursuant to N.J.A.C. 13:74C-5.2, seeking approval of the proposed Off-time, Finish and Antepost markets.
3. 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 and/or matters involving pending or anticipated litigation."

It was noted that Commissioner Aponte, Commissioner Arnone and Commissioner Roselle are participating by telephone.

Commissioner Abbatiello motioned to adopt the resolution to adjourn. Chairman Clyne seconded the motion. The Commission then adjourned to Executive Session.

Commissioner Gruskos made a motion to adjourn from Executive Session. Commissioner Cofrancesco seconded the motion and the Executive Session ended.

Commissioner Cofrancesco moved to reconvene the public session. Commissioner Abbatiello seconded the motion and the Commission concurring, the public session resumed.

CONSIDER APPROVAL OF THE MINUTES OF THE PUBLIC AND EXECUTIVE SESSIONS OF THE SEPTEMBER 16, 2015 COMMISSION MEETING

Commissioner Abbatiello made a motion to approve the public and executive minutes of the September 17, 2015 public meeting. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE ALLOCATION OF RACING DATES FOR THOROUGHBRED AND STANDARD BRED PERMIT HOLDERS FOR 2016

Executive Director Zanzuccki read the following statement:

In preparation for this day, all interested parties were invited to forward comments in writing to the Commission for consideration. All the 2016 applications have been filed and requested dates have been announced. Each Commissioner has been supplied with the law of date allocations and the history and statistics of prior racing seasons and written comments received from the industry. You now have another opportunity to summarize your positions.

The meeting, in terms of the presentations of the applicants and horsemen's groups, will proceed in the following order:

We will begin with the thoroughbred date request. A representative of the NJTHA will present its 2016 Monmouth Park proposed thoroughbred schedule, followed by its Meadowlands thoroughbred schedule. Comments from the THA and the members of the public will follow the racetrack presentations. The Commission will then consider a motion concerning thoroughbred dates and vote on the requested dates.

Following the vote on thoroughbred dates, the Commission will then hear the presentation from Freehold Racetrack, followed by presentations from representatives from NMR, LLC concerning its proposed 2016 Meadowlands standardbred racing schedule. Comments from the SBOA and members of the public will follow. Once again, following this presentation, the Commission will consider a motion and vote on the requested dates.

In considering the allocation of 2016 racing dates for both thoroughbred and standardbred racing, the Commission will give due consideration to the public interest factors enumerated in the statute. Briefly, those factors are:

1. Protect the State's revenue.
2. Provide for continuity of racing and year-round racing so as to promote the racing industry and maintain and enhance the employment which is provided to this State.
3. Provide recreational opportunity for residents.
4. Maintain and improve this State's competitive position with regard to neighboring racing states.

While these are the main factors, the Commission must also recognize and address such issues as horse availability, the effect of overlapping racing dates, the financial situation of the various racetracks, the erosion of live racing dates, and the overall status of the racing industry.

THOROUGHbred RACE DATES

Monmouth Park and Meadowlands Racetrack (thoroughbred)

William Knauf, on behalf of the NJTHA, asked for approval of the Monmouth Park and Meadowlands' dates as submitted to the Commission which consists of 57 days to be conducted at Monmouth Park and 14 all turf days to be run at the Meadowlands' facility. He stated that in regard to when the dual breed dates will be scheduled, he will return to the Commission for approval. Mr. Drazin indicated that the proposal with the SBOA and Mr. Gural is during September that the standardbreds will run on Saturdays, the thoroughbreds will run on Thursdays, and Friday will be the dual meet.

Thoroughbred Horsemen's Association

Michael Musto, on behalf of the THA, stated that the horsemen are in support of the dates requested.

There were no further comments on the thoroughbred race dates.

Chairman Clyne made the following motion:

The Racing Commission has received 2016 race date applications for thoroughbred racing for Monmouth Park at the Meadowlands Racetrack and at Monmouth Park. The Racing Commission has also considered materials from staff and any commentary offered.

The 2016 race date applications will reflect in the aggregate 71 thoroughbred dates.

As required by statute, the NJTHA, the horsemen's group representing the thoroughbred sector, has consented in writing to the reduction from the minimum date requirements of 141 thoroughbred dates.

I believe that approval of the thoroughbred race date applications is in the public interest as set forth in N.J.S.A. 5:5-22, et seq., specifically defined in the section 43 and 44. I believe that approval of these dates is consistent with the Racing Commission's obligation to endeavor to allot to each applicant the dates requested in the respective applications after giving due consideration to all factors involved including the interests of such applicants, the industry participants, and the public.

I believe approval of the thoroughbred race date application, while not achieving a year-round circuit, does provide for reasonable continuity of racing from May 14 to October 8, 2016. This schedule shall serve to: promote the thoroughbred industry, maintain and enhance the employment which thoroughbred racing provides, encouraged horses to stay in New Jersey, provide the maximum possible revenue to the State and to the New Jersey horsemen, will help the state maintain its competitive position in relation to neighboring states, and provide for recreational opportunities for New Jersey residents who desire to attend thoroughbred races.

In making this motion, I note that the dates applied for satisfy the conditions of the Off-track and Account Wagering Act as amended, and approval would therefore be compatible with the issuance to the New Jersey Sports and Exposition Authority of an account wagering license.

In making this motion, which calls for approval of the race date applications consistent with conditions recommended by staff, consideration was given to the dates proposed by the other breed of racehorse. In making respective allocations of race dates for each horse breed, the Commission is mindful of the benefits of providing a continuity of thoroughbred and standardbred racing between and amongst each horse race breed to the extent feasible, while minimizing harmful intrastate competition.

Therefore, I move for the following:

- 1) Approval of the 2016 thoroughbred race date application of the NJTHA for a 14 day meet at the Meadowlands;
- 2) Approval of the 2016 thoroughbred race date application of NJTHA to conduct 57 race dates at Monmouth Park Racetrack;
- 3) As part of this motion, I propose that the Executive Director be authorized to issue Orders of Allocation, including conditions, consistent with the determination of the full Commission.

Commissioner Keegan seconded the motion and all Commissioners voted yes.

STANARDBRED RACE DATES

Freehold Raceway

Howard Bruno, General Manager of Freehold Raceway, requested a 110-day meeting beginning with the winter/spring meet starting on January 1 through May 21 and the summer/fall meet beginning August 26 through December 10. He indicated that racing will be conducted on Thursday, Friday and Saturday and there will be three Monday holiday race days. He indicated that Freehold's concern is the horse population in that the racetrack is having issues now filling cards with the Meadowlands currently conducting racing, and he feels that next year will also be a concern with the Meadowlands racing in September.

New Meadowlands Racetrack

Darin Zoccali, Director of Operations for the Meadowlands Racetrack, requested 90 days of racing which is an increase of six dates from this year and an increase of nine dates from the previous year. He indicated that the schedule is somewhat different in that the

track is removing the eight Thursdays that are typically raced in the winter and moving them to the fall. These fall days will be geared toward younger two-year-old horses that are eligible for a stakes series called the Kindergarten Classic which has been predominately raced in Kentucky. He indicated that his stakes series has enough divisions that it consists of an entire racing card and the need for overnight horses, which would potentially be Freehold horses during that period of time, would be extremely minimal. Mr. Zoccali stated that the Meadowlands will also be adding a couple of dates in October that were not normally raced which will include the Breeders' Crown as they are the host site for that event. He also stated that they are eliminating Thursday racing because from a revenue standpoint, the racetrack earns more revenue on Fridays and Saturdays than it does on Thursday nights. He stated that for the Meadowlands' new facility to be closed after the first weekend in August and not be utilized at all during the good weather months has become detrimental to the racetrack from a business perspective and they are looking for ways to keep the facility open as often as possible.

Standardbred Breeders' and Owners' Association

Mark Ford, President of the SBOA, indicated the standardbred horsemen are willing to go along with the proposed race dates. He noted that the SBOA has reservations with the horse population in the fall because of the Meadowlands racing in September but the horsemen stand behind the racetrack's decision. Executive Director Zanzuccki confirmed that the SBOA has consented to the proposed standardbred race dates in writing.

There were no further comments on the standardbred race dates.

Chairman Clyne made the following motion:

The Racing Commission has received 2016 race date applications for standardbred racing from the New Meadowlands Racing, LLC and Freehold Raceway. The Racing Commission has also considered materials from staff and any commentary offered.

In 2016, Freehold Raceway proposes to race 110 days from January 1 through May 21 and August 26 through December 10.

The 2016 standardbred race date applications reflect in the aggregate 200 harness dates. As required by statute, the Standardbred Breeders' & Owners' Association has consented, in writing, to the reduction of the minimum race dates requirements for Freehold and Meadowlands harness.

I believe that approval of the race date applications is in the public interest as set forth in N.J.S.A. 5:5-22, et seq., specifically defined in Sections 43 and 44. I believe that approval of these dates is consistent with the Racing Commission's obligation to endeavor to allot to each applicant the dates requested in the respective applications after giving due consideration to all factors involved including the interests of such applicants, the industry participants, and the public.

The proposed schedule of racing dates allows for an orderly transition of standardbred horses from one facility to another, provides for continuity of standardbred racing, and reflects a schedule for nearly year-round harness racing. This schedule will serve to promote the standardbred racing industry, maintain and enhance the employment which it provides, provide revenue to the state and horsemen, help the State maintain and improve its competitive position in relation to neighboring states, and provide for recreational opportunities for New Jersey residents who choose to visit standardbred racetracks.

In making this motion, I note that the dates applied for satisfy the conditions of the Off-track and Account Wagering Act as amended, and approval would therefore be compatible with the issuance to the New Jersey Sports and Exposition Authority of an account wagering license.

In making this motion, which calls for the approval of the race date applications consistent with conditions recommended by staff, consideration was given to the dates proposed by the other breed of racehorse. In making respective allocations of race dates for each horse breed, the Commission is mindful of the benefits of providing a continuity of thoroughbred and standardbred racing between and amongst each horse race breed to the extent feasible, while minimizing harmful intrastate competition.

I, therefore, move for the following:

- 1) Approval of the 2016 application of the Freehold Raceway for 110 days;
- 2) Approval of the 2016 harness race date application of the Meadowlands Racetrack for a total of 90 dates;
- 3) As part of this motion, I propose that the Executive Director be authorized to issue Orders of Allocation, including conditions, consistent with the determination of the full Commission.

Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

- a) Consider whether to approve: Sportech Racing, Inc. to continue for calendar year 2016, to provide totalisator and related services for the racetrack permit holders (live racing) at the Mount Laurel Data Center and the renewal of Sportech's Racing Commission license for such purpose
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Commissioner Aponte motioned to approve the item subject to conditions contained in Schedule D. Commissioner Keegan seconded the motion and all Commissioners voted yes.

2016 ACCOUNT WAGERING LICENSE AND QUALIFIER APPROVAL REQUESTS

- a) Consider the application of the New Jersey Sports and Exposition Authority ("Authority") for approval to renew the account wagering license for 2016
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Chairman Clyne made the following motion:

The Commission has received from the New Jersey Sports and Exposition Authority, an application for the 2016 renewal of its account wagering license. The Commission has been provided with the materials from its staff, as well as a proposed order with license conditions.

Based upon my review, I find that the Authority continues to meet the legal requirements set forth in the "Off-Track and Account Wagering Act," and the Commission's rules, clearly and convincingly. I also find that the proposed Order and proposed license conditions for 2016, as to the Authority and each industry group referred to in the Order, are satisfactory and complete.

I move that the Commission authorize the Executive Director to issue the proposed Order and license conditions, subject to the Commission's approval of the related public agenda items.

Commissioner Keegan seconded the motion and all Commissioners voted yes.

- b) Consider, pursuant to the “Account Wagering Management Agreement” between the Authority and Darby Development, LLC (“Darby”) and others, whether to approve Darby to continue to manage the day-to-day affairs and business of the account wagering system in 2016; the renewal of Darby’s Racing Commission issued license for such purpose; the approval of Elite Consultants, LLC (“Elite”) to continue to provide consulting services to Darby concerning the account wagering system in 2016; and the renewal of Elite’s Racing Commission issued license for such purpose
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Chairman Clyne made the following motion:

We considered this agenda item, as concerns Darby specifically, for the first time on November 30, 2012. Since our approval three years ago, it is clear that the account wagering system has operated efficiently and smoothly under the Authority-Darby management agreement. I find that Darby (as well as Elite Consultants, LLC as the general consultant to Darby), and the employees for each, continue to be well-qualified to perform their respective function with regard to the Authority and the account wagering system. I also believe that the requirements of the Off-Track and Account Wagering Act continue to be met, clearly and convincingly, including as concerns the provisions of N.J.S.A. 5:5-140(c) and N.J.A.C. 13:74-4.2. I thereby move that this agenda item be approved, subject to the same conditions imposed on Darby and each industry group set forth in the proposed Order with conditions.

Commissioner Keegan seconded the motion and all Commissioners voted yes.

- bi) Consider whether to approve: ODS Technologies, L.P. (doing business as “TVG Network”) to continue to provide the platform services for the account wagering system in 2016 and the renewal of TVG Network’s Racing Commission issued license for such purpose
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Chairman Clyne made the following motion:

We considered this agenda item for the first time on February 27, 2013. Since that time, TVG Network has provided account wagering platform and related services in a capable manner. I believe that TVG Network, as well as its employees, continue to be well-qualified to perform their respective function with regard to the Authority and the account wagering system. I also believe that the requirements of the Off-

Track and Account Wagering Act and the Commission's rules continue to be met, clearly and convincingly.

I move that this agenda item be approved, subject to the conditions imposed on TVG Network, and each industry group, as set forth in the proposed Order with conditions.

Commissioner Keegan seconded the motion and all Commissioners voted yes.

- bii) Consider whether to approve: Sportech Racing, Inc. to continue to provide totalisator and related services for the account wagering system at the Mount Laurel Data Center in 2016 and the renewal of Sportech's Racing Commission license for such purpose
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Chairman Clyne made the following motion:

Sportech has provided totalisator services to the account wagering system, for several years, through its Mount Laurel Data Center. Sportech, as well as its employees, clearly and convincingly, remain suitable and qualified to provide such services in all respects. I therefore move for approval, subject to the conditions applicable to Sportech within the proposed Order with conditions.

Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

- c) Consider the petition of the New Jersey Thoroughbred Horsemen's Association, Inc., for approval to be continued to be designated as a qualifier to the account wagering system, and to thereby continue to receive a share of the account wagering revenue from the Authority in 2016
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Chairman Clyne made the following motion:

The Commission is in receipt of a petition filed by the NJTHA seeking Racing Commission approval in regard to this agenda item. The Commission first determined that the NJTHA was suitable, as a financial qualifier to the account wagering system, on May 3, 2012. I find that the NJTHA remains so qualified, clearly and convincingly, subject to the conditions set forth in the proposed Order with conditions. I move that the Commission find the NJTHA continues to be so qualified for 2016 and it may continue to receive an approximate 50% share of the account wagering system revenues from the Authority.

Commissioner Keegan seconded the motion and all Commissioners voted yes.

- d) Consider the petition of New Meadowlands Racetrack, LLC, for approval to be continued to be designated as a qualifier to the account wagering system, and to thereby continue to receive a share of the account wagering revenue from the Authority in 2016
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Chairman Clyne made the following motion:

The Commission is in receipt of a petition filed by the New Meadowlands Racetrack, LLC "NMRLLC" and its manager, Mr. Jeffrey Gural, seeking Commission approval in regard to this agenda item for 2016. The Commission first determined that the NMRLLC and Mr. Gural, were suitable, as a financial qualifier to the account wagering system, on December 20, 2011. NMRLLC and Mr. Gural, since that time, have remained in good standing with the Commission and have continuously remained so qualified. I find that the NMRLLC and Mr. Gural are qualified clearly and convincingly, subject to the conditions set forth in the proposed Order with conditions. I move that the Commission find that the NMRLLC and Mr. Gural continue to be so qualified for 2016 and the NMRLLC may continue to receive an approximate 50% share of the account wagering system revenues from the Authority.

Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE PETITION OF THE PERMITTED RACETRACKS, AND RELATED ENTITIES, FOR APPROVAL TO RENEW THE FOLLOWING OFF-TRACK WAGERING LICENSES FOR 2016:

- a) Toms River Township
- b) Vineland City
- c) Bayonne City
- d) Woodbridge
- e) Gloucester Township

Chairman Clyne made the following motion:

The Commission has received applications to renew the off-track wagering licenses for calendar year 2016, concerning the Bayonne, Toms River, Vineland City, Woodbridge and Gloucester Township off-track wagering facilities.

The Commission has considered the application materials submitted by the parties and materials provided by staff, which includes proposed orders and license conditions.

In reviewing these materials, I would note that the license conditions in each case properly include the condition that the decision of this Commission is subject to the review and approval of Acting Attorney General John J. Hoffman.

Based upon my review, I find that each OTW license renewal applicant continues to meet the legal requirements set forth in the “Off-Track and Account Wagering Act” and the rules of the Commission, inclusive of N.J.A.C. 13:74-2.3, and that each applicant is in substantial compliance with the license conditions individually imposed upon it.

I also find that the proposed orders and license conditions, as to each applicant, are satisfactory and appropriate.

I therefore move that each renewal application be approved, and that this Commission authorize the Executive Director to issue the proposed orders and conditions as to each applicant subject to and conditional upon the approval of the Attorney General.

Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER, PURSUANT TO THE EXISTING “MANAGEMENT AND DEVELOPMENT AGREEMENT” BETWEEN THE NJTHA, DARBY, AND ELITE, WHETHER TO APPROVE DARBY TO CONTINUE TO PROVIDE, MANAGEMENT, OVERSIGHT AND CAPITAL IMPROVEMENT RELATED SERVICES IN CONNECTION WITH NJTHA INTERESTS IN 2016, INCLUDING MONMOUTH PARK, ITS THOROUGHBRED RACING PERMIT FOR THE MEADOWLANDS, THE WOODBRIDGE AND HILLSBOROUGH OFF-TRACK WAGERING FACILITIES, THE DEVELOPMENT OF FUTURE OFF-TRACK WAGERING FACILITIES AND THE PILOT PROGRAM ASSOCIATED WITH BARS AND RESTAURANTS; THE RENEWAL OF DARBY’S RACING COMMISSION ISSUED LICENSE FOR SUCH PURPOSES; ELITE’S CONTINUED SERVICE AS CONSULTANT TO DARBY IN 2016; AND THE RENEWAL OF ELITE’S RACING COMMISSION ISSUED LICENSE FOR SUCH PURPOSES

Chairman Clyne made the following motion:

Through its Order dated May 9, 2012, the Commission approved the New Jersey Thoroughbred Horsemen’s Association’s (“NJTHA”) receipt, from the New Jersey Sports and Exposition Authority (“Authority”), of the racetrack permit for

Monmouth Park, the thoroughbred permit for the Meadowlands Racetrack, and the license to operate the Woodbridge Township off-track wagering facility. As part of its approval, the Commission approved Darby Development, LLC (“Darby”), and Elite Equine Consultants, LLC (“Elite”) as consultant to Darby, to manage, oversee, and provide for the day-to-day operations and capital improvements at Monmouth Park, the Meadowlands Racetrack and the Woodbridge Township off-track wagering facility subject to the conditions set forth in its May 9, 2012 Order and subsequent June 21, 2012 Order. Since that time, Darby and Elite have continued to function in such capacities.

Since our initial approval, it is evident that the NJTHA’s racing-related interests have operated well under the NJTHA, Darby and Elite Management and Development Agreement. I find that Darby, as well as Elite, as the consultant to Darby, and the employees of each, continue to be well-qualified to perform their respective functions.

I thereby propose and move that this agenda item be approved for 2016, subject to the conditions set forth in the Commission’s May 9, 2012 and June 21, 2012 Orders. If my fellow Commissioners agree with my motion, I further move that the Executive Director be authorized to issue an Order on the Commission’s behalf.

Commissioner Keegan seconded the motion and all Commissioners voted yes.

SIMULCASTING

Casino Simulcasting

Consider approval of Marina District Development Company, LLC (Borgata Hotel Casino and Spa) to receive simulcast horse races (thoroughbred and standardbred) from approved out-of-state tracks, through December 31, 2016

Commissioner Abbatiello motioned to approve the item subject to Racing Commission Schedule A. Chairman Clyne seconded the motion and all Commissioners voted yes.

Consider approval of the racetrack permit holders to conduct casino simulcasting to casinos approved or to be approved, through December 31, 2016 for dates granted pursuant to their respective 2016 annual applications for race meetings

Commissioner Cofrancesco motioned to approve the item subject to Racing Commission Schedule B. Commissioner Keegan seconded the motion and all Commissioners voted yes.

Consider whether to approve: Sportech to continue to act as a hub facility at the Mount Laurel Data Center for 2016 concerning casino simulcasting to the Borgata, and to any other casinos to be approved and the renewal of Sportech's Commission license for such purpose

Chairman Clyne motioned to approve the item subject to Racing Commission Schedule D. Commissioner Keegan seconded the motion and all Commissioners voted yes.

Consider the applications for approval of the attached list of out-of-state racetracks to participate in casino simulcasting to casinos approved or to be approved for selected dates through 2016

Chairman Clyne motioned to approve the item subject to Racing Commission Schedule C. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

Racetrack Simulcasting

Consider a request of the approved New Jersey racetracks to conduct inter and intra-state common pool and separate pool simulcasting with approved racing facilities and off-track wagering locations

Commissioner Keegan motioned to approve the agenda item subject to Racing Commission Schedules F, G and H. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

Consider whether to approve: Sportech to continue to provide totalisator and related services for racetrack simulcasting at the Mount Laurel Dater Center in 2016 and the renewal of Sportech's Racing Commission license for such purpose

Commissioner Cofrancesco motioned to approve the item subject to Racing Commission Schedule C. Commissioner Keegan seconded the motion and all Commissioners voted yes.

New Jersey Account Wagering and Off-Track Wagering Related Matters

Consider a request of the Authority to conduct account wagering with all approved racing facilities

Commissioner Keegan motioned to approve the item subject to Racing Commission Schedules F, G and H. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

Consider whether to approve Sportech to continue to provide totalisator and related services for New Jersey off-track wagering at the Mount Laurel Data Center in 2016 and the renewal of Sportech's Racing Commission license for such purpose

Commissioner Abbatiello motioned to approve the item subject to Racing Commission Schedules F, G and H. Commissioner Keegan seconded the motion and all Commissioners voted yes.

Consider the application for approval of all approved in-state and out-of-state racetracks to participate in simulcasting with off-track wagering facilities approved or to be approved through December 31, 2016

Commissioner Abbatiello motioned to approve the item subject to Racing Commission Schedules F, G and H. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE RACETRACKS, THE BORGATA HOTEL, CASINO & SPA, THE NEW JERSEY ACCOUNT WAGERING SYSTEM AND APPROVED OFF-TRACK WAGERING FACILITIES TO CONDUCT ADVANCE WAGERING (FULL OR PARTIAL CARD) ON THE FOLLOWING RACES OF NATIONAL INTEREST: ARC DE TRIOMPHE, BELMONT STAKES, BREEDERS CROWN DAY, BREEDERS CUP (ULTRA PICK 6), CANE PACE, CLAIMING CROWN, DUBAI RACING, ELITOPP (SWEDEN), FLORIDA DERBY, KENTUCKY DERBY, HAMBLETONIAN ELIMINATIONS DAY, HAMBLETONIAN DAY, HASKELL INVITATIONAL, JAPAN CUP, MEADOWLANDS PACE DAY, MELBOURNE CUP, PENNSYLVANIA DERBY, PREAKNESS, PRIX D' AMERIQUE RACE, SANTA ANITA DERBY, SANTA ANITA HANDICAP, TRAVERS, AND WOODFORD RESERVE

Chairman Clyne motioned to approve the item subject to conditions that no advance wagering can take place until the program information has been received from the host track, advance wagering is approved by the supervisor of mutuels, and all wagering shall be in compliance with the common pool procedures and regulations of the Commission. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE RACETRACKS, THE BORGATA HOTEL, CASINO & SPA, NEW JERSEY ACCOUNT WAGERING SYSTEM AND APPROVED OFF-TRACK WAGERING FACILITIES TO OFFER 2016 SPECIAL WAGERS OF NATIONAL INTEREST AND CONDUCT ADVANCE WAGERING

Commissioner Keegan made a motion to approve the item subject to conditions which include compliance with Racing Commission Schedule G and other conditions as previously imposed in prior years. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF APPROVAL GRANTED TO THE NEW MEADOWLANDS RACETRACK TO CONDUCT A \$10,000 INVITATIONAL HARNESS HANDICAPPING QUALIFYING CONTEST ON NOVEMBER 21, 2015

Commissioner Gruskos motioned to ratify approval granted to the New Meadowlands Racetrack. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF NEW MEADOWLANDS RACETRACK'S REQUEST TO CONDUCT A \$100 INVITATIONAL HARNESS HANDICAPPING QUALIFYING CONTEST ON JANUARY 23, 2016

Commissioner Gruskos motioned to approve the handicapping contest offered by the New Meadowlands Racetrack. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF FREEHOLD RACEWAY'S 2016 HARNESS WAGERING FORMAT, ADMISSION PRICES, DEPARTMENT HEADS, ETC.

Commissioner Cofrancesco made a motion to approve the 2016 race format of Freehold Raceway. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF NEW MEADOWLANDS' 2016 HARNESS WAGERING FORMAT, ADMISSION PRICES, DEPARTMENT HEADS, ETC.

Commissioner Abbatiello made a motion to approve the 2016 race format of the New Meadowlands Racetrack. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER DARBY'S REQUEST, ON BEHALF OF THE NJTHA, TO CANCEL RACES ON OCTOBER 2, OCTOBER 3 AND OCTOBER 9 DUE TO RAIN SOAKED TURF COURSE

Commissioner Abbatiello motioned to approve the request of the NJTHA to cancel the noted race dates due to inclement weather. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE PROPOSED READOPTION OF THE CASINO SIMULCASTING RULES, N.J.A.C. 13:72 WITH AMENDMENTS AND PROPOSED NEW RULE

Commissioner Keegan made a motion to approve the readoption of the casino simulcasting rules and reject the comment received from Debra L. Wentz, Chief Executive Office of the New Jersey Association of Mental Health and Addiction Agencies because it proposed changes outside of the scope of this proposal and the Commission's jurisdiction. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE 2016 BACKSTRETCH ADVISORY COMMITTEE BUDGET

Chairman Clyne made a motion to approve the 2016 Backstretch Advisory Committee budget in the amount of \$175,703. Commissioner Keegan seconded the motion and all Commissioners voted to approve the budget.

CONSIDER THE APPLICATION OF THE AUTHORITY FOR THE ISSUANCE OF THE INITIAL EXCHANGE WAGERING LICENSE, THE APPLICATION OF DARBY FOR THE ISSUANCE OF AN EXCHANGE MANAGEMENT AGENT LICENSE AND THE APPLICATION OF BETFAIR US LLC ("BETFAIR") FOR THE ISSUANCE OF AN EXCHANGE SERVICES AGENT LICENSE, ALL FILED WITH THE COMMISSION PURSUANT TO THE EXCHANGE WAGERING ACT, N.J.S.A. 5:5-168 ET SEQ.

- a) Consider the joint petition of the Authority and Darby, filed pursuant to N.J.A.C. 13:74C-3.2(a), seeking approval for the Authority to enter into an exchange wagering management agreement with Darby to conduct or operate the exchange wagering system and to act as the agent of the Authority.
- b) Consider the joint petition of the Authority, Darby and Betfair, filed pursuant to N.J.A.C. 13:74C-3.2(c), seeking approval of the Exchange Wagering Agreement between Darby and Betfair, dated March 5, 2013.
- c) Consider the joint petition of the Authority, Darby and Betfair, filed pursuant to N.J.A.C. 13:74C-3.3(a), seeking a waiver of the requirement that all exchange wagering business activities and functions shall be conducted and situated within the State of New Jersey.
- d) Consider the joint petition of the Authority, Darby and Betfair, filed pursuant to N.J.A.C. 13:74C-5.2, seeking approval of the proposed Off-time, Finish and Antepost markets.

Executive Director Zanzuccki read the following statement:

On or about December 19, 2014, the New Jersey Sports and Exposition Authority (“Authority”) filed an application to obtain an initial exchange wagering license in accordance with the Exchange Wagering Act and the Commission’s rules. At the same time, Darby Development LLC (“Darby”) filed an application seeking licensure as the exchange management agent and Betfair US LLC (“Betfair”) filed an application seeking licensure as the exchange services agent. In the applications, the three entities state that the Authority, which will hold the exchange wagering license, will oversee Darby and Darby will oversee Betfair.

Also before the Commission are four joint petitions which seek:

- 1) approval for the Authority to enter into a management agreement with Darby;
- 2) approval for Darby to enter into the Exchange Wagering Agreement with Betfair;
- 3) a waiver of the requirement that all exchange wagering business activities and functions be conducted within New Jersey; and
- 4) approval of the proposed off-time, finish and antepost markets.

The documents provided to each Commissioner include a copy of all of the applications, attachments and supplemental submissions, the joint petitions, staff's Investigative Report, the reports of Gaming Laboratories International, LLC ("GLI"), other documents compiled by staff and a draft Final Determination and Order with proposed conditions. The Commission has also conferred with legal counsel as appropriate.

The Authority and Darby are well-known to the Commission. The qualifications of Betfair to act as exchange services agent were the subject of extensive investigation by Commission investigative staff and by GLI.

The Commission retained GLI on June 9, 2015 to evaluate the Betfair Exchange Wagering Platform for compliance with the Commission's rules, to test the functionality of the wagering platform and to assess the geo-location ability of the system to limit wagers to persons physically located within New Jersey. GLI performed tests to confirm correct functionality of all aspects of the website content that Betfair proposes to offer to New Jersey residents. GLI also tested to establish that the software did function as described in the specifications Betfair provided to the Commission. GLI also provided independent technical guidance to the Commission regarding testing, investigating and explaining the functions of the exchange wagering system.

GLI conducted approximately six weeks of testing of the exchange wagering system. Throughout the testing process, GLI periodically observed potential bugs or limitations in the software that represented functionality errors or areas of potential non-compliance with regulatory requirements. Most issues were addressed and fixed in modifications Betfair made to the website as testing progressed.

Commission staff have proposed draft conditions to address those issues not yet corrected by Betfair. Staff have also proposed draft conditions to implement recommendations made by GLI and conditions intended to ensure that wagers placed through the exchange wagering system will be accurately processed and that sufficient safeguards maintain the integrity of New Jersey's horse racing industry. The applications and joint petitions are before you for your consideration.

However, on November 12, 2015, the Commission received an OPRA request filed on behalf of the Jockeys' Guild seeking a copy of all of the exchange wagering applications, attachments and joint petitions. The Jockeys' Guild also requested that the Commission table these matters for 30 days to give it time to review the applications and joint petitions. The Jockeys' Guild has filed two letters with the Commission which you have received.

In response, Darby and Betfair have filed letters with the Commission objecting to the Commission's expedited response to the OPRA request. Although they objected, Betfair nevertheless cooperated, on behalf of the applicants, by submitting redacted information that could be produced. Darby and Betfair oppose the Jockeys' Guild's request that the exchange wagering matters be tabled. You have also received their letters.

The Commission produced copies of the documents which the Jockeys' Guild requested on Friday, November 13, 2015 with certain information and attachments redacted based upon the applicants' position that the redacted documents do not constitute government records subject to disclosure under OPRA.

The request to table consideration of the exchange wagering applications and petitions is now before you for consideration. The Jockeys' Guild, Betfair and Darby have asked to address the Commission verbally to explain their positions. Due to the length of the meeting, it is my recommendation that they be limited to no more than five minutes each to state their positions.

Thomas Kennedy, Esq., on behalf of the Jockey's Guild, stated that the Guild has asked for a thirty-day adjournment of the exchange wagering issue. Betfair and Darby have responded that the Guild has delayed the opportunity for New Jersey to enjoy exchange wagering and that asking for a delay to consider this matter is a last minute request on our part. Mr. Kennedy responded to both of those points by stating that the Guild had nothing to do with the great amount of time that has lapsed prior to today and it is unfair to suggest that the Jockey's Guild is the reason that exchange wagering has not occurred. Mr. Kennedy addressed the Guild's request that the Commission delay this matter on today's agenda by providing a time frame of when the Guild received the public agenda. He indicated that the exchange wagering applications are dated December 2014 and that the applicants, knowing the Guild would be asking for the documents, should have provided the applications to the Guild. Mr. Kennedy indicated that the quality of the OPRA response has yielded nothing for the Guild to subsequently comment on because they were given 119 blank pages. Mr. Kennedy stated that this is very important from the Jockey Guild's perspective that they have a regime that respects the integrity of New Jersey racing in the exchange betting process without exposing jockeys unnecessarily to criticism or discipline. These are standards the Guild wanted the Commission to address. Mr. Kennedy urged the Commission to provide an opportunity for the Guild to meaningfully contribute by requiring the disclosure of the full applications.

John Hindman, Esq., on behalf of Betfair, responded to Mr. Kennedy's comments. He stated that the Jockey's Guild is not an interested party in this matter under New Jersey regulations. Mr. Hindman reviewed the exchange wagering process in New Jersey by explaining that the law was enacted in 2011 and the rulemaking process went along for approximately one year. In October 2014, the Guild requested and was granted a special hearing by the Commission at which they were provided an opportunity to voice any of the concerns that they had about exchange wagering and all of their concerns were duly addressed by the Commission. Mr. Hindman stated that he believes that the Jockey's Guild has a fundamental misunderstanding of the regulatory process. Betfair rejects the notion that the Commission has in any way outsourced the regulatory aspects or rulemaking aspects of exchange wagering. He indicated that the regulatory requirements mandate that Betfair satisfy the Commission that they are capable of complying with the rules and regulations and he believes through clear and convincing evidence that Betfair has satisfied its compliance. Mr. Hindman stated that he does not believe that exchange wagering in any way affects jockey conduct. In regard to the Jockey's Guild's OPRA request, Mr. Hindman stated that there is no obligation under law for Betfair to voluntarily provide the application materials to a third party and there is a great deal of proprietary, business sensitive information in the records which was redacted. He stated that Betfair did respond to the request in a timely, expedited manner and provided the application and the petitions with redactions so that the documents could be made public without materially harming Betfair.

Dennis Drazin, Esq., on behalf of Darby Development, echoed the comments of Mr. Hindman and emphasized that this process has been something that the Commission has thoroughly evaluated- not only from the jockey's position but from all positions in order to preserve the integrity of New Jersey racing. He stated that Commission staff have already carefully evaluated the issues which were raised by the Jockey's Guild and answered those questions at a formal public hearing where representatives of the Guild were present. He stated that subsequent to that hearing, the Guild could have made an OPRA request but they waited until the matter appeared on the public agenda. Mr. Drazin indicated that what is more of a concern to the Guild is that jockey's are concerned that if they feel that their horse is not going to win a bet and they pass on that information to others that they could be subject to sanctions. He stated that as long as the jockeys adhere to the rules of racing and the conduct that is required of them, they have nothing to fear. Mr. Drazin concluded that Darby is also opposed to the Commission delaying this matter.

There was no further discussion and the Commission considered whether to grant the request of the Jockey's Guild to table this matter for at least a period of thirty days. Pursuant to law, the Commission has 60 days to act on this matter once the application has been deemed complete. That time period expires on December 7, 2015, therefore, a 30 day delay would place the Commission out of compliance with the statute and regulations. Commissioner Gruskos made a motion to deny the request of the Jockey's Guild to delay the matter. Chairman Clyne seconded the motion and all Commissioners voted yes.

Chairman Clyne made the following motion:

In making this motion, I propose findings of fact which, I believe, are amply supported by the record before the Commission in accordance with the requirements of law. I would ask that my fellow Commissioners confirm their agreement with these findings by voting in the affirmative on this motion.

I find that the Authority has demonstrated its suitability for licensure as the exchange wagering licensee by clear and convincing evidence in accordance with the requirements of N.J.A.C. 13:74C-2.1. Over the years, the Commission has issued to the Authority numerous permits, off-track wagering licenses and account wagering licenses. Staff's investigation into the Authority's application revealed no derogatory information and the Authority is in good standing with the Commission.

I believe that the Authority, in conjunction with Darby and Betfair, has also demonstrated that the issuance of an exchange wagering license will not be inimical to the best interests of the public and the horse racing industry in this State; that wagers placed through the exchange wagering system will be accurately processed; and that there will be sufficient safeguards to maintain the integrity of the horse racing industry in this State.

I also believe that Darby and Betfair have demonstrated their suitability for licensure as exchange management agent and exchange services agent by clear and convincing evidence in accordance with the requirements of N.J.A.C. 13:74C-3.2. Since 2012, Darby has managed Monmouth Park, the thoroughbred meets at the Meadowlands and the Woodbridge OTW for the New Jersey Thoroughbred Horsemen's Association and it has managed the account wagering system for the Authority. More recently, Darby has been approved to manage the Pilot Program and the Hillsborough OTW. Staff's investigation of Darby revealed no derogatory information and Darby is also in good standing with the Commission.

Staff and GLI carefully scrutinized Betfair's qualifications to perform the proposed functions of the exchange services agent. Staff's investigation of Betfair revealed no derogatory information. GLI conducted approximately six weeks of testing of the exchange wagering system. Most of the issues identified by GLI were corrected by Betfair. I find that the few, remaining, issues which have not yet been corrected can be adequately addressed by imposing conditions on the licenses to be granted to the applicants. Conditions can also be proposed to implement certain recommendations made by GLI.

Regarding the four joint petitions, I find that the petitioners have established each of the regulatory requirements applicable to the petitions by clear and convincing evidence. First, the Authority seeks to retain Darby to manage the exchange wagering system pursuant to N.J.A.C. 13:74C-3.2(a). I find that the Authority and Darby have met each of the requirements of this rule and that the record clearly establishes that the Authority will maintain meaningful and adequate oversight and control over the exchange wagering system and Darby.

Second, all three applicants petition the Commission pursuant to N.J.A.C. 13:74C-3.2(c) seeking approval of the Exchange Wagering Agreement between Darby and Betfair. I find that the petitioners have met each of the requirements of this rule and that the record clearly establishes that Betfair is qualified to act as exchange services agent. The Commission's investigative staff and GLI found no derogatory or unusual information which would weigh against granting the license Betfair applied for or this joint petition.

Third, all three applicants petition the Commission pursuant to N.J.A.C. 13:74C-3.3 seeking a waiver of the requirement that all exchange wagering business be conducted within New Jersey. Certain state of the art equipment owned by Betfair is located at the Betfair Exchange Data Center in Dublin, Ireland. I find that the petitioners have established all of the requirements set forth in this rule by clear and convincing evidence.

Finally, the applicants petition the Commission pursuant to N.J.A.C. 13:74C-5.2 seeking approval of three types of markets. The three markets are specifically authorized by the Commission's rules at 5.1(a) and the joint petition addresses the requirements of 5.2(b). I find that the petitioners have established each of the requirements of this rule by clear and convincing evidence.

As a result, based upon these findings, I move that the Commission grant the exchange wagering license to the Authority, the exchange management agent license to Darby and the exchange services agent license to Betfair, as applied for, subject to the terms and conditions set forth in the draft Final Determination and Order provided by staff.

I move that the Commission also grant the relief sought in each of the four joint petitions subject to the terms and conditions in the draft Final Determination and Order.

Finally, I move that the Commission delegate full authority to its Executive Director to execute the Final Determination and Order on the Commission's behalf, to modify the conditions set forth in the Final Determination and Order as needed and to impose additional conditions with regard to the approvals set forth therein as he deems necessary and appropriate during the course of the license year.

This concludes my motion.

Commissioner Cofrancesco seconded the motion and all Commissioners voted yes.

ITEMS FOR DISCUSSION AND INFORMATION

The Executive Director stated that notice of the 2016 Racing Commission meeting dates is available and will be provided to the industry.

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

ATTEST:



Executive Director Frank Zanzuccki