

**NEW JERSEY RACING COMMISSION
WEDNESDAY, MAY 14, 2014
“LIBRARY ROOM”
MONMOUTH PARK RACETRACK
OCEANPORT, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, May 14, 2014, in the Library Room of Monmouth Park, located in Oceanport, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Anthony T. Abbatiello, Commissioner
Manny E. Aponte, Commissioner (by phone)
Michael J. Arnone, Commissioner
Anthony R. Caputo, Commissioner
Peter J. Cofrancesco, III, Commissioner (by phone)
Anthony G. DePaola, Commissioner
Francis X. Keegan, Jr., Commissioner
Peter T. Roselle, Commissioner (by phone)
Frank Zanzuccki, Executive Director
DAG Judith A. Nason

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 regarding two decisions from the Third Circuit Court of Appeals in the matter of ACRA Turf Club, LLC; Freehold Raceway Off-Track, LLC v. Francesco Zanzuccki, Executive Director of the New Jersey Racing Commission;
2. Consider advertisement of proposed amendments to N.J.A.C. 13:70-14A and N.J.A.C. 13:71-23 (Medication and Testing Procedures);
3. Consider petitions from permit holders evidencing the requirement to continue to make progress on an annual basis in establishing an off-track wagering facility within their share in accordance with N.J.S.A. 5:5-130;
4. Consider advertisement in the New Jersey Register, for purposes of receiving written public comment, of proposed new rules at N.J.A.C. 13:74C (Exchange Wagering).
5. 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 Cofrancesco and Commissioner Roselle are participating by telephone.

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

The Commission ended the execution session and Chairman Clyne moved to reconvene the public session. Commissioner DePaola seconded the motion and the Commission concurring, the public session resumed.

CONSIDER APPROVAL OF THE MINUTES OF THE PUBLIC AND EXECUTIVE SESSIONS OF THE MARCH 19, 2014 COMMISSION MEETING

Commissioner Abbatiello made a motion to approve the public and executive minutes of the March 19, 2014 public meeting. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF MONMOUTH PARK'S REQUESTS FOR FOLLOWING HANDICAPPING CONTESTS:

- a) 2014 Simulcast Series Challenge Invitational conducted on Saturday, April 26, 2014.
- b) National Handicapping Championship to be conducted on Saturday, May 31, 2014.

Commissioner Keegan motioned to ratify the approval granted to Monmouth Park concerning the noted handicapping contests. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUESTS FOR THE FOLLOWING HANDICAPPING CONTESTS:

- a) Handicapping Challenge Series on Sunday, June 22, 2014 at Favorites at Woodbridge.
- b) Borgata Casino handicapping tournament on Saturday, June 28, 2014.

Commissioner Keegan made a motion to approve the requests of Favorites at Woodbridge and the Borgata Casino to conduct the noted handicapping contests. Commissioner DePaola seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF PENN NJ OTW, LLC, ON BEHALF OF FREEHOLD RACEWAY OFF-TRACK, LLC, TO RECEIVE SIMULCAST RACES AND ACCEPT WAGERING ON ALL APPROVED IN-STATE AND OUT-OF-STATE RACES AT THE GLOUCESTER TOWNSHIP OFF-TRACK WAGERING FACILITY (UPON ITS OPENING)

Commissioner Keegan motioned to approve the request of Freehold Raceway Off-Track, LLC to receive the list of simulcast races at the Gloucester Township off-track facility. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER PETITIONS FROM PERMIT HOLDERS EVIDENCING THE REQUIREMENT TO CONTINUE TO MAKE PROGRESS ON AN ANNUAL BASIS IN ESTABLISHING AN OFF-TRACK WAGERING FACILITY WITHIN THEIR SHARE IN ACCORDANCE WITH N.J.S.A. 5:5-130

It was noted for the record that Commissioner Roselle recused himself from this agenda item.

On behalf of Executive Director Zanzuccki, Joseph Trapanese, Administrator of Investigations, read the following introduction:

At its June 20, 2012 meeting, the Commission determined that, pursuant to N.J.S.A. 5:5-130(b)(1), each permit holder had demonstrated that it was making progress toward obtaining an OTW license and establishing an OTW facility. Based upon this determination, the Commission allowed each permit holder to retain its share of OTW facilities without being subject to \$1 million deposits, provided that each permit holder continued to make progress on an annual basis in accordance with the requirements of N.J.S.A. 5:5-130 and N.J.A.C. 13:74-2.4(b) by June 28, 2013.

At its June 19, 2013 meeting, the Commission established an August 1, 2013 deadline for submission of petitions by permit holders establishing that they continued to make progress on annual basis in accordance with the administrative benchmarks set forth in N.J.A.C. 13:74-2.4(b). The Commission received petitions from Freehold Raceway; New Meadowlands Racetrack; Darby Development LLC, on behalf of the NJTHA; and Atlantic City Race Course. From the Commission's review of those petitions, it was apparent that only Freehold Raceway had complied with the benchmarks in N.J.A.C. 13:74-2.4(b). On May 7, 2013, Freehold Raceway filed an application with the Commission to establish, construct and operate an OTW facility in Gloucester Township. The Commission determined this application to be

complete on May 17, 2013 and conducted a public hearing regarding the proposed OTW facility on June 19, 2013. Freehold Raceway also submitted all of the documentation which the benchmark rule requires.

The Commission's review of the petitions indicated that neither NMR, the NJTHA nor ACRC had filed a completed application with this Commission to license at least one OTW facility within its share or complied with any of the remaining benchmarks mandated by N.J.A.C. 13:74-2.4(b)(1). As a result, the NMR, NJTHA and ACRC each face a determination pursuant to N.J.A.C. 13:74-2.4(d) that "the permit holder shall no longer be allowed to retain its share of off-track wagering facilities to be established because it has failed to continue to make progress on an annual basis as required by N.J.S.A. 5:5-130(b)(1)."

However, at its September 18, 2013 meeting, the Commission voted to waive the requirement set forth in N.J.A.C. 13:74-2.4(b)(1) that the permit holders shall comply with the benchmarks set in N.J.A.C. 13:74-2.4(b)(1)(i) through (iv) by June 28, 2013 and ordered instead that the permit holders shall comply with these benchmarks by March 4, 2014. This Commission has the authority to waive provisions set forth in our rules pursuant to N.J.A.C. 13:70-1.39(b) and N.J.A.C. 13:71-1.34(b). The Commission extended the deadline for complying with the regulatory benchmarks in N.J.A.C. 13:74-2.4(b) because the rule did not become effective until March 4, 2013. As a result, the Commission's order requiring compliance with N.J.A.C. 13:74-2.4(b)(1)(i) through (iv) by March 4, 2014 remedied this situation by affording the permit holders a full year in which to comply with the mandate that they continue to make progress on an annual basis.

On March 4, 2014, the Commission sent a letter to the permit holders notifying them that petitions demonstrating compliance with the progress benchmarks set forth in N.J.A.C. 13:74-2.4(b) should be filed by April 14, 2014. The Commission received petitions on behalf of each permit holder.

By letter dated April 4, 2014, Dennis A. Drazin, Esq. filed a Petition Demonstrating Compliance with Progress Benchmarks on behalf of the New Jersey Thoroughbred Horsemen's Association ("NJTHA") which holds the permits for Monmouth Park and the thoroughbred race meet at the Meadowlands. The NJTHA's petition indicates that it has engaged Darby Development, LLC to develop and operate an OTW facility in Hillsborough. The petition states that the NJTHA submitted an application for an initial OTW license on March 7, 2014 and further supplemental filings in support of the application on March 21, 2014 which were forwarded to the

Commission's investigative staff. The petition adds that the NJTHA, through its operator Darby Development LLC, has purchased a site in Hillsborough and that Darby will manage the OTW on behalf of the NJTHA. Monmouth Park Spirits, LLC, an entity managed and controlled by Darby, has been formed to obtain the liquor license for the OTW.

Finally, the NJTHA's petition indicates that Hillsborough Township and Darby entered into an agreement for a payment in lieu of taxes in March 2014, funds have been set aside in escrow for the facility purchase, renovations and construction is underway with an anticipated completion date of May 2014. The NJTHA's petition indicates that it anticipates that this Commission will complete its investigation of the application, submit the application for legal review and hold a public hearing in Hillsborough in early May 2014.

Here, it bears noting that although the NJTHA has filed an application in accordance with N.J.A.C. 13:74-2.1, it was incomplete. Staff worked closely with counsel for the NJTHA to identify the insufficiencies in the application and agreed to conduct its investigation on an expedited basis to the extent possible under the circumstances presented. Although we have received supplemental information in support of the NJTHA's application, staff have not yet been able to complete its investigation, determine that the application is complete or submit the application for legal review.

Moreover, the NJTHA's petition fails to address, completely, its compliance with the benchmarks set forth in N.J.A.C. 13:74-2.4(b). In addition to requiring that a permit holder file an application for an initial OTW license that has been deemed complete, these benchmark requiring the filing of other documentation demonstrating that sufficient resources were available for the design, construction, development and other costs necessary to establish the OTW and that the operational capacity and market feasibility of the OTW will benefit the horse racing industry in this State.

On April 14, 2014, the Commission received a Letter in Lieu of a Petition from Freehold Raceway which details that Freehold Raceway Off-Track LLC ("FROT") has fully complied with the Commission's benchmarks on or before March 4, 2014.

On May 2, 2013, FROT submitted its part of the application for an initial license for an OTW facility to be located in Gloucester County. Staff deemed the application complete on May 7, 2013 and legally-sufficient on May 17, 2013 in satisfaction of N.J.A.C. 13:74-2.4(b)(1). The Commission conducted a public hearing in Gloucester Township on June 19, 2013 where FROT provided us with further information

required by the benchmarks in -2.4(b)(1) which demonstrated that the OTW was in a suitable location zoned commercial; sufficient resources were available for the design, construction development and other costs necessary to establish the OTW; and that the operational capacity and market feasibility of the OTW will benefit the horse racing industry in this State. Further, on June 28, 2013, FROT provided the Commission with a copy of the 10-year lease agreement with options for the property which is located at 1330 Blackwood Clementon Road.

At its October 23, 2013 meeting, the Commission approved the issuance of an initial off-track wagering license to the NJSEA and, subsequently, approved the transfer of the initial license to FROT. It is anticipated that the Gloucester OTW will become fully operational early next month.

On April 14, 2014, the Commission received a Letter in Lieu of Petition from Greenwood ACRA regarding the one unlicensed OTW facility within its share. Greenwood indicated that it has changed its focus from locating its one unlicensed OTW in Egg Harbor Township to locating it in North Wildwood. Greenwood attached a Letter of Intent to lease property in North Wildwood which was executed on March 1, 2014 and a schematic floor plan of the proposed OTW. Greenwood did not file a completed application for an initial OTW license by the March 4, 2014 deadline or meet any of the required benchmarks.

On April 14, 2014, counsel, Patricia J. Ryou, Esq., filed a Petition Demonstrating Progress for OTW Facilities to be Established on behalf of New Meadowlands Racetrack, LLC (“NMR”). In this petition, NMR sets forth two arguments which claim exemption from this Commission’s order that it continue to make progress on an annual basis. First, NMR argues that “by definition [it] has satisfied the standards for demonstrating progress towards establishing its share of the Remaining OTW Facilities as set forth in N.J.S.A. 5:5-130(b)(1)” by virtue of the Racetrack Ground Lease Agreement, dated December 19, 2011, which it executed with the NJSEA for the lease and operation of the Meadowlands Racetrack and the subsequent Transfer of Rights and Assumption of Obligations Under Participation Agreement, dated March 15, 2012, in which the NJSEA assigned its ownership, operational and economic interests in four OTW facilities to NMR.

Second, NMR argues, upon information and belief, that the NJTHA has filed a revised application seeking an initial license for the Hillsborough OTW with the Commission and the NJTHA also filed a Petition for Progress which demonstrates

the THA's compliance with the regulatory benchmarks set forth in N.J.A.C. 13:74-2.4(b)(1). Pointing out that the NJTHA received the other five OTWs within the NJSEA's share, NMR argues that the Commission should interpret the mandate in N.J.S.A. 5:5-130 that the permit holders shall "continue to make progress on an annual basis" as requiring progress on only one OTW within the NJSEA's share.

NMR did not file a completed application for an initial OTW license by the March 4, 2014 deadline or meet any of the required benchmarks.

By letter dated April 25, 2014, the Commission circulated copies of the petitions it received among the permit holders with copies to the three horsemen's associations and indicated that it was anticipated that the Commission would consider these petitions at its May 14, 2014 meeting. The Commission indicated further that it would accept written comments from the industry regarding the petitions and requests to make verbal comment at this meeting that were filed on or before May 2, 2014. The Commission did not receive any written comments or requests to be heard.

Commission staff have reviewed the petitions filed by the permit holders. From these petitions, it is again apparent that only Freehold Raceway has complied with the benchmarks.

Pursuant to the requirements of N.J.A.C. 13:74-2.4(b) and the Commission's September 18, 2013 decision, each permit holder has the burden of demonstrating, to the satisfaction of this Commission, that it has complied with each of the requirements detailed in this rule by March 4, 2014. If the Commission determines that a permit holder has failed to do so, our rules require that we order each unlicensed OTW facility within the permit holder's share shall "be made available to be established by a horsemen's organization in this State" as provided in N.J.S.A. 5:5-130(b)(2).

The benchmarks set forth in N.J.A.C. 13:74-2.4(b) set forth clear and rigorous benchmarks that each permit holder must meet.

First, each permit holder must have filed an application for an initial license for at least one off-track wagering facility within its share which application the Commission has determined to be complete.

Second, the permit holder must have demonstrated that the proposed OTW facility is in a suitable location and that the permit holder either has obtained fee title ownership of the proposed property where the facility will be located or has obtained a leasehold interest in the proposed property for a period of not less than five years.

Third, the permit holder must demonstrate that it has obtained sufficient financial resources to pay for the design, construction, development and other costs necessary to establish the proposed off-track wagering facility and provide the Commission with a detailed project development budget as well as documentation that the permit holder has either placed monies into escrow or secured an irrevocable letter of credit in an amount equal to the project development budget which is sufficient to finance the licensure, construction and commencement of operation of the OTW facility.

Finally, the permit holder must demonstrate that the operational capacity and market feasibility of the proposed OTW facility will benefit the horse racing industry in this State and provide the Commission with

- a third-party market study which demonstrates the market feasibility of the proposed off-track wagering facility;

- a 10-year financial pro forma detailing the projected revenues and expenses of the proposed facility;

- detailed information on key individuals necessary to operate the proposed off-track wagering facility; and

- an executed agreement between the permit holder and the governing body of the local municipality in which the proposed OTW facility is to be located that establishes the payments the permit holder will make in-lieu-of taxes.

N.J.A.C. 13:74-2.4(d) states that failure to meet the benchmarks in this section “shall constitute a basis for the denial of an initial off-track wagering license, the renewal of an off-track wagering license, or the determination that the permit holder shall no

longer be allowed to retain its share of off-track wagering facilities to be established because it has failed to continue to make progress on an annual basis as required by N.J.S.A. 5:5-130(b)(1)."

Executive Director Zanzuccki recommended that Chairman Clyne proceed with the proposed motion as no permit holders requested to comment on the petitions that were filed.

Chairman Clyne made the following motion:

This Commission has been charged with enforcing the requirement in the Off-Track and Account Wagering Act that each permit holder continue to make progress on an annual basis toward establishing its share of OTW facilities in accordance with benchmarks that this Commission promulgated. At our June 20, 2012 meeting this Commission allowed each of the four permit holders to retain their shares of unlicensed OTW facilities provided that they continued to make progress on an annual basis in accordance with the requirements of N.J.S.A. 5:5-130 and N.J.A.C. 13:74-2.4(b) by June 28, 2013.

This Commission required the permit holders to file petitions demonstrating their compliance with the benchmarks set forth in N.J.A.C. 13:74-2.4(b)(1). At our September 18, 2013 meeting, when it was apparent that only Freehold Raceway was able to demonstrate compliance with these benchmarks, this Commission extended the deadline from June 28, 2013 to March 4, 2014 in order to give the permit holders a full year from the effective date of the benchmark rule.

Thereafter, the Commission again required the permit holders to file petitions demonstrating compliance with this new deadline. Upon review of these petitions, it seems apparent that only Freehold Raceway has complied with these benchmarks. The petitions filed on behalf of the NJTHA, NMR and Greenwood ACRA do not explain why these permit holders have not complied with the benchmarks.

Therefore, I move that the Commission direct staff to meet with the industry to discuss the benchmarks in N.J.A.C. 13:74-2.4(b) in an effort to learn what the problem is with building these OTWs and to report back to this Commission with recommended findings regarding the permit holders' inability to comply with the benchmarks and with recommendations as to whether and how the benchmarks should be amended. Staff is also directed to meet with Freehold Raceway to discuss whether it wants the Commission to issue formal findings now as to whether it has complied

with the benchmarks in N.J.A.C. 13:74-2.4(b)(1) in connection with the licensure and opening of the Gloucester OTW or to hold such a finding in abeyance pending further action by the Commission upon the report by staff.

This Commission is greatly concerned about the racing industry's welfare. It is apparent that the Legislature, when it amended the Act, intended to promote the development of the unlicensed OTW facilities within each permit holder's share because these OTWs would benefit the industry by increasing purses, improving the quality of the horses that race here and enhancing the public interest in this sport. Finding the horse racing industry is economically important to this State, the Legislature authorized off-track wagering to promote the economic future of the horse racing industry, foster the potential for increased commerce, employment and recreational opportunities, enhance the overall economic well-being of the racing and breeding industries and generate greater interest in the sport.

However, this Commission has cause for concern that rather than unifying, promoting and enhancing the racing industry, the new approach directed by the amendments to the Act and the aggressive benchmarks established by the Commission may have divided this industry by promoting litigation and destabilized it by creating further uncertainty as to our economic ability to survive. Last year, the United States District Court dismissed the federal lawsuit, ACRA Turf Club, LLC v. Zanzuccki, filed on behalf of Freehold Raceway and Atlantic City Race Course, which has challenged the constitutionality of the amendments to the Act as contrary to the Contract Clause, Takings Clause, Equal Protection and Substantive Due Process. On March 31, 2014, the Third Circuit Court of Appeals reversed this dismissal and remanded the litigation back to the District Court.

At the same time, legislation authorizing sports betting at permitted casinos and racetracks has been struck down by the federal courts. Sports betting, if allowed to go forward, would have brought important economic revenue to the racing industry, increasing purses, improving the quality of the racing and promoting public interest in the sport. Although New Jersey has petitioned the United States Supreme Court, asking it to authorize sports betting in this State, we do not yet know whether the Court will hear our case.

The goal of every permit holder, horsemen's organization and this Commission must be the survival of racing in this State. We must work together to ensure a stable

economic future for this industry and decide how to move forward as best we can with the resources we have available.

Therefore, I move, that the Commission issue a temporary stay of its September 18, 2013 decision ordering the permit holders to comply with the benchmarks set forth in N.J.A.C. 13:74-2.4(b)(1) by March 4, 2014 until the legal challenges to the Off-Track and Account Wagering Act in *ACRA Turf Club, LLC v. Zanzuccki* have been resolved in the District Court. In addition to taking notice of the Third Circuit's decision which reinstated this litigation, the Commission is also mindful of the prior, opinion of Judge Pisano who believed that plaintiffs have some likelihood of success on the merits.

I move that the Commission waive and temporarily stay all of the benchmarks in N.J.A.C. 13:74-2.4. The Commission does so pursuant to N.J.A.C. 13:70-1.39 and N.J.A.C. 13:71-1.34 which authorize the waiver of the application of our rules upon the Commission's own motion upon finding "[t]hat such a waiver will benefit the horse racing industry in this State." I cannot believe that a decision requiring NMR, the NJTHA and Greenwood ACRA to forfeit their rights to a total of eight OTW licenses would benefit the racing industry -- especially when there are legitimate questions being raised as to the legal validity of the legislative amendments that would require us to do so.

I move that in addition to directing staff to meet with the industry to discuss the benchmarks and learn what the problem is with building these OTWs, the Commission direct staff to file a "Notice of Intent for Proposed Rule-making" pursuant to N.J.S.A. 52:14B-4(e) with the Office of Administrative Law for publication in the New Jersey Register for the purpose of eliciting the views of the permit holders, the horsemen's organizations and the public regarding the benchmarks in N.J.A.C. 13:74-2.4 and their need for amendment.

At our June 20, 2012 meeting, the racing industry called upon this Commission to promulgate stringent benchmarks mandating the expedited establishment and licensure of these OTWs and we responded. The industry has not complied. Maybe the Commission set the bar too high. Maybe the industry currently lacks the necessary resources to establish any more OTWs. Maybe the Off-Track Wagering facility is no longer a viable business model for providing the racing industry with economic support. With this motion, the Commission calls upon this industry to come together to tell us what is wrong and how it can be made right.

I would ask, my fellow Commissioners, if you agree with the findings in this motion and the actions proposed herein, to please vote in favor of this motion.

Commissioner DePaola seconded the motion.

A discussion took place concerning the motion. Commissioner Keegan opined that it is a very viable motion and recommended that a review be conducted as to why the permit holders are not moving forward with establishing off-track wagering facilities. The Executive Director agreed with the Commissioner's statement and with the motion in that the Commission needs to find out what are the issues in regard to the lack of progress, and why the establishment of off-track wagering facilities is not moving forward in the way the Legislature had anticipated. He stated that perhaps the benchmarks are too stringent and suggested there may be some ability for the Commission to find that racetracks are in compliance with the benchmarks if it is obvious that the permit holders are moving in the direction toward developing a facility. However, if it is determined there are reasons beyond their control, such as possibly the economy, the ability to borrow money, etc., these factors may require granting them more leeway.

Commissioner DePaola stated that the only way the Commissioners will know the reasons for the permit holders not establishing progress is by listening to the industry because there may be a variety of reasons.

Commissioner Abbatiello inquired if the Commission has an obligation to the Legislature to respond as to why progress is not being made in regard to the off-track wagering facilities. The Executive Director responded that once staff's report is issued detailing the findings, if there is a recommendation to amend the statute, then the Commission would relay this finding to the Legislature.

Commissioner Caputo agreed with the Chairman and Commissioners, but disagreed that the benchmarks may be too strict, stating that if an entity was truly interested and has a true desire to establish a facility, the benchmarks are not too strict.

Commissioner Arnone inquired as to what latitude the Commission has to relax any of the benchmarks without restructuring the entire law. The Executive Director responded that the Commission has the authority to relax the provisions in its rules provided it is beneficial to the industry and is considered at a public meeting.

It was then noted that 15 off-track wagering facilities may be too many due to the size of the State, the location of the racetracks, and the facilities that have been opened.

Commissioner DePaola indicated that while he was not a member of the Commission when this legislation was passed, he believes this legislation was developed for the sole reason to aid the horse racing industry in New Jersey. At this time, however, the industry is at crossroads and he does not feel the Commission can return to the Legislature and ask that the law be amended and recommends that staff seek the views of the industry.

A roll call of all Commissioners revealed that each Commissioner voted yes with the exception of Commissioner Roselle who was recused.

CONSIDER ADVERTISEMENT OF PROPOSED AMENDMENTS TO N.J.A.C. 13:70-14A AND N.J.A.C. 13:71-23 (MEDICATION AND TESTING PROCEDURES)

Executive Director Zanzucki stated that if the amendments to the medication and testing rules are adopted, it will place New Jersey in line with other mid-Atlantic states as well as many other jurisdictions in the country. He noted that this program started out as a mid-Atlantic program but has developed into a national program. Essentially, the proposed changes would establish uniform thresholds for a determined list of controlled medications recommended by the AAEP and RMTC. It also would establish a new ARCI penalty guideline that provides a point system to track medication violations to assist in determining whether enhancement is appropriate for licensees with multiple violations. The Executive director indicated that the proposed amendments are identical for standardbred and thoroughbred racing and if approved today for advertisement, the rule proposals will appear in the June 16, 2014 New Jersey Register. The Executive Director explained that staff, along with a committee of Commissioners, have met with industry representatives during the development stage of these amendments and it is his understanding following the meeting, that all parties were on board and supportive of the proposed amendments.

Commissioner Keegan motioned to approve the advertisement of the amendments. Chairman Clyne seconded the motion and stated that the amendments have been long awaited and while there were road blocks along the way, she thanked Executive Director Zanzuccki for his endeavors in regard to the amendments. Commissioner Abbatiello thanked the industry committee members for their hard work on drafting the rule amendments.

A roll call of the Commissioners indicated that all Commissioners voted yes to advertise the proposals.

CONSIDER ADVERTISEMENT IN THE NEW JERSEY REGISTER, FOR PURPOSES OF RECEIVING WRITTEN PUBLIC COMMENT, OF PROPOSED NEW RULES AT N.J.A.C. 13:74C (EXCHANGE WAGERING)

Executive Director Zanzuccki stated that several years ago the Legislature authorized exchange wagering in New Jersey and during that time the Commission has been developing regulations. He noted that California is the only other state in the country that has passed legislation authorizing exchange wagering, however, they have not yet entered into this field under their law because all segments of the industry must come to agreement before proceeding. The Executive Director indicated that the law in New Jersey has determined that exchange wagering is considered pari-mutuel wagering and the Commission has been given the responsibility of regulating this new form of wagering.

Staff recommended the Commission approve the advertisement of the new rule for the purpose of obtaining public comment in order to gauge whether the public has any concerns or is in support of this new form of wagering.

Chairman Clyne made a motion to advertise the new rule. Commissioner Keegan seconded the motion. Commissioner Abbatiello inquired if there is much objection in New Jersey to this wager. The Executive Director indicated that he has not heard of any objection and this is the purpose of advertising the new rule so that written comments can be submitted. Commissioner Arnone inquired if any attempts have been made of the members of the industry to meet to discuss the rule as he believes that the jockeys are not in favor of the rule. To the Executive Director's knowledge, this meeting has not yet occurred although the proposed rule has been circulated to the industry and also to the Jockey's Guild.

A roll call of all Commissioners revealed that all Commissioners voted yes to advertise the new rule.

AGENDA ITEMS FOR DISCUSSION AND INFORMATION

The Commission acknowledged the receipt of the 2012 Audited Financial Statements as submitted by Darby Development, LLC

Commissioner DePaola asked the Executive Director if a timetable has been established for when the industry can get back to the Commission in regard to the benchmarks. The Executive Director responded that he will schedule meetings with the industry and noted that the Commission is deferring any action on the benchmarks pending the resolution of the federal court matter.

There being no further discussion or comments from the public, Commissioner Abbatiello moved that the meeting be adjourned subject to the provisions of the "Open Public Meeting Act." Commissioner Keegan seconded the motion and it was approved unanimously.

ATTEST:



Executive Director Frank Zanzuccki