

**NEW JERSEY RACING COMMISSION
WEDNESDAY, JANUARY 19, 2011
MEADOWLANDS RACETRACK
HAMBLETONIAN ROOM, PEGASUS LEVEL
EAST RUTHERFORD, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, January 19, 2011, in the Hambletonian Room of the Meadowlands Racetrack, located in East Rutherford, New Jersey.

The following were present:

Dennis A. Drazin, Chairman
Anthony T. Abbatiello, Commissioner
Anthony R. Caputo, Commissioner
Francis X. Keegan, Jr., Commissioner
Frank Zanzuccki, Executive Director
DAG Judith A. Nason

The following were absent:

Peter J. Cofrancesco, III, Commissioner
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 request of the New Jersey Thoroughbred Horsemen's Association to waive the requirement of reporting the receipt and disbursement of public purpose funds received from the New Jersey Sports and Exposition Authority;

Legal advice concerning approval of the proposed settlement agreement concerning Eric Abbatiello v. NJRC;

Legal advice concerning approval of the proposed settlement agreement concerning Elvis Trujillo v. NJRC, OAL Docket No. RAC 7021-2010S; and

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."

Commissioner Keegan motioned to adopt the resolution to adjourn. Commissioner Caputo seconded the motion. The Commission then adjourned to Executive Session.

The Commission ended the execution session and Chairman Drazin moved to reconvene the public session. Commission Abbatiello seconded the motion and the Commission concurring, the public session resumed. It was noted that Chairman Drazin is participating by telephone.

CONSIDER APPROVAL OF THE MINUTES OF THE PUBLIC AND EXECUTIVE SESSIONS OF THE NOVEMBER 10, 2010 AND THE DECEMBER 22, 2010 COMMISSION MEETINGS

Commissioner Abbatiello motioned to approve the public and executive session minutes of the November 10, 2010 and the December 22, 2010 public meetings. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE BILLS

Commissioner Abbatiello made a motion to approve the bills as certified to by staff. Commissioner Caputo seconded the motion and all Commissioners voted to approve the bills as certified to by staff.

CONSIDER A RESOLUTION IN HONOR OF COMMISSIONER JAMES G. AARON

Commissioner Keegan read the following motion:

WHEREAS, James G. Aaron served as a member of the New Jersey Racing Commission for nearly five years from January 10, 2006 until his resignation on November 30, 2010, and;

WHEREAS, Commissioner Aaron, having been recommended for the Racing Commission position by the Standardbred Breeders' and Owners' Association, ably served their cause, and;

WHEREAS, James G. Aaron, Esq., having extensive experience in legal matters, provided invaluable and timely advice to the Commission regarding same, especially on complicated court decisions and settlements, and;

WHEREAS, Commissioner Aaron's passion for horse racing was evident in his candor and willingness to lead discussions on difficult and controversial matters presented to the Commission, and;

WHEREAS, Commissioner Aaron earned and deserved the respect and admiration of the entire New Jersey Racing Industry for his overall sound advice and his long term dedication to the sport of horse racing.

NOW, THEREFORE, BE IT RESOLVED that the members on the New Jersey Racing Commission, on behalf of all its members past and present and the citizens which it serves, do hereby express their grateful appreciation for his devoted service, and;

BE IT FURTHER RESOLVED, that this resolution be spread upon the permanent records of the New Jersey Racing Commission and a suitable copy be presented to him.

Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF THE APPROVAL GRANTED TO THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY CONCERNING THE FOLLOWING HANDICAPPING CONTESTS:

National Harness Handicapping Championship Qualifier, the Meadowlands/Woodbine Handicapping Challenge to be held on January 29, 2011 at the Meadowlands Racetrack

National Harness Handicapping Championship Qualifier held at the Meadowlands Racetrack on December 4, 201

Monmouth Park Handicapping Contest held on November 20, 2010 involving wagering on races from Aqueduct, Churchill Downs and Monmouth Park racetracks

Commissioner Caputo motioned to ratify approval granted to the New Jersey Sports and Exposition Authority to conduct the noted handicapping contests. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY TO AMEND THE 2011 MEADOWLANDS RACETRACK'S HARNESS RACING SCHEDULE

Lennon Register, Senior Vice President for Racing, at the NJSEA, stated that the Sports Authority is looking to create a championship meet at the Meadowlands Racetrack and the request is to cancel the April race dates originally requested in October 2010 and move those days to Thursdays in May through August. Mr. Register also stated that there is currently legislation pending which is expected to pass in February. At that time, the NJSEA will return to the Commission and seek further amendments to the standardbred race dates.

The Executive Director clarified that the application requested today, if approved, would result in 81 standardbred race dates being conducted at the Meadowlands Racetrack through August 20 and the remaining 60 race dates will be scheduled in the fall. This date adjustment will result in the required 141 racing dates on the calendar. If, however, the legislation is enacted, the NJSEA will request of the Commission that the 60 race days scheduled in the fall be eliminated.

Commissioner Abbatiello motioned to approve the request. Commissioner Caputo seconded the motion and all Commissioners voted yes with the exception of Chairman Drazin who abstained.

CONSIDER THE REQUEST OF THE APPROVED CASINOS TO ENTER INTO AN AGREEMENT (WHICH MAY CALL FOR THE PAYMENT OF MORE THAN 3.5 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. 5:12-201d:

Six percent to Gulfstream park for the Donn Handicapp on February 5, 2011
Six percent to Churchill Downs for the Kentucky Oaks on May 6, 2011
Six percent to Saratoga Race Course the Whitney Handicap on August 6, 2011
Six percent to Santa Anita Park for the Malibu Stakes in December 2011

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

CONSIDER ADOPTION OF PROPOSED AMENDMENTS TO N.J.A.C. 13:71-17.1 (STARTING GATE) AS IT RELATES TO IMPLEMENTATION OF A FAIR START POLE

The Executive Director informed the Commission that the proposed amendment to the starting gate rule originated as a petition for rule making from Allan Schott who is seeking that a fair start pole be erected 200 feet before the starting point of the race and if a horse has not reached the fair start pole when the other horses have reached the starting point, the horse will be removed from wagering and all bettors who wagered on the horse will receive a refund. The matter was advertised in the New Jersey Register and the comment period has expired on December 6, 2010.

The Executive Director stated that staff have evaluated the proposed rule and recommends that the proposal, as advertised, be rejected for the following reasons:

- 1) The rule, as proposed, fails to address certain important issues that are of concern. The petition does not address whether a horse eliminated from wagering is also eliminated from sharing in any purse money if the horse recovers from the poor start and continues to run in the race and qualifies for a portion of the purse.
- 2) The petition requires a horse to be scratched from the mutuels when it fails to reach the fair start pole when the horses are released at the starting point. Staff indicated that this provision may prove to be problematic because patrons who have wagered on the horse that doesn't reach the fair start pole will believe they are entitled to payment in those instances where the horse finishes well enough to qualify for a share of the purse. Staff recommended that the proposed rule, based upon the petition, should be adjusted to allow the payment of winning tickets if the horse finishes in the money and to continue to refund wagers if the horse finishes and does not qualify for purse winnings.
- 3) The Executive Director informed the Commission that its race officials believe that the fair start pole should be positioned 330 feet from the starting point instead of 200 feet. The officials also have concerns about their ability to implement the proposed rule because of the difficulty of determining when a horse reaches the fair start pole. The officials believe that additional language would need to be added to the proposed rule to give them the discretion to make a judgment call and to erect a camera that views the fair start pole as the horses are released from the gate.

Executive Director Zanzuccki indicated that the rule proposal may be approved for adoption, rejected or deferred to staff for further deliberations. If the Commission chooses to reject the proposal, the Commission may also request that staff prepare a draft rule proposal that addresses staff's concerns.

Referencing the fact that the Commission had only received two comments on the rule proposal (in addition to those comments from the race officials), the Commissioners indicated that they had not received comments from the industry and the standardbred horsemen in connection with the rule proposal. The Commission asked representatives of the SBOA present at the meeting if the horsemen had a position regarding the Commission's action on the petition and the concerns of the officials that were discussed at the meeting. The SBOA indicated that it did not have a position.

Commissioner Caputo motioned that the proposal be rejected and referred to staff for further review. Commissioner Keegan seconded the motion and all Commissioners voted yes. It was noted that the Commission would consider comments from the SBOA in connection with the reproposal of the amendments to the starting gate rule.

CONSIDER THE PETITION FOR RULE MAKING RECEIVED FROM THE NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION TO ALLOW FOR SPLIT SAMPLE TESTING

It was noted for the record that Chairman Drazin recused himself from this agenda item, therefore, there was no quorum of Commissioners to consider the matter.

CONSIDER THE REQUEST OF THE NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION TO WAIVE THE REQUIREMENT OF REPORTING THE RECEIPT AND DISBURSEMENT OF PUBLIC PURPOSE FUNDS RECEIVED FROM THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY

It was noted for the record that Chairman Drazin and Commissioner Keegan recused themselves from this agenda item, therefore, there was no quorum of Commissioners to consider the matter.

CONSIDER THE REQUEST OF THE NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION FOR APPROVAL OF BUDGETS RELATING TO STATUTORY ALLOCATED FUNDS, HORSEMEN'S BOOKKEEPER INTEREST FUNDS AND PUBLIC PURPOSE FUNDS FOR CALENDAR YEARS 2011, 2012 AND 2013

It was noted for the record that Chairman Drazin recused himself from this agenda item, therefore, there was no quorum of Commissioners to consider the matter.

CONSIDER THE REQUEST OF THE STANDARD BRED BREEDERS' AND OWNERS' ASSOCIATION FOR APPROVAL OF THEIR 2011 CALENDAR YEAR BUDGET

The Executive Director stated that the SBOA is projecting total expenditures of \$1,475,000 for 2011 which is \$140,000 less than the approved 2010 budget. The proposed budget meets the requirement of the legislation in that over 70 percent of the statutorily allocated money will be used for benevolent programs. It was noted for the record that in 2010, the SBOA operated with using less than the budgeted money which amounted to \$1.5 million which was approximately \$100,000 under budget. In addition, Leo McNamara, Executive Administrator for the SBOA, confirmed that the 2011 budget does not include an expenditure for lobbying costs.

Commissioner Abbatiello motioned to approve the budget. Commissioner Keegan seconded the motion and all Commissioners voted yes with the exception of Chairman Drazin who abstained.

CONSIDER THE REQUEST OF THE THOROUGHBRED BREEDERS' ASSOCIATION OF NEW JERSEY FOR APPROVAL OF THEIR 2011 CALENDAR YEAR BUDGET

It was noted for the record that Chairman Drazin recused himself from this agenda item, therefore, there was no quorum of Commissioners to consider the matter.

CONSIDER APPROVAL OF THE PROPOSED SETTLEMENT AGREEMENT CONCERNING ERIC ABBATIELLO V. NJRC

It was noted for the record that Commissioner Abbatiello recused himself from this agenda item, therefore, there was no quorum of Commissioners to consider the matter.

CONSIDER APPROVAL OF THE PROPOSED SETTLEMENT AGREEMENT CONCERNING ELVIS TRUJILLO V. NJRC, OAL DOCKET NO. RACE 7021-2010S

There was no settlement agreement available, therefore, no action was required.

AGENDA ITEMS FOR DISCUSSION AND INFORMAITON

The Executive Director read the following statistics for 2010:

Human Drug Testing Program: 708 samples tested with 5 positives

Equine Testing Program: 39,196 samples were tested producing 31 positives
(In 2009, 36,515 samples were tested producing 46 positives)

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

ATTEST:

Executive Director Frank Zanzuccki