

**NEW JERSEY RACING COMMISSION
WEDNESDAY, SEPTEMBER 20, 2017
“LIBRARY ROOM”
MONMOUTH PARK
OCEANPORT, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Friday, September 20, 2017 in the Library Room, located at Monmouth Park, Oceanport, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Anthony T. Abbatiello, Commissioner (by phone)
Michael J. Arnone, Commissioner (by phone)
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. Consider distribution of the Casino Simulcasting Special Fund monies accumulated in 2016 in the amount of \$501,408.08 pursuant to N.J.S.A. 5:12-205d.
2. Consider the petition of ACRA Turf Club, LLC and Freehold Raceway Off-Track, LLC, seeking the continuation of the Commission’s Order staying enforcement of the benchmarks set forth in N.J.A.C. 13:74-2.4(b) regarding annual progress in establishing off-track wagering facilities.

3. Consider the request of New Meadowlands Racetrack to amend their 2017 race meeting by eliminating race dates on November 17 and 24 and adding race dates on November 4 and 11.
4. Consider the Initial Decision in the matter of Mark Ford v. New Jersey Racing Commission, OAL Docket No. RAC 06047-15.
5. Consider the petition for rulemaking filed by New Meadowlands Racetrack to adopt a new rule declaring a horse that tests positive for certain substances ineligible to race for 90 or more days.
6. Consider the request of the Board of Stewards assigned to Monmouth Park to increase the penalties issued against licensed owner Randal Gindi and trainer Jorge Navarro, by ruling No. 17MON42 and 17MON43.
7. Other matters requiring the advice of counsel.

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 AUGUST 25, 2017 COMMISSION MEETING

Commissioner Keegan made a motion to approve the public and executive minutes of the August 25, 2017 public meeting. Commissioner Abbatiello seconded the motion and all Commissioners voted yes with the exception of Commissioner Hoffman who abstained.

APPROVAL OF A RESOLUTION IN MEMORY OF COMMISSIONER PETER J. COFRANCESCO, III

Chairman Clyne made a motion to adopt the following resolution:

"WHEREAS, Peter J. Cofrancesco, III served two terms as Commissioner of the New Jersey Racing Commission from 2001-2006 and then 2010-2017, as the youngest and longest standing member of the Commission, and;

WHEREAS, Peter J. Cofrancesco, III was a very active and supportive member of the Commission, attending as many meetings as possible, even under difficult circumstances and serving on many important committees, and;

WHEREAS, Peter J. Cofrancesco, III owned and operated a very successful family business that was named the 2003 New Jersey Family Business of the year, and;

WHEREAS, Peter J. Cofrancesco, III was a past president of the American Quarter Horse Association and was recently inducted into their Hall of Fame, and;

WHEREAS, Peter J. Cofrancesco, III earned the respect of the entire racing community for his dedication, knowledge, integrity and effective leadership, and;

WHEREAS, God, in His infinite wisdom, has now called him into His service, and;

WHEREAS, the entire racing community will miss him and his contributions to the industry.

NOW, THEREFORE, BE IT RESOLVED, that the members and staff of the New Jersey Racing Commission, on behalf of the Governor and citizens of the State of New Jersey, extend to the family of Peter J. Cofrancesco, III, their heartfelt sympathy on his passing and their grateful appreciation for his outstanding public service to the sport of horse racing.

BE IT FURTHER RESOLVED, that this resolution be made part of the minutes of this meeting of the New Jersey Racing Commission and that a suitable copy be forwarded to his family.”

Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER DISTRIBUTION OF THE CASINO SIMULCASTING SPECIAL FUND MONIES ACCUMULATED IN 2016 IN THE AMOUNT OF \$501,408.08 PURSUANT TO N.J.S.A. 5:12-205d

Executive Director Zanzuccki stated that the Casino Simulcasting Special Fund monies accumulated in 2016 total \$501,408.08. He stated that in advance of the meeting, each Commissioner was provided with the submissions of the racetracks and horsemen’s groups for the year in question.

The Executive Director summarized the requests received:

- Monmouth Park - 80% of available funds
- Meadowlands Racetrack - “Appropriate share”
- Freehold Raceway - \$250,000
- Thoroughbred Breeders’ Association of New Jersey - \$125,350
- New Jersey Thoroughbred Horsemen’s Association, Inc. – 50% of available funds after distribution of priority d1 and d2.

- Standardbred Breeders & Owners Association of New Jersey, Inc. - 50% of available funds after distribution to racetracks

The Executive Director indicated that the CSSF Committee met on September 15, 2017 to review all documentation and reasoning regarding this matter and report back to the Commissioners. The Committee's members are: Commissioner Keegan and Chairman Clyne.

The Executive Director indicated that Chairman Clyne asked that he present the committee's findings. He noted that the statute governing distribution of Casino Simulcasting Special Fund designates an order of priority by which allocation of these funds to racetracks and horsemen's groups can and should be made.

The Executive Director started with Priority Category No. 1 which is any racetrack that can demonstrate to the Commission that its financial well-being is negatively affected by casino simulcasting. The Executive Director reported the Committee's findings that the casino simulcasting facility and casino gaming in general continue to negatively impact our three racetracks as casinos market to all areas of the State, provide transportation services and offer incentives to visit Atlantic City such as free rooms and beverages.

The Executive Director noted that all racetracks have submitted documentation of having been negatively impacted by casino simulcasting. Historically the Commission has found this to be the case when previously allocating these funds, and the Committee found it to be the case again in this particular year.

The Committee took into consideration the arguments made by Darby on behalf of Monmouth Park at the Commission's August meeting but did not agree that the thoroughbred racetrack had established that it was more negatively affected by casino simulcasting than the harness racetracks.

No Commissioner disagreed with the Committee's determination that all racetracks are negatively affected by casino simulcasting.

The Commission moved to Priority Category No. 2 which is any racetrack in this State which the Commission finds to be financially distressed. All three racetracks documented that they are financially distressed and the Committee found that all three racetracks qualify for funds under this priority.

No Commissioner disagreed with the Committee's determination that all racetracks are financially distressed and qualify for funds.

The Commission then discussed allocations among the racetracks pursuant to these top two priorities. The Executive Director, reading the Committee's findings, reported that the Committee proposes the three racetracks receive 80% of the available funds to be distributed as follows:

Monmouth Park, New Meadowlands, and Freehold receive \$133,708.82 each.

All Commissioners were in agreement with the Committee's findings that Monmouth Park, New Meadowlands and Freehold should receive these amounts.

The Commission then moved on to Priority Category No. 3 which is any horsemen's organization which will use the money to fund a project which the Commission determines will be beneficial to the racing industry.

The Executive Director stated the Committee's findings that all three horsemen's organizations have submitted requests that qualify since they intend to use the funds allotted for the benefit of the industry by helping fund health and welfare programs for horsemen and to help sustain and or increase New Jersey Breeders' awards programs.

The SBOA requested 50% of the CSSF funds after the funds are distributed to the racetracks for its Health Benefit Program with \$7,000 of that amount for funding standardbred retirement programs.

The THA submitted requests for funds for use in its Backstretch Health and Welfare program to assist it in maintaining current levels of coverage.

The TBA requested funds to cover the payment of 2017 Breeders' awards.

The Executive Director noted that after allocating funding under priority categories 1 and 2, there would remain a balance of \$100,281.62 for distribution under priority category No. 3. He explained that the Committee recommends that the balance be divided equally by breed because each breed provides significant live racing opportunities, each provides opportunities for employment, each provides substantial open space by virtue of the land devoted to horse breeding and training and each provides recreational opportunities for our residents. The Commissioners agreed that the funds be divided equally by breed with 50% of the remaining funds (\$50,140.82) be allocated to the SBOA which \$7,000 should be used for funding retired racehorse programs.

The Commission agreed that the remaining funds be split evenly between the two thoroughbred horsemen's groups:

\$25,070.40 to the THA and
\$25,070.40 to the TBA

No funds would remain for distribution under Priority Category No. 4 which is all racetracks in this State on an equal basis.

Chairman Clyne made the following motion:

"Based on a review of all documentation submitted, the discussions at this meeting and our previous meeting and the statutory requirements, I believe that the Meadowlands, Monmouth Park, and Freehold racetracks qualify under N.J.S.A. 5:12-205 (d)1 and (d)2 and I move to

distribute 80% of the available funds equally to the racetracks as follows: Monmouth Park \$133,708.82, Meadowlands \$133,708.82, and Freehold \$133,708.82.

I further believe the three horsemen organizations have identified programs that are beneficial to the industry and propose that the remaining funds, totaling \$100,281.62, be shared equally by breed with the SBOA receiving 50% and the THA and TBA receiving 25% each pursuant to N.J.S.A. 5:12-205(d)3.

I therefore move to distribute to the horsemen's groups the following: \$50,140.82 to the SBOA, as the organization representing the standardbred horsemen of which \$7,000 is to be used to fund standardbred racehorse retirement programs with the remainder to the health benefits program.

\$25,070.40 each to the THA and TBA, as the organizations representing the thoroughbred horsemen to be used to fund the health benefits program and the breeder award program respectively.

Finally, I move that NJRC staff prepare an Order detailing the actions of the Commission to be issued with the distribution of these funds and authorize the Executive Director to execute the Order on the Commission's behalf. "

Commissioner Hoffman seconded the motion and all Commissioners voted yes.

CONSIDER THE PETITION OF ACRA TURF CLUB, LLC AND FREEHOLD RACEWAY OFF-TRACK, LLC, SEEKING THE CONTINUATION OF THE COMMISSION'S ORDER STAYING ENFORCEMENT OF THE BENCHMARKS SET FORTH IN N.J.A.C. 13:74-2.4(b) REGARDING ANNUAL PROGRESS IN ESTABLISHING OFF-TRACK WAGERING FACILITIES

Executive Director Zanzuccki stated that on July 5, 2017, ACRA Turf Club, LLC and Freehold Off-Track Raceway, LLC filed a petition asking the Commission to continue to stay the off-track wagering benchmarks set forth in N.J.A.C. 13:74-2.4(b). The Commission decided to stay the OTW benchmarks at its May 14, 2014 meeting and its decision to do so was memorialized in an Order dated June 3, 2014. The Commission was required to promulgate the OTW benchmarks when the Legislature amended the governing statute in 2012 to mandate that permit holders shall continue to make progress on an annual basis in establishing the off-track wagering facilities within their share.

The Executive Director stated that litigation has occurred regarding this matter and matters are pending before the court. At this time, staff is recommending that the stay remain into effect for a limited period of time.

Chairman Clyne made the following motion:

"ACRA and FROT filed this Petition asking the Commission to continue to stay the benchmarks to give the industry the opportunity to seek changes to the Off-Track and Account

Wagering Act. Petitioners assert that the Forfeiture Amendment “is not working as intended and has created more problems than it has solved.” The THA has “no objection to the continuation of the stay.” NMR submitted its “concurrence with and support of the captioned Petition” and believes that continuing the stay “would benefit all the industry parties involved.” The SBOA and the TBA did not comment on Petitioners’ request to continue the stay.

A review of the benchmarks in N.J.A.C. 13:74-2.4(b) indicates that they are obsolete and, therefore, likely unenforceable. The benchmarks require specific actions by specific dates and these dates have long passed.

Commission staff have drafted proposed amendments to N.J.A.C. 13:74-2.4(b) which extend the amount of time the permit holders have to open the OTWs within their shares based upon the input staff received at the industry meetings on July 8, 2014, March 11, 2015 and June 20, 2017. The proposed amendments must be reviewed by the Department and the Governor’s Office before they can be formally considered by the Commission. However, it is our understanding that the draft amendments will create new deadlines for compliance, which will begin after the amendments are adopted. This will give each permit holder a fresh start. This will also give the industry time to seek changes to the Act if that is the preferred course of action.

As a result, I move that the Commission continue to stay the enforcement of the current benchmarks in N.J.A.C. 13:74-2.4(b) because they are no longer viable and direct staff to proceed with the proposed amendments so that new benchmarks, which can be enforced, are adopted as soon as possible.”

Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE NEW MEADOWLANDS RACETRACK TO AMEND THEIR 2017 RACE MEETING BY ELIMINATING RACE DATES ON NOVEMBER 17 AND 24 AND ADDING RACE DATES ON NOVEMBER 4 AND 11, 2017

Chairman Clyne made a motion to approve the request of the New Meadowlands Racetrack to amend their race dates. Commissioner Hoffman seconded the motion and all Commissioners voted yes.

CONSIDER THE INITIAL DECISION IN THE MATTER OF MARK FORD V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 06047-2015N

Commissioner Hoffman made a motion to adopt the Initial Decision of the OAL which affirms the determination of the Board of Judges to impose a 15 day license suspension, \$500 fine and loss of purse on Mark Ford. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER THE PETITION FOR RULEMAKING FILED BY THE NEW MEADOWLANDS RACETRCK TO ADOPT A NEW RULE DECLARING A HORSE THAT TESTS POSITIVE FOR CERTAIN SUBSTANCES INELIGIBLE TO RACE FOR 90 OR MORE DAYS

Executive Director Zanzuccki recommended that this matter be deferred for 90 days in order for staff to review the petition.

Michael Vukceovich, Director of Regulatory Affairs for Darby Development, LLC, stated that Monmouth Park interprets the petition for rulemaking to only be relating to standardbred racing.

Commissioner Hoffman motioned to defer action on the petition for 90 days. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE BOARD OF STEWARDS ASSIGNED TO MONMOUTH PARK TO INCREASE THE PENALTIES ISSUED AGAINST LICENSED OWNER RANDAL GINDI AND TRAINER JORGE NAVARRO, BY RULING NO. 17MON42 AND 17MON43

A Youtube video of the August 4, 2017 incident involving owner Randal Gindi and trainer Jorge Navarro was played at the meeting.

Jorge Navarro and his attorney, Bradford Bailey, Esq. addressed the Commission. Jorge Navarro apologized and stated that this behavior will never occur again. Mr. Bailey asked that the Commission consider this matter separate from the matter involving Randal Gindi, and advised the Commission that Jorge Navarro has disassociated himself from owner Randal Gindi.

Executive Director Zanzuccki indicated that it is important to note that the hearing before the Board of Stewards and the consideration of this matter at today's meeting involves only the conduct of Jorge Navarro and Randal Gindi on August 4, 2017.

Commissioner Keegan motioned to accept the Board of Stewards' recommendation to increase the fine issued to Jorge Navarro from \$5,000 to \$10,000 and to increase the fine issued to Randal Gindi from \$10,000 to \$20,000. Chairman Clyne seconded the motion and all Commissioners voted yes.

OTHER DISCUSSION

The Executive Director acknowledged that State Veterinarians Deborah Lamparter and Barbara Greene received the Attorney General's Lifetime Achievement Award for their 40 years of service.

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

ATTEST:


Executive Director Frank Zanzuccki