

**NEW JERSEY RACING COMMISSION
WEDNESDAY, MARCH 24, 2010
RENAISSANCE DINING ROOM
FREEHOLD RACEWAY
FREEHOLD, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, March 24, 2010, in the Renaissance Dining Room of Freehold Raceway, located in Freehold, New Jersey.

The following were present:

James G. Aaron, Commissioner
Anthony T. Abbatiello, Commissioner
Francis X. Keegan, Jr., Commissioner
Edward R. McGlynn, Commissioner
Frank Zanzuccki, Executive Director
DAG Judith A. Nason

The following were absent:

Anthony R. Caputo, 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 matter of Bruce Levine v. New Jersey Racing Commission, OAL Docket No. RAC 10255-09S;

Legal advice concerning reconsideration of the Standardbred Breeders' and Owners' Association's 2010 budget pursuant to N.J.A.C. 13:71-1.25.

Legal advice concerning reconsideration of the Thoroughbred Breeders' Association's 2010 budget pursuant to N.J.A.C. 13:70-1.30.

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."

Commissioner McGlynn motioned to adopt the resolution to adjourn. Commissioner Abbatiello seconded the motion and the Commission adjourned to Executive Session.

The Commission ended the execution session and Commissioner McGlynn moved to reconvene the public session. Commissioner Abbatiello seconded the motion and the Commission concurring, the public session resumed.

CONSIDER APPROVAL OF MINUTES OF THE PUBLIC AND EXECUTIVE SESSIONS OF THE JANUARY 20, 2010 MEETING AND THE PUBLIC SESSION MINUTES OF THE MARCH 11, 2010 COMMISSION MEETING

Commissioner McGlynn motioned to approve the public and executive session minutes of the January 20, 2010 meeting and the March 11, 2010 public meeting, subject to the veto issued by the Governor. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE BILLS

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

CONSIDER RATIFICATION OF THE CONDITIONAL APPROVALS GRANTED TO THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY TO CONDUCT THE FOLLOWING HANDICAPPING CONTESTS:

- a.) 2010 Simulcast Series Challenge on February 6, 2010 at Monmouth Park;
 - b.) National Harness Handicapping Championship Qualifier on February 20, 2010 at the Meadowlands Racetrack;
 - c.) 2010 Simulcast Series Challenge on February 27, 2010 at Monmouth Park;
 - d.) Horse Player World Series qualifier on March 27, 2010 at the Meadowlands Racetrack;
 - e.) 2010 Simulcast Series Challenge Invitations on April 10, 2010 at Monmouth Park
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_____ Commissioner Aaron motioned to ratify approval granted for the noted handicapping contests. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER THE PETITION FOR RULEMAKING REQUESTED BY THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY TO AMEND N.J.A.C. 13:71-16.5 (ENTRIES)

At the January 20, 2010 Commission meeting, the Commissioners considered a petition for rulemaking filed by the NJSEA to amend rule 13:71-16.5 concerning the uncoupling of entries in races with purse money under \$500,000. The Commission referred the petition to staff for further deliberation. A compromise was reached with the Commission staff and the industry which allows the uncoupling of commonly-owned horses in races of \$100,000 or more where owners are required to make payments as a condition to participate, i.e., stake races, and also authorizes the executive director discretion to permit uncoupling in such races with purses less than \$100,000, under certain circumstances.

Commissioner McGlynn motioned to approve that the petition be advertised as a rule proposal and that staff prepare the necessary paperwork for publication in the New Jersey Register. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

RECONSIDERATION OF THE STANDARDBRED BREEDERS' AND OWNERS' ASSOCIATION'S 2010 BUDGET PURSUANT TO N.J.A.C. 13:71-1.25

RECONSIDERATION OF THE THOROUGHBRED BREEDERS' ASSOCIATION'S 2010 BUDGET PURSUANT TO N.J.A.C. 13:70-1.30

The Commission received requests from both the S.B.O.A. and the T.B.A. asking to table the matters to allow the organizations to meet with representatives of the Governor's office and the Commission to work out an acceptable solution to the budget issue. The S.B.O.A. and the T.B.A. have indicated that their request to table the matters are subject to their compliance with all applicable State laws, regulations and executive orders.

Commissioner Aaron motioned to table the agenda item. Commission Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER THE READOPTION OF N.J.A.C. 13:74A (SELF-EXCLUSION LIST)

Pursuant to law, Chapter 74A, Self-Exclusion List, is scheduled to expire on April 16, 2010. Previously, the Commission authorized the rules be advertised for readoption and subsequently, comments were received as a result of the advertisement. The Commission staff recommends adoption of the rules with the exception of subchapter 13:74A-5.1 due to comments received concerning the requirement of racetracks and off-track wagering facilities to post information on the self-exclusion program at their facilities and websites. Therefore, staff recommends approval to advertise amendments to 13:74A-5.1 and to approve the readoption of the remainder chapter.

Commissioner McGlynn made a motion to approve the readoption. Commissioner Aaron seconded the motion and all Commissioners voted yes.

CONSIDER THE ADVERTISEMENT FOR PUBLIC COMMENT (READOPTATION) IN THE NEW JERSEY REGISTER OF THE RACING COMMISSION'S REGULATIONS FOR THOROUGHBRED RACING WHICH APPEAR AS **CHAPTER 70** (HORSE RACING), FOR STANDARDBRED RACING WHICH APPEAR AS **CHAPTER 71** (HARNESS RACING) AND FOR WORKERS' COMPENSATION INSURANCE COVERAGE FOR HORSE RACING INDUSTRY EMPLOYEES WHICH APPEAR AS **CHAPTER 73**, OF THE NEW JERSEY ADMINISTRATIVE CODE AND WHICH ARE PRESENTLY DUE TO EXPIRE JUNE 17, 2010

Commissioner McGlynn made a motion to approve the readvertisement of Chapter 70, 71 and 73 as these regulations are reasonable, necessary and effective to operate Racing Commission business. Commissioner Aaron seconded the motion and all Commissioners voted yes.

CONSIDER THE MATTER OF BRUCE LEVINE V. NJRC
OAL DKT. NO. RAC 10255-09S

In summary, the Racing Commission is in receipt of an OAL Initial Decision involving Bruce Levine, a licensed thoroughbred trainer, who was found to be in violation of N.J.A.C. 13:70-14A.6 and 14A.9 in connection with a horse trained by Levine ("Trillion) which tested above the allowable limit for Phenylbutazone, following the tenth race on July 4, 2008 conducted at Monmouth Park. Pursuant to the mandate in the rule, the Monmouth Park Board of Stewards imposed a 15-day license suspension, \$500 fine and loss of purse. The Initial Decision affirmed the decision of the Board of Stewards.

The Commission received comment from Nona Balaban, Esq., counsel for Mr. Levine. Ms. Balaban complained that the rule does not make provision for split samples of blood specimens. Ms. Balaban requested that the Commission undertake steps to authorize split samples for blood under the rulemaking process.

Counsel for the Commission, DAG Julie Barnes, pointed out that the appropriate remedy sought by Ms. Balaban is to file a petition for rulemaking.

The Commission called upon Ms. Balaban as to what she is asking concerning the Initial Decision issued by the ALJ. Ms. Balaban responded that she understood that the Commission cannot retroactively change the rule under which the penalties were issued to Mr. Levine, she would like to make a record and ask the Commission to move forward with a rule change.

Commissioner McGlynn motioned to accept the Initial Decision issued by the ALJ. Commissioner Aaron seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF ATLANTIC CITY RACE COURSE'S 2010 WAGERING
FORMAT, OFFICIALS, DEPARTMENT HEADS, ETC.

The Commission called upon the representative of Atlantic City Race Course, Lance Morrill, Director of Security, to inquire if Atlantic City had reached an agreement with the thoroughbred horsemen to simulcast their race meet to out-of-state jurisdictions. Mr. Morrill indicated that he was not aware of any such agreement. Nona Balaban, Esq., counsel for the thoroughbred horsemen, indicated that the N.J. T.H.A. had forwarded a contract to Atlantic City over the summer and the horsemen's group has not received a response.

Commissioner McGlynn motioned to approve the 2010 race format for Atlantic City Race Course. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF MONMOUTH PARK'S 2010 WAGERING FORMAT, OFFICIALS, DEPARTMENT HEADS, ETC.

Commissioner Aaron motioned to approve the 2010 race format for Monmouth Park. Commissioner Abbatiello seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE NEW JERSEY SPORTS AND EXPOSITION AUTHORITY TO AMEND THE 2010 THOROUGHBRED RACE SCHEDULE AT MONMOUTH PARK RACETRACK

The New Jersey Sports and Exposition Authority (NJSEA) is requesting to amend the 2010 thoroughbred race schedule at Monmouth Park. This request will also require further amendment once all of the legislative approvals are enacted, permitting the NJSEA to schedule fewer than 141 thoroughbred race dates in 2010.

The Commission was addressed by Lennon Register, Senior Vice President for Racing, at NJSEA. Mr. Register indicated that the NJSEA is seeking to move the first four race dates scheduled at Monmouth Park to August until such time that the legislation, which will allow the reduction in thoroughbred dates, is approved. He indicated that he anticipates that the legislation will be enacted sometime in mid-May. Subsequently, the NJSEA will seek the Commission's approval to reduce the 93 thoroughbred dates to 71 and the 50-day meet will commence on May 22, 2010. Mr. Register indicated that the NJSEA will then ask to move some of the standardbred dates at the Meadowlands to create a fall meet.

It was clarified that if the pending legislation is not enacted, the NJSEA will conduct the scheduled 141-day thoroughbred meet which will allow for the continuation of the association's off-track wagering and account wagering licenses.

A discussion occurred concerning the specifics of the 50-day meet at Monmouth Park. Mr. Register provided information concerning the purse structure and anticipated handle for the meet.

The Executive Director clarified that the agenda item being considered at this time concerns approval for the NJSEA to move four dates scheduled to be conducted prior to May 22, to a later time in the race meet. Monmouth Park will maintain the number of race dates to be conducted as required in the statute. There is no modification at this time to the thoroughbred meet at the Meadowlands Racetrack.

Commission McGlynn motioned to approve the request.

Michael Musto, Executive Director of the New Jersey T.H.A., addressed the Commission. Mr. Musto stated that the T.H.A. fully supports the agreement entered into with the NJSEA for the 50-day, \$50 million dollar meet this summer, as well as the 21-day meet in the fall. The THA has entered into a contract with the NJSEA, a copy of which will be provide to the Commission. Mr. Musto advised he has addressed the T.H.A.'s position in a letter to Mr. Zanzuccki dated March 22, 2010 and will provide a signed copy of the agreement when it was received.

Mr. Musto stated it is important that the Commission analyze the current request to change dates in connection with the entire agreement. As Mr. Register indicated, if the necessary legislative changes are not obtained, the NJSEA will run the initial meet which is currently scheduled. The THA does not anticipate that all of the legislation changes will be passed into law in time by the Governor prior to mid-May. He is somewhat concerned that the agreement requires a number of approvals by the NJRC in addition to legislative changes, and it appears from letters received yesterday by Mike Campbell and Frank Zanzuccki, that the Racing Commission may have a number of concerns about some portions of the agreement which were addressed in Mr. Zanzuccki's letter.

Mr. Musto stated that in his letter of March 22, he makes it clear that the breeders' component of the deal and the laws that are necessary to effectuate the changes, are essential requirements of the agreement to reduce days. If the Racing Commission is going to have concerns approving the agreement changes and loans necessary to comply with the contract, it will be helpful to advise the THA at this time so an inordinate amount of time is not wasted trying to prepare for a season that will never happen.

The THA indicated that it is seeking the legislative changes necessary to effectuate the 50-day race meet and is providing the Commission with a copy of the contracts so the they are aware of the various legislative changes contemplated. Mr. Musto asked the Commission if it believes additional changes of a legislative nature are needed in order to obtain Commission approval. Mr. Musto also stated that the Commission advise the horsemen if it is opposed to the N.J. T.H.A.'s loan to the T.B.A.

Mr. Musto indicated that the THA does not oppose the request made by the Sports Authority, however, it is part and parcel of a much larger agreement. The THA requests that the Commission grant approval for the entire change to reflect a 50-day summer meet at Monmouth Park and a 21-day fall meet known as the Meadowlands at Monmouth Park at this time, subject to legislative approvals. In the alternative, the THA would request that a special meeting be scheduled in the near future to address the entire package of date changes, contract and loan approvals required by the agreement.

Executive Director Zanzuccki responded by stating that the Commission does not know if there are concerns with the agreement because they have not been provided with a copy of it until this very moment. The March 22, 2010 letter from the T.H.A. indicated it is seeking approval for matters that require statutory changes and the Commission has not had the benefit of reviewing the amendments proposed by the T.H.A. Therefore, the Commission is not in a position to address these issues until it is fully informed and there has been an opportunity to review the matter with counsel.

Commissioner McGlynn suggested to Mr. Musto that the Executive Director be included in the discussions with the appropriate parties, so that the Commission can participate in going forward to obtain the necessary statutory changes. The Racing Commissioners were in agreement with the suggestion.

Following no further discussion, Commissioner Abbatiello seconded Commissioner McGlynn's motion, and all Commissioners voted yes.

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

ATTEST:

Executive Director Frank Zanzuccki