

Moderator: New York State racing pari-mutuel wagering and breeding law section 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. Five members haven't been confirmed but the New York State senate affords the commission the ability to discuss with a quorum and undertake action. This present meeting of the commission is now called to order. Miss Secretary, will you please call the roll?

Secretary: John Caraty [PH]?

John Caraty: Present.

Secretary: Peter Marsetti [PH]?

Peter Machete: Here.

Secretary: John Baclemba [PH]?

John Baclemba: Here.

Secretary: Barry Sample?

Barry Sample: Here.

Secretary: Todd Snyder?

Moderator: Mr. Snyder had indicated his unavailability due to a business commitment out of country. Miss Secretary, will you please let the record reflect that a quorum of qualified members are present, thus enabling the transaction of business. Also please note that two way audio and visual communications have been established between the two meeting locations. Given the absence of a designated chair, would the members like to select someone for the purpose of presiding over today's meeting?

Unidentified Male: I nominate Peter Marsetti.

Unidentified Male: Second.

Moderator: Okay, Mr. Marsetti.

Peter Marsetti: Consideration of minutes for the meetings of June 27, 2016 is the first cited. The minutes of the commission meeting conducted on June 27, 2016 have been provided to the members in advance. At this time I'd like to ask members if there are any edits, corrections, or amendments? I'm not hearing any. Madam Secretary, please let the record reflect the minutes were accepted. Next I think we have the report of the executive director and that's Mr. Williams.

Moderator: Thank you. This afternoon I'd like to provide an overview regarding the development status of the three commercial casino projects, discuss the Saratoga thoroughbred racing need, and provide an overview of the forthcoming commercial casino regulatory

performance \_\_\_\_\_ [00:01:57]. First, as we previously discussed, Del Lago has two defined stages of construction. The initial stage of construction includes the casino, the event center, back of house area, restaurants housed inside the casino in one center building, parking garage, and the hotel shell. The final stage of construction includes the interior hotel buildout.

Del Lago now reports that they are 54.5% complete with the initial stage of construction. During the first two weeks of July, they've averaged a work rate of 2.5% per week, which is necessary for their construction pace of 10% per month to stay on schedule. As to some specifics of their construction, rough grading on the site and parking lot are substantially complete and water has been brought to the site and being flushed and tested this month.

Electric is also on site, asphalt paving will start this August. Exterior insulation finishing system is now at 82% complete. The cultured stone is 67% complete. Both are expected to be completed by August 1<sup>st</sup>. Windows are going to be installed sometime this month. The casino slab on grade work is complete, with the exception being the events center slab. Metal framing and drywall ceilings and walls will continue through September.

The hotel also remains on schedule, with four floors of post tension concrete having been completed and the concrete structure is on schedule to be completed by August 19<sup>th</sup>. Exterior and interior framing are both scheduled to start at the beginning of August. As for the parking garage, foundations are complete and pre cast concrete is scheduled to start being erected on August 1st.

Del Lago reports that last month approximately 64,000 man hours have been worked. Rivers Casino and Resort at Mohawk Harbor is progressing on schedule. Their project is being constructed in two phases. Phase one is the low rise building and consists of casino, back of house offices, warehouse, event center, and garage. Phase two is the hotel building.

Phase one steel and miscellaneous metals are now at 88% complete and concrete is at 78% complete. They also reported completion percentages for several major construction components. Roofing is at 92%, fireproofing at 70%, framing and drywall at 35%, plumbing at 25%, HVAC at 21%, and low voltage electrical at 15%.

Rivers also reports the pre cast of their garage is now at 69% complete and that overall the project is 33% complete, which is up from 19% last month. To date, the project has produced over 101,000 man hours. Montreign reports that they have only completed the mask excavation and are at 72% complete for site retaining walls, 92% complete with site utilities, 90% complete with foundations, excavations, and site grading, 92% complete with a pre cast concrete garage parking structure, and 35% complete with the site electrical and underground plumbing.

This summer they report that they will start erection of the structural scale for the hotel and podium, start the installation of the central utility plant, and the concrete slabs for the hotel. Early this fall they anticipate commencing the start of roofing and the installations of the concrete slabs for the parking garage. Montreign reports that during the month of June, they expended 31,000 union hours on the worksite.

With respect to Saratoga, the New York Racing Association opened its 40 day summer meet at the Saratoga racecourse last Friday. The meet features 69 stakes races, worth a record \$18.725 million and is anchored by two big race days. The first on August 6<sup>th</sup> and the second on August 27<sup>th</sup>. The former will share the grade one Whitney stakes, the grade one test, and the grade three Wya. The

latter will feature the grade one Travers stakes and five other grade one races, including the sword dancer, the ballerina, the four gum, the king's Pinto, and the personal lenson [PH].

The grade two Austin's file will also be contested. Racing is conducted Wednesday through Monday, including on Labor Day, which this year is September 5<sup>th</sup>. With respect to commercial casino rule making, today the commission will consider one rule proposal. Next month however, we anticipate a substantial rule making agenda, as staff is either circulated or will soon be circulating a great number of drafts for pre proposal industry comment.

These drafts include accounting controls, cage and account standards, electronic gaming devices and equipment, monitoring control systems and validation, standards for gaming devices, slot tournaments and progressive gaming devices, and table games. After that package is considered, the sole remaining necessary rule proposal would regard alcoholic beverages.

Finally I want to remind commissioners that at the conclusion of today's meeting we will be taking a site visit to the Rivers Casino at Mohawk Harbor, here in Schenectady. It's my understanding that we'll be joined at the site by Russ Street Gaming Chief Executive Officer Greg Carlin and Rivers Mohawk Harbor General Manager Mary Cheeks. I'd like to thank all staff at Rivers for accommodating our visit today.

Peter Marsetti: So the follow up is rule making for us, right? So New York State Racing Pari-Mutuel Wagering and Breeding Law section 104.19 authorizes the commission to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Thus the commission will, from time to time, promulgate rules and rule amendments pursuant to the state administrative procedure act. We have six items for consideration today. Mr. Williams.

Moderator: For commission's consideration is item 4A, is the adoption of revised proposed regulations that would amend that thoroughbred racing restrict the time periods for the permissible use of two drugs, Dimethyl sulfoxide, better known as DMSL and Diclofenac. The commission had proposed such amendments at its March 12, 2014 meeting and revised its proposal most recently at the January 26, 2016 meeting.

The revised proposal was published in the state register on June 8, 2016. The purpose of the proposed amendments was to make the restricted time periods for DMSL and the other drug consistent with the per se regulatory thresholds for the 24 drugs that the commission adopted and that became effective on December 31, 2014. In response to public comments from the racing medication and testing consortium and the New York Thoroughbred Horseman's Association, the revised proposal allowed for race day topical use of DMSL.

State equine medical director Scott Palmer and New York drug testing and research laboratory director George Maylan [PH] each opined that the race day use of DMSL does not pose a threat to the racing integrity or the safety and health of racehorses and supported permitted topical race day use of DMSL. The revised proposal reflect RMTTC and NYFA's comments and following consultation with Palmer and Maylan includes a further revision, limiting other methods of DMSL permitted use to 28 hours before racing, only in oral and intravenous administration.

Only one comment was received during the revised proposed public comment period. The jockey club expressed support for the revised proposal. Staff recommends adoption of the revised proposal as a permanent rule.

Peter Marsetti: Commissioners, any questions on the adoption of thoroughbred restricted time periods for various drug rules? Hearing none, may I have a motion to adopt these rules?

Unidentified Male: So ruled.

Unidentified Male: Second.

Peter Marsetti: Any discussion on the motion? Hearing no discussion, all in favor?

Multiple persons: Aye.

Peter Marsetti: Opposed? The motion carries.

Moderator: For commission consideration, adoption of the revisions of commission's horse racing rules in regard to the use or removal of hobbles for standard bred horses. Hobbles are leather or plastic straps that go around the horse's body and legs to keep a horse on gait, either pacing or trotting. This proposal would allow the trainer discretion when entering a horse to race or change whether a horse will use hobbles or not.

Subject oversight by the commission judges at each racetrack. The disqualification rule would no longer require the judges' permission for a horse's first use of hobbles. Instead the program would be required to report any changes in a horse's use of hobbles. The amendments would also allow a trainer more flexibility to change hobbles as appropriate for local track configurations and conditions, without incurring the time and expense of requalifying a horse.

The text to the proposed rule was published in the state register on June 1, 2016, meaning the public comment period ended July 18<sup>th</sup>. No public comments were received. Staff recommends the adoption of this proposal as a permanent rule.

Peter Marsetti: Any questions on the adoption of the standard bred use of hobbles rule? Hearing none, may I have a motion to adopt these rules?

Unidentified Male: So moved.

Unidentified Male: Second.

Peter Marsetti: Discussion on the motion anyone? All in favor?

Multiple persons: Aye.

Peter Marsetti: Opposed? The motion carries.

Moderator: As item 4C, commission's consideration of the adoption of the revisions to commission's coupled entries rule for standard bred races. The proposal provides that for stakes races of \$25,000 or more, separately owned horses having the same trainer may be uncoupled. And all horses owned and trained by the same trainer will continue to be coupled entries. For stakes races of \$100,000 or more, all horses of common ownership may be uncoupled. In both cases, the uncoupling of horses would be subject to the discretion of the presiding judge.

To couple the entries in the interest of the wagering public, adoption would make the standard bred rule consistent with the thoroughbred rule. The text of the proposed rule was published in the state register on June 1<sup>st</sup>. Two public comments were received. One from Tioga and Vernon Downs race tracks and the other from the director of operations and publicity at the Hamiltonian's Society. Both comments favored adoption. Staff recommends adoption of this proposal as a permanent rule.

Peter Marsetti: Any question on the adoption of these rules?

Unidentified Male: Just refresh my recollection. When did we do the thoroughbred rule?

Moderator: When was that?

Peter Marsetti: Two, three years ago, right? Calendar 2015.

Unidentified Male: Thank you. And therefore, they'll be identical right?

Peter Marsetti: Yes.

Unidentified Male: Good, thanks.

Peter Marsetti: Any further discussion?

Unidentified Male: How many \$100,000 trotting races are there?

Peter Marsetti: There's not many. There's... really the higher stakes is a premium racing that comes out. We have many races that are over \$100,000 purse, but there's not that many.

Unidentified Male: Less than ten?

Ron Oakrum: Oh there's more because of side stakes. There's eight there. So you have them and then you've got... there's a few. About 15 I would say.

Peter Marsetti: Anything further John?

John: No.

Moderator: In case you didn't say it John, that was Ron Oakrum [PH], our director of horse racing and pari-mutuel wagering activities.

Peter Marsetti: Anything else? May I have a motion to adopt these rules?

Unidentified Male: So moved.

Peter Marsetti: Second?

Unidentified Male: Second.

Peter Marsetti: Any discussion on the motion? Hearing none, all in favor?

Multiple persons: Aye.

Peter Marsetti: Anyone opposed? The motion carries.

Moderator: For commission consideration, an adoption of a revision to the commission's gaming rules, permit a claimant to void a claim on samples collected the day of the claiming race that test positive for an impermissible drug administration. The current rules recognize positive tests performed post-race and TCO2 samples as basis to void a claim. With recent adoption of per se regulatory thresholds, which apply to all samples collected on race day, these proposed rules will contemplate drug positives from samples collected before a race, as well as after, for grounds of voiding a claim.

In addition, adoption of the proposal would conform the standard bred to the thoroughbred rule, which permits a claimant to void a claim based upon an equine drug positive in the race preceding the claiming race when a positive drug test is revealed only after the claiming race. The commission authorized the proposal of these rules at its April 25, 2016 meeting. The text of the proposed rules was published in the state register on June 8<sup>th</sup>, meaning that the public comment period expires today.

No public comments have been received to date. In the event a comment is received before the close of business today, staff will promptly inform each commissioner and seek direction. Staff recommends the adoption of this proposal as a permanent rule.

Peter Marsetti: So commissioners, any questions on the adoption of voidable claims based on race day sample rules? Subject to no receipt of substantive comments before the close of business today. None. May I have a motion to adopt these rules?

Unidentified Male: So moved.

Peter Marsetti: Second?

Unidentified Male: Second.

Peter Marsetti: Any discussion on the motion? Hearing none, all in favor?

Multiple persons: Aye.

Peter Marsetti: Opposed? The motion carries.

Moderator: For commission consideration is item 4E, is the adoption of rules that require a gaming facility licensee to test and certify slot machines and other gaming equipment by licensed independent testing laboratories prior to operation. The proposed part addresses the following topics: the standards for licensing and operating independent testing laboratories, notification and reporting requirements, and the recording and reporting of equipment inspection and certification results.

The proposed part also makes the proposed rules applicable to the systems and equipment used in the conduct of video monitoring gaming. The commission authorized a proposal of these rules at its

May 23, 2016 meeting. The text of the proposed rules was published in the state register on June 8<sup>th</sup>, meaning that the public comment period expires today. Thus far, only one public comment has been received to date from a representative of Gaming Laboratories Incorporated, a common independent testing laboratory. The comment suggested that the commission include language requiring evidence of financial independence.

Staff reviewed the comment and notes that the under the law, independent testing laboratories are casino vendor enterprises, which must qualify under the standards for qualification of a casino key employee. Under that provision, a laboratory must establish, by hearing convincing evidence, their financial stability. To establish such, a laboratory must complete the vendor license application, which includes financial suitability information.

In the opinion of staff, there is no need to duplicate specific financial requirements in this regulation. In the event of any additional comments received before the close of business today, staff will promptly inform each commissioner to seek direction. Staff recommends the commission adopt this proposed rulemaking as a permanent rule.

Peter Marsetti: Any questions on the adoption of these rules? Subject of course to no receipt of substantive comments before the close of business today. Hearing none, may I have a motion to adopt these rules?

Unidentified Male: So ruled.

Peter Marsetti: Second?

Unidentified Male: Second.

Peter Marsetti: Any discussion on the motion? Hearing none, all in favor?

Multiple persons: Aye.

Peter Marsetti: Opposed? The motion carries.

Moderator: For commission consideration, proposed amendments to the rules for licensing and registration of gaming facility employees and vendors. As you may recall, the commission previously authorized the proposal of parts 5303 – 5307 on July 6, 2015 and authorized adoption of such proposed rules on September 10, 2015.

During the licensing process, staff had several conversations, both within the agency and with perspective licensees about clarifying aspects of the regulations and believes several amendments are warranted. These clarifications include, among other things, requirements for updating a submitted application, the process and circumstances under which an applicant is denied a license or registration by licensee or registrant whose license has been revoked may reapply.

The staff's disqualification criteria to applicants for non-gaming employee registration. The term for a non-gaming employee registration and which vendors are not required to be licensed or registered. Staff recommends that the commission authorize the proposal of this rule making.

Peter Marsetti: Any questions on proposed amendments to our regulations governing licensing and registration of the gaming facility employees and vendors?

Unidentified Male: My understanding is that the amendments were as a result of input from the vendors.

Moderator: Input from the vendors and also from our own staff as we've gone through them.

Unidentified Male: Once that input was taken into consideration, were there any of the rules that were still objectionable? You understand my question?

Peter Marsetti: Are you talking about from the initial proposal and the materials there?

Unidentified Male: After you made the suggested changes. Are there still...?

Peter Marsetti: Well that's what these are. There have actually been two different elements of that. One is when we originally published those rules, we went through a pre-industry comment period as well or pre-proposal comment period. We had a variety of input from them at that point, which we accepted some and we rejected some. Upon further review of that intervening year, we reviewed the rules again, again in conjunction with vendors and have come up with a new set of proposals.

Unidentified Male: Right. Are there any industry concerns?

Peter Marsetti: There are some industry concerns and clarifications that they don't understand how some rules work. The interaction of some rules, language has changed over the course of the year and that's what we're addressing at this point.

Unidentified Male: Okay. Thank you.

Peter Marsetti: Any further discussion? May I have a motion to propose these rules?

Unidentified Male: So moved.

Unidentified Male: Second.

Peter Marsetti: Discussion on the motion anyone? Not hearing any. All in favor?

Multiple persons: Aye.

Peter Marsetti: Opposed? The motion carries. The next item of scheduled business regards adjudications and we have one item for adjudication.

Moderator: This is a matter of will order of Moose Lodge 1407. By notice of hearing dated March 1, 2016, commission staff initiated a hearing process to extend a revote for license to conduct games of chance at the loyal order of Moose Lodge 1407, on the grounds that the lodge had failed to file quarterly statements of bell jar operations.



For two quarters of 2011, each quarter of 2012 and 2013, two quarters of 2014, and three quarters of 2015, for a total of 15 quarters. Under the relevant charitable gaming statutes and regulations, a hearing is required before suspension or revocation of a games of chance license. The hearing officer may then recommend the action to be taken against the licensee.

A hearing was conducted on May 20, 2016. The hearing officer's final report and recommendation were delivered to the commission secretary on July 1<sup>st</sup>. During the time of the notice of hearing being issued and the hearing date, the lodge filed each of the delinquent reports. Regardless, the hearing officer recommended that the lodge be fined \$200 for each of the 15 violations of the obligation to timely file a quarterly statement of bell jar operations, for a total fine of \$3,000.

The hearing officer further recommended that the fine be paid within 60 days. The commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New York public officers law section 108.1.

Unidentified Male: The commission duly deliberated and considered this matter and determined upon a vote of four to nothing to sustain the hearing officer's reported recommendation. Now we have new business, old business. Any old business that we want to discuss? There is none on the agenda. Does anyone have any old business to consider? Last time? No, alright.

Hearing none, we have new business. We also have no items scheduled on the new business. Does anyone have any other new business to consider?

Unidentified Male: I just wanted to point out that we did discuss the procedures for consideration of the hearing officer's recommendation. And talked about revisiting the rules in terms of making them uniform, with respect to all hearings and all reviews. So that Baldwin could be considered in a similar way. I don't think we're committed to making them uniform, but at least we're going to consider that and maybe have a proposal for a future meeting.

Peter Marsetti: We had a bit of discussion about that.

Unidentified Male: Thank you. That's the only item I have.

Peter Marsetti: So the scheduling of next meeting? The next meeting of the commission is scheduled for August 30<sup>th</sup> at the Hum 3S Finny [PH] Pavilion at the officers of Tipton Company at 415 East Avenue in Saratoga Springs and we just ask that you advise Miss Buckley of your availability. So that concludes today's published agenda. Do any of the commissioners have any items they'd like to present for consideration?

Hearing no other items for consideration, this meeting of the New York State Gaming Commission is adjourned.

[End of audio]