

NYS Gaming Commission - Public Meeting Transcript

June 24, 2024 1 p.m.

317 Lenox Ave, 6th Floor Conference Room, New York, NY

Executive Director Robert Williams: New York State Racing, Pari-Mutuel Wagering and Breeding Law § 102 provides that the New York State Gaming Commission shall consist of seven members appointed by the Governor by and with the advice and consent of the Senate. Four members being confirmed by the New York State Senate are necessary to afford the Commission an ability to establish a quorum and undertake action.

This present meeting of the Commission is now called to order.

This meeting is being conducted by video conferencing in two location, New York and Schenectady. Both locations have been appropriately noticed and accommodate public attendance.

Ms. Secretary, will you please call the roll?

Acting Secretary Kristen Buckley: John Crotty

Commissioner John Crotty:

Kristen Buckley: Sylvia Hamer

Commissioner Hamer: Here

Commissioner Mack: Here

Acting Secretary Kristen Buckley: Peter Moschetti

Commissioner Moschetti: Here

Acting Secretary Kristen Buckley: Brian O'Dwyer

Chair Brian O'Dwyer: Here.

Kristen Buckley: Marissa Shorentsein

Kristen Buckley: Jerry Skurnik

Commissioner Jerry Skurnik: Here.

Executive Director Williams: Ms. Secretary, please have the record reflect the quorum of established members is present, thus enabling the transaction of business. Please note that Commissioners Mack and Moschetti are in Schenectady. Bilateral visual and oral communications between New York and Schenectady have been established. Mr. Chairman?

Chair Brian O'Dwyer: I'm happy to recognize and welcome Marty Mack, who was confirmed by the State on June 5, 2024, after being nominated by our governor. He has served in local and state government for several decades as the mayor of Cortland, the Cortland County Attorney, the Cortland County Assistant District Attorney. He served in the administration of three attorneys general as executive Deputy Attorney General, where he managed and supervised legal work of the Attorney General's 13 regional Offices.

He served in the Executive Chamber as a member of the senior staff for Governor Spencer, Paterson and now Governor Hochul. He was deputy secretary for Governmental Affairs for Spitzer and Paterson and Appointment Secretary for Governors Patterson and Hochul. He currently serves as governor Hochul's representative on the board of trustees of Cornell University.

Both professionally and personally, I am absolutely delighted to welcome Commissioner Mack to the Commission and I'm very, very pleased and look forward to many, many years of wonderful collegiality together, Marty, you're very welcome.

Commissioner Mack: Well, thank you, Brian. I appreciate serving your leadership.

Chair Brian O'Dwyer: With that, we will go on to the Minutes of the Commission meeting conducted on May 20th and have been provided to the Members in advance. Any of the Members have any edits, corrections, or amendments. Hearing none, Madam Secretary, please let the record reflect that the Minutes were accepted. Now I hear as we do at every meeting. We have a report from our Executive Director, Mr. Williams.

Executive Director Williams:

Today, I'd like to touch upon three items: the recently conducted Belmont Stakes Racing Festival, recent legislation that passed both houses at the end of session, and a forthcoming Gaming Facility Location Board Meeting.

First, the Belmont Stakes Racing Festival was conducted at Saratoga Race Course since our last meeting. The Belmont Stakes Day card was highlighted by Dornoch's victory in the G1 Belmont Stakes. An all-sources handle of \$125,748,941 was a NYRA record for a Belmont card in a non-Triple Crown year, a 6.3 percent increase over the previous non-Triple Crown record of \$118,283,455 set in 2023. On-track

handle for the 14-race card, which included six grade 1 races among nine total stakes, was \$14,854,311. Handle was also significant on the two preliminary days as well: on Thursday, all-sources wagering reached \$18,168,565, eclipsing the previous Thursday mark of \$10.3 million set in 2017; and on Friday handle reached \$38.5 million, more than \$12 million higher than the previous record of \$26,078,400 set in 2023. Additionally, the impact reverberated beyond the track, which saw a sold-out crowd of 50,000 attendees and a reported economic impact of more than \$50 million in the City of Saratoga Springs.

As Governor Hochul, Chairman O'Dwyer and Commissioners Crotty, Hamer and Moschetti can personally attest, the festival was a great showcase of New York racing.

On the final day of the 2024 State Legislative session the houses passed a bill that purports to expedite the additional license process and prevent delays by providing specific deadlines for various steps in the determination. Specifically, the legislation would obligate a filed application from bidders no later than August 31, 2024, mandate that a Community Advisory Committee consultant be hired by that same date, require that Community Advisory Committees be established no later than October 30, 2024, and require Community Advisory Committees to make a vote by February 27, 2025 as to whether to allow the application to proceed.

Under the proposal, the Gaming Facility Location Board would have until December 31, 2025 to vote on recommendations, but the Board could allow itself an additional thirty days deliberation to January 31, 2026 upon good cause.

Also under the proposal, the date for action by the Commission would be a moving target, being thirty days following the vote by the Gaming Facility Location Board, or an additional thirty days, upon good cause. This means that the earliest vote could be on January 31, 2026 or as late as March 31, 2026, depending upon the Gaming Facility Location Board and the several possibilities for good cause extensions.

Practically, as compared with the timeline I outlined at our March 25, 2024, meeting all publicly announced potential applicants are expected to have completed the State Environmental Quality Review or City Environmental Quality Review processes by the end of the second quarter, 2025. This is the same time that the New York City Department of City Planning advised that the four publicly announced applications would emerge from the ULURP process. Staff envisioned an application deadline by June 30, 2025, with the establishment of Community Advisory Committees immediately thereafter and Gaming Facility Location Board

decision(s) and Commission license consideration before the end of 2025 – nearly one year prior to the State and MTA’s booking of license fees.

Providing adequate time for potential applicants to obtain these required approvals and make necessary changes to their proposals before submission to the State improves the likelihood of multiple bidders.

The timeline we have proposed also ensures that the public, CACs and the Gaming Facility Location Board are reviewing and considering up-to-date proposals that accurately reflect the final project, following mitigation of concerns raised during the State and City SEQR processes.

Finally, the Gaming Facility Location Board will be conducting a meeting on Thursday, June 27th in Harlem.

My understanding of the agenda is that it will include an update and formalization of a Request for Applications submission deadline, amendment of the Request for Applications to eliminate the Round 2 Answer trigger, re-proposal of the two previously proposed rules which have expired, and consideration of a resolution permitting remote meeting participation under certain circumstances.

Chairman O’Dwyer: Thank you, Mr. Williams, do we have any questions for Mr. Williams? Hearing none. All right.

NYS Racing Pari-Mutuel Wagering and Breeding Law Section 104.19 authorizes the Commission to promulgate rules and regulation that it deems necessary to carry out its responsibilities. To that regard, the Commission from time to time will promulgate rules and rule amendments pursuant to the State Administrative Procedure Act.

Today we have two rules for adoption consideration. Mr. Williams will outline the first item.

Executive Director Williams: The first item for Commission consideration, is the adoption of Claiming Rule Revisions in Thoroughbred Racing, which was deferred at the May meeting following questions by a Commissioner. Recall, the proposed rule was to amend Thoroughbred claiming regulations developed after meetings with the Finger Lakes and NYRA and the thoroughbred horseman’s organization at each association.

The proposal would allow claimants who have raced on the circuit within 120 days, which would increase the number of owners qualified to make claims. It would allow 30 additional days for holders of a certificate of eligibility who have lost a

competition by lot for a claimed horse, providing that an owner has not been successful in claiming a horse within the first 30 days of a race meeting; reduced the 30 to 20 days the restriction against running a claimed horse again for a claiming price less than 25 percent greater than the claiming price.

Establishes a further 10-day period in which a claimed horse may start for a price equal to the claiming race or claiming price.

And extend from 30 days to 60 days. The prohibition against running acclaimed horses outside of New York State, with an exception being for horses claimed at Finger Lakes Racetrack or in the case of a horse that may run elsewhere after 30 days from the end of the Finger Lakes racing season.

Chairman O'Dwyer: A notice of proposed rulemaking was published in the February 7th, 2024 State Register meeting with public comment period expired on April 8. On the telephone today is our equine medical director, Doctor Scott Palmer, and there was some question at the last meeting about whether. This proposed rule would have. On the telephone today is our equine medical director, Doctor Scott Palmer, and there was some question at the last meeting about whether this proposed rule would have any adverse health impact on the horses and I thought pursuant to our Executive Director's suggestion that we should hear from Doctor Palmer as to his opinion as to that matter, Doctor Palmer.

Doctor Scott Palmer: Thank you, chairman. It's important to understand that this is a subject that's under constant revision and consideration. We've been looking at these affordable claims, enhanced purse races for quite some time now, and I think that the data right now is something I would like to report back with. to you one at a future meeting that we have collected so far, but I think the only relevant information I have to this that would give me any concern would be that we know that horses that are in claiming races are at increased risk for catastrophic injury, that's the basis of a number of epidemiologic studies on the subject. There is also been some looking at the days in which the risk factor is in play and the research that's been published by Dr. Tim Parkin indicates that after a horse is claimed that the horses that increase risk for injury for a period of 30 days after the claim and some much during that period of time it's a time where it's a matter of getting acquainted with the horse evaluating the horse and making sure it's okay to race again and so I think that any change in the rules that allows a claimed horse to race back less than 30 days potentially could increase the risk for injury if that horse was not well evaluated in that period of time before he's raced again I'm not saying it couldn't happen it certainly could happen within 20 days but I think that it's important that we emphasize that that period of time be used constructively and aggressively to examine the horse and make sure that it's fit to race again before they enter the horse.

Chairman O'Dwyer: Thank you, Dr. Palmer. Having heard Dr. Palmer and having um thoroughly reviewed that this over two meetings I now call for a vote do any the Commissioners have any comment on the claiming rules Amendment? Hearing none may I have a motion to adopt...

So moved second, second. All in favor. Aye. Opposed. Thank you.

Executive Director Williams: I have spoken to commissioner Crotty who suggested had he been president of today's meeting he would have voted affirmatively to adopt this rule today.

Chairman O'Dwyer: For the record before we did that I did want to thank commissioner Crow and absentia here for at least giving us the opportunity to review this rule and get Dr. Palmer's opinion as to the safety of the horses.

Executive Director Williams: For Commission consideration, is the adoption of a consensus rulemaking to update our address from 1 Broadway Center in Schenectady to 354 Broadway in Schenectady. Our address appears in 15 different sections of rules. Additional link staff proposed the elimination of an unnecessary subdivision and lottery rule.

A notice of proposed rulemaking was published in the April 10th, 2024 State Register, meaning the public comment period expired on June 10th. No public comments were received. Staff recommends that the Commission adopt this rule.

Chairman O'Dwyer: Commissioners, any questions on the adoption of the rule. Hearing none, motion is approved.

So moved. 2nd. All in favor? Aye Motion is carried.

I'd like that as we go on to new business, I would like to raise an item of new business with the permission of my fellow Commissioners regarding the designation of a chair for the Gaming Facility Location Board. As many of you know, New York City Racing Para-Mutuel Wagering Law 109A1 provides for the Commission to select five members and name the Chair of the board in consultation with our Executive director and other members of the board, I move that we name Vicki Been as chair of the gaming facility location board. We use the right there. Any discussion?

Will you please inform professor Been of her elevation?

Robert Williams: I will do so.

Chairman O'Dwyer: Before we adjourn, I would there were two items on the agenda that I had asked our Executive director to have Director Park address. I'm looking forward to hearing his comments both on the internship program and on the new advertising campaign that we're doing for the lottery.

Lee Park: Thank you, chairman. With regards to the internship program, just to provide a very broad overview, the new New York leaders Student Internship program is run by the New York State Department of Civil Service. They handle all internship opportunities for state agencies, authorities and so forth. And they have a portal for applicants to submit, and so it's very easy to use, very intuitive, use, very intuitive search by agency, by field of interest.

And the Gaming Commission, we through our department of Human Resources will be putting together some internship opportunities throughout the period of the looking, particularly at our counsel's office, lottery security, lottery marketing, advertising, communications, there's some opportunities and essentially, within the gaming division, and the horse racing and maybe even in the veterinarian space.

Obviously, the main challenge is making sure to proper supervisory and task structure is in place, but the other, the other update of this is that we will be looking to offer paid internships, probably at \$16.00 an hour. For undergraduate in 19 an hour from graduate. And this would be open to all undergraduate and graduate programs at colleges and universities throughout the state, as well as for New York State residents studying elsewhere. And the new New York leaders Student Internship program, which if you just Google that it'll show up, really provides a very good overview of how the program works. So there is already an existing infrastructure we just need to take advantage of it.

Chairman O'Dwyer: Then we will do so. That's a really very exciting we're looking forward to having this this summer, having a number of student interns both here in in New York and in Schenectady. And I've obviously in our Schenectady office and maybe even at some of the other facilities. I think it will give. There's so many different things this Commission does, from taking care of the horses to being in the marketing of the lottery, which provides for young people to get an education. I am particularly looking forward to frankly having people here in the Harlem office and the Lottery Commission to be able to do an internship here close to home for many of them. I'm really excited about and I thank you both our executive director and Mr. Park for working on this for me and making sure that we'll have this ready by next summer really exciting for us. For your next yes with regards to the lotteries aid education.

Lee Park: Yes, with regards to the lotteries aid education campaign. So we are in the process this this launch - earlier this year, the divisional lottery has undertaken a wholesale campaign to remind New Yorkers that all lottery proceeds go to New

York public schools. Initial research showed that while 40% of people think they know where the money goes. Only about 1/4 of that are able to accurately identify the education is the beneficiary. So that's our baseline. Since then, we've been working with McCann, our advertising partner, to conduct research and creative testing, which is getting too much into the weeds of advertising jargon. But this is basically doing the field work to build at a paid ad campaign to debut in the fall to coincide with back to school, to again remind New Yorkers that every time they spend a dollar on a lottery ticket, even if they lose, that revenue is going towards education.

A number of components are already underway. Social media has launched and has been on various different platforms. The paid part of it, we do have a component with Link NYC, the kiosks as you see throughout the city that launched last month. Additionally, we have a sponsorship at the summer stage in New York City, so the signage with the New York Lottery logo and the benefiting public schools messaging is appearing there as well. And again, the results of the research and the polling that we're doing will feed the direction of the paid advertising campaign that will launch and more. Robust form comes this fall.

Chairman O'Dwyer: That's great. Anybody have any questions?

That's a few messages that I want to make you aware of. As you're aware, I've frequently used my time to Commission to provide you an update on the activities of the Thoroughbred breeding and Development Fund and the agricultural Horse breeding development.

Today I have an announcement that intersects both funds and the Commission and the operations of this Commission. Recently, New York State Parametrical racing breeding law both funds now contribute for the care of retired horses this aftercare. From the collection of fines assessed pursuant to Section 382 of the of the Agriculture Markets law. Contributions made pursuant to 209 and 209, zero of the tax law, which regard to an income tax check off to benefit retired and rescued horse races and contributions made to. To have a gift with gifts to the with horse aftercare. To put this into effect, the law obligates the Commission to establish an Advisory Board to assist in evaluating proper use of the monies when the funds considered distributing such allocations. And for those who don't know, there are a number of aftercare facilities in the state of New York that provide aftercare for those horses, both thoroughbred and Standardbred, who have retired from the race from their racing careers. Specifically, the Commission is guided to appoint representatives of thoroughbred and standardbred owners and breeders, annual protection organizations with expertise in the care of retired and rescued horses. So we will be that Advisory Commission Advisory fund to shortly. Accordingly, I am requesting anyone interested in serving on this Advisory Board to meet and those who meet the qualifications to express their interest, either by calling Kirsten

Buckley at 518-388-3400 or sending an e-mail with the resume to info@gaming.ny.gov and we plan to have this going up and running hopefully by our next meeting. So if you anyone who is listening here or any of the media that is listening and will be put on our site, we would ask that you expedite getting your interest in that we might be able to evaluate that and make an appointment by the Commission at our next meeting.

I also want to come up and give you a few things of what we've been doing since the meeting during the meet up at Saratoga. Commissioner Hamer and I took a very long trip around the back stretch, thanks to Mr. Lowenstein. I thank you for your work in that regard and. We spent a lot of time looking and I'm happy to report as she is. I'm sure that the new facility, the new residency for the workers at Saratoga is proceeding apace and we expect that that to be open within the within the next couple of months, hopefully by the meet, but probably not. But certainly it's there and it's up and it's running and it's really, it's a very impressive facility. Mr. Williams and I have been regularly meeting with the racetrack chaplaincy and have had a series of phone calls with them and we have set up a regular schedule so that we could discuss with them any of their concerns about the welfare of the backstretch workers and we can keep chaplaincy up to date on the many things that this Commission is doing.

To make sure that the backstretch workers are protected and that they are given decent opportunities and decent jobs. Thank you. I'm really looking forward.

As I said before, to the new campaigns on education, I think it's really important for us as a Commission to inform New Yorkers that. When they played the lottery that I'd like to say when they lose their children win and the fact that this money goes directly to the school districts and many of which provide some of the extra courses like the music and art or athletics that the school districts can now afford to give because of that money is really important that New Yorkers know what's going on.

I wanted to take the opportunity. You know, it's very important for us to be out and to explain which to many people is a very complicated process. And a very involved process in terms of what we're going through now in terms of the new casinos and the licensing provisions and the intricacies of the laws to that event. To that point, I want to thank Commissioner Skurnick for being out there. He seems to be doing yeoman's work throughout the city of New York at all these public meetings explaining the law and what the Commission is doing and what you cannot do, but he was out again and he'll and undoubtedly we'll be calling on him many more times in the future.

So, Commissioner, thank you for your work in that.

Commissioner Skurnick: Thank you, Mr. Chairman. I actually have enjoyed these excursions and I've gotten good feedback from our fellow New Yorkers about what they think about casinos in general and in their neighborhood.

Chairman O'Dwyer: I also want to say that we've also been and with our Executive Director been really vigilant on the excesses of Internet gambling, sports, sports betting in particular. You know we've been out front as I indicated before on banning prop bets, and we're dealing with other commissions commissioners throughout, in, in college betting. Be very, very it's a very difficult area and the whole question of the type of bets to allow and not allow.

Our Commission, our staff, is really on top of that and I want to thank them for their work on that because the work. You know, there's the hundreds, literally hundreds of different bets that come into our office regularly, and they have to make a decision as to what they consider as appropriate and not and.

And it's they're just doing a tremendous job under tremendous pressures. And I really want to thank our staff for that really important issue that we're doing. We are obviously it is inuring greatly to the benefit of the exchequer of New York, but at the same time we really have to be careful. But the excesses of that which unfortunately, some of the operators are pushing have got to be checked and the vigilance of our staff in doing that is very appreciated.

Finally, I wanted to talk about very briefly new legislation came down in regard to. Ensuring that our equine athletes Uh, both in standardbred and thoroughbred are not sold for slaughter, and which is really a very disturbing thing. Mr. Williams and I have been working with the with the two funds and the state. Agricultural Department under Commissioner Ball. To start work on assuring that we have representatives at the at the auctions to make sure that the that the law is observed, it's the new law that needs that we're still working on it, but it's again an important to aspect of the work we do.

Although we're not directly involved, we are certainly involved as people who understand the horse racing industry and I want to commend Mr. Williams in particular for his work in this regard, because he's put together quite a interdisciplinary approach to this, which I think of eventually and I think when I say eventually I say in. Soon we'll pay dividends in terms of us making sure. That at least these auctions are closely observed to make sure that no horse from New York, the object is that no horse from New York gets sent to slaughter, and in Canada or in elsewhere, and are allowed to have a natural death after having spent their time. In the races working for us.

But they are my fellow Commissioners that we're up there, that Commissioner Peter Moschetti and we had a great time in Saratoga. It was a wonderful time.

Great to see the horses running on the great to have the fact there was no horses that were hurt and more important and importantly the tremendous amount of good and economic great goodness that went to the people of Saratoga and the surrounding areas for that area. It was a great time and it was very important for both the industry and the state of New York and we are most appreciative that our governor not only showed up to give out the trophy, but had a breakfast for.

For all of us, that and the horse racing industry to show her support for the work of this Commission and the racing industry as a whole.

With that, I think you've all heard enough.

As I promised Commissioner Shorenstein, I'd get her out of here. So I'll take a motion to adjourn.