

Unidentified male: New York State Racing, Pari-Mutuel Wagering, and Breeding Law section 102; clients at the New York State Gaming Commission shall consist of seven members appointed by the governor by and with the consent of the Senate. Five members having been confirmed by the New York State Senate affords the commission an ability to establish quorum and undertake action. This present meeting of the commission is now called to order. Ms. Secretary will you please call the role.

Unidentified female: John Crotty.

Unidentified male: Here.

Unidentified female: Peter Moschetti.

Unidentified male: Here.

Unidentified female: John Poklemba.

Unidentified male: Here.

Unidentified female: Barry Sample.

Unidentified male: Here.

Unidentified female: Todd Snyder.

Unidentified male: Will the secretary please have the record reflect that a quorum of qualified [audio cut out].

Unidentified male: Are we good now.

Unidentified male: Hold on momentarily.

Unidentified male: Kris can you still here us, can you send us a text please.

Unidentified male: Okay we are good, Rob I am sorry about that.

Unidentified male: Given the absence of a designated chair, would the members like to select a member for the purpose of presiding over today's meeting.

Unidentified male: I nominate John Crotty.

Unidentified male: Second.

Unidentified male: John Crotty?

Unidentified male: I do not know how John thinks, it could be a split vote.

Unidentified male: Thank you all very much. The first item up is a consideration of minutes for the previous meeting April 25th. I would ask at this time of the members if there are any edits, corrections, or amendments?

Unidentified male: No.

Unidentified male: None. Please let the record reflect that the minutes were accepted.

Unidentified male: As circulated.

Unidentified male: As circulated. Now we go to Rob to hear the report of the executive director.

Unidentified male: Thank you. This afternoon I would like to provide an overview regarding the development status of the three casino projects, provide a casino rule making status and licensing update, discuss the upcoming Belmont Stakes, provide a cobalt and glaucine update, and talk about a harness racing rules initiative. First regarding the casino development status. As I previously mentioned, Del Lago has two defined stages of construction. The initial stage of construction includes casino, event center, back of house area, all restaurants housed inside the casino's event center building, the parking garage, and the hotel shell. The final stage of contraction includes the interior hotel build out. Del Lago reports that they are now 39% complete with the initial stage of construction. They anticipate that over the next three months that their work rate with increase to 7.5% per month to 10% per month in order to stay on schedule and achieve that construction target. As to some specifics of their construction, the drying of onsite soil has allowed a restart of mass grading operations. Del Lago anticipates a completion of rough grading by June 15th, which includes instillation and compacting of 30-thousand cubic yards of surplus soil. Once rough grading is complete, the East parking lot will be stoned and prepared for asphalt. They report that the curbing and asphalt is scheduled to start in August. On the building, roof top handling units have been set and overhead mechanical, electrical, and plumbing pipe rough ends continue. The hotel foundation work is 95% complete with the first floor columns 85% complete. The parking garage _____ [0:04:18.8] arms are underway. The foundations will start before June 1st. Precast concrete is scheduled for delivery in August. Del Lago reports that last month they saw approximately 43-thousand man hours of employment. Rivers Casino and Resort at Mohawk Harbor is progressing on schedule as well. The project is being constructed in two phases. Phase one is the low rise building and consists of the casino, back of house offices, warehouse, events center, and garage. Phase two is the hotel building. Phase one steel and miscellaneous metals is now 85% complete, site work is 27% complete, and concrete is 75% complete. River has also reported completion percentages for several major construction components including roofing at 64%, fireproofing at 14%, drywall and framing at 18%, plumbing at 14%, HVAC and low voltage electrical each at 12%. They also report that they precast of the garage is 20% complete. To date the project has produced 59,400 man hours and is overall 18% complete. Montreign reports that they have completed 80% of the foundation, excavation, and site grading; 70% of the foundations; and 35% of the precast concrete structure for the parking garage. This summer Montreign reports that they will start erection of the structural steel for the hotel and podium, start the instillation of the central utility plant, and the concrete slabs for the hotel. Finally Montreign reports that during the month of April they expended nearly 20-thousand hours on the work site. As you are all aware, the commission has two commercial casino gambling rule making proposals for adoption consideration this month and a single item for proposal consideration. Within the next two weeks, commission staff will be seeking preproposal

industry comment on a wide variety of rules including Junket operator licensing, lobbyist registration, registration of labor organizations, accounting controls, table game equipment, table game standards, and excluded persons. We anticipate that each of these proposals will be before you for consideration at the June meeting. I also want to provide a very quick update on the Tioga Downs Casino licensing. The commission recently received the materials from the New York State Police, which is the entity that charged with conducting suitability investigations. Staff is working on assimilating the materials into a suitability report, which will include an analysis of the background investigation of Tioga and its principal management staff. Staff is also reviewing all of the materials to ensure that all post selection updates to Tioga's application will be accordingly presented. These update include, if necessary, the addition or replacement of key personnel, changes to the project financing structure, alterations to the project design and more. Finally Ed Shop is still working on a comprehensive contract, which we anticipate will be drafted at the same time and run concurrently with the review processes here. As to the Belmont Stakes; the 2016 Belmont Stakes racing festival will be conducted June 9th the 11th and culminating with the 148th running of the Grade One Belmont Stakes. While no triple crown will be contested this year, it is my understanding that Preakness winner, Exaggerator, and Kentucky Derby winner, Nyquist, will renew their rivalry. In addition to the Belmont Stakes, June 11th we will see seven other graded stakes races; including the Grade 1 Metropolitan Handicap, Manhattan Stakes, The Ogden Phipps, The Just A Game, and The Acorn; the Grade 2 Woody Stephens and Brooklyn Invitational; and the Grade 3 Jaipur. I do not think that is debatable, but this day of racing is the best in North America outside of the Breeders Cup. With respect to the glaucine issue, as you are all aware, the staff has been investigating the circumstances of more than 30 post-race samples with elevated levels of the alkaloid glaucine in standard bred race horses. This investigation includes the review of claims of environmental contamination. In general, the entire process is near complete and results, findings, and actions are expected to be announced in the near future. As you are also aware, last month the commission took significant action against a half-dozen harness racers whose horses test positive for cobalt, which is a banned substance. All were initially summarily suspended. Three adjudicatory processes for those who were facing the lower tier penalty had been conducted. Two of those three have accepted a settlement offer in advance of the hearing officer report finalization. The third is considering a settlement offer. The other three hearings are scheduled for May 25th, this upcoming Wednesday. A 7th licensee accused of a lower cobalt violation accepted a plea before any processing. Finally, late last week the commission summarily suspended an additional licensee, a groom who has believed to be the defacto trainer of one of the horses that tested positive for high levels of cobalt. The newly suspended licensee is also scheduled for hearing on May 25th. The front trainer will face action for acting as a beard. In conclusion here today I also want to mention that last month the commission formally adopted a variety of thoroughbred rule changes that establish rules for the Pick 5 wagering into the commission regulations and made consistent rules for the Pick 4, Pick 5, and the Pick 6 by eliminating discrepancies. Ron Ochrym and his staff in the racing division will be undertaking a similar project for standard bred pick and wagers and will be considering other rule changes to assist in making harness racing regionally competitive, such as perhaps authorizing a Pick 4 carryover. This draft would likewise be set for pre-proposal industry comment during this summer.

Unidentified male: Great. Thank you Rob. Okay. Next on the list here is rule making. New York State Racing, Pari-Mutuel Wagering, and Breeding Law authorizes the commission to promulgate rules and regulations that it deems necessary to carryout its responsibilities. In that regard the

commission will from time to time promulgate rules and rule amendments pursuant to state administrative procedure act. Today we have four items for consideration. Rob call the first item.

Unidentified male: For commission consideration is the adoption of a proposed regulation regarding problem gambling prevention and outreach in commercial casinos. Specifically the rule prescribes the content of a problem gambling plan that each gaming facility and licensed applicant must submit for commission approval. The plan requires goals, procedures, and a time table for implementation, as well as identifying an individual responsible for implementing and maintaining the plan. The proposal will also require the gaming facility problem gambling plan and identify policies and procedures that would be implemented to combat problem gambling, including an employee training program. Quarterly and annual reporting to the commission would be required to the gaming facility licensee problem gambling plan progress and results. The rules also set forth procedures and restrictions on gaming facility advertising and signage, including the content and placement of gambling assistant messages. The commission proposed this rule making on February 29, 2016 and the proposal was published in the March 23, 2016 state register. The public comment period ended May 9th. No public comments were received. Please note that that staff has renumbered the proposal to accommodate other contemplated casino rule makings. The renumbering is not considered a substantive amendment. Staff recommends that adoption of this proposal as a permanent rule.

Unidentified male: Commissioners, any questions on the adoption of the Problem Gaming and Outreach Rules? Hearing none, can I have a motion to accept?

Unidentified male: Notion.

Unidentified male: Second?

Unidentified male: Second.

Unidentified male: Any discussion? All in favor?

Unidentified male: I.

Unidentified male: I.

Unidentified male: Motion carried. Rob please call the next item.

Unidentified male: For commission consideration is the adoption of proposed regulation regarding patron self exclusion from commercial casinos. Specifically the rules set forth a process for which a person can request to be excluded from participation in gaming activities. The rule requires that a person file a request for self-exclusion, which includes the length of exclusion sought and release any claims that might arise from failure by the state commission or gaming facility licensee to withhold or restore our gaming privileges or from confiscation of the individuals winnings. The proposed rules would require the commission to maintain an official list of self-excluded persons and to promptly notify a gaming facilities agents of any additions or deletions from such list. The rules prescribe that a self-excluded person may not collect winnings or recover losses during the period of self-exclusion. A gaming faculty licensee would be required to establish procedures and training for its employees to identify and manage any self-excluded persons found

to be present on the gaming floor or involved in gaming related activities. The commission proposed this rule making on February 29th on 2016. The proposal was published in March 23rd state register and the public comment period ended on May 9th. No public comment was received. As with the previous rule contemplation, staff has renumbered this proposal to accommodate other contemplated casino rule makings. The renumbering is not considered a substantive amendment and staff recommends the adoption of this proposal as a permanent rule.

Unidentified male: Commissioners any questions on the adoption of the Patron Self-Excluded Rules?

Unidentified male: I have a question not on the rules, but if I self-exclude myself, how do they know when I show up?

Unidentified male: I was going to ask what we think the percentage of people is that has this?

Unidentified male: There are a variety of ways that can be undertaken. One is through know your patron, individuals will frequently be known to individuals that are there at the facility. Also with any of their cards that they utilize; whether it will be something that identifies back to their credit card if they were looking for some cash, or a patron club card if they installed something on there and it would automatically flag them. Additionally, many facilities utilize face recognition and individuals can be identified when they go to be placed on the list. Their picture is taken and they are uploaded into it and so that way intervention can occur from that standpoint and surveillance as well.

Unidentified male: Another aspect to is if the individual has a winnings of 600-dollars or more and has to go to the cage for federal withholding taxes, it can be flagged at that point.

Unidentified male: Are they not odd of 300 to 1 or better? Or is odd of 600 to 1 or better?

Unidentified male: 300 to 1.

Unidentified male: So you could cash out for more than that. If you cash out with 1000 dollars, you do not have to go to the IRS with that do you?

Unidentified male: I think that you do.

Unidentified male: Not at the casino. I mean I do not know. At the track you do.

Unidentified male: On different instances they do, when any particular wager hits that, they will flag it.

Unidentified male: As a single wager, but not as an amount.

Unidentified male: That is correct.

Unidentified male: Do we have a sense from other jurisdictions how big this could be?

Unidentified male: No but I do know that the overall lists relative to Indians, which have a similar process, run around a thousand.

Unidentified male: I know the Racino, another casino in Saratoga, has this in place.

Unidentified male: All state facilities have been required to have something similar to that since the mid-2000's.

Unidentified male: Ed, the list that is maintained by the commission, is that made public?

Unidentified male: No.

Unidentified male: It is not subject to Freedom of Information Law Disclosure?

Unidentified male: No it would be Personal Privacy Protection Law that would protect it.

Unidentified male: The numbers would be public.

Unidentified male: Any individual identifying information would not be subject disclosure.

Unidentified male: On this and on the prior rule, how are things with a working relationship with OASIS?

Unidentified male: Do you want to talk about that Lee?

Unidentified male: We continue through the Responsible Play Partnership to hold quarterly meetings and continue to identify areas where we can advance policy and ideas. We are working really closely with OASIS on the National Council for Problem Gambling Annual Conference. We just met last week actually and had a really good meeting.

Unidentified male: All right. May I have a motion to adopt these rules?

Unidentified male: Motion.

Unidentified male: Second?

Unidentified male: Second.

Unidentified male: Any other discussion? All in favor?

Unidentified male: I.

Unidentified male: I.

Unidentified male: Motion carries. Rob will you please call the next item.

Unidentified male: Certainly. As item 4C for commission consideration is the adoption of proposed regulation in regards to consequences for commission licensees, agents, and other regulated parties who violate prohibitions on underage play in the horse race wagering, lottery, video lottery, and charitable gambling. As you may recollect, the genesis of this proposal was from discussions with the Responsible Play Partnership, which as Lee noted, is a standing collaboration between the commission, the New York Office of Alcohol and Substance Abuse Services and the New York Council on Problem Gambling. The proposed amendments are necessary to enhance the existing regulations by implementing a graduated penalty structure for infractions. The amendments provide a penalty structure dependent upon the type of operator ranging from a written warning in lottery retailers, charitable gaming operators, and easy bet locations; all the way to 25,000 fines and possible further action including license revocation for racetracks following a fourth violation. This proposal was published in the March 23, 2016 state register allowing the public comment period to conclude on May 9th. Two public comments were received. One from the New York Gaming Association and one from 6 collaborating trade associations representing convenience stores, grocery stores, gas stations, taverns, and other retail establishments that are licensed to sell New York Lottery products. The NYGA comment generally stated that the proposed regulations are not necessary and advisable removed commission discretion to determine penalties were unduly harsh and not allowing considerations for mitigating circumstances and imposed unreasonable new burdens on operators. Commission staff considered NYGA's comments and do not recommend any amendments to this proposed rule making and response. Staff is; however, considering whether a deferment of defense is similar to those existing to those in video lottery would be appropriate in other forms of regulated gambling, and if so, we will see a proposed rule making to address that concern. The second public comment was submitted jointly by The Food Industry Alliance of New York State, The Empire State Resort and Tavern Association, The Bodega Association of the United States, The New York Association of Service Stations and Repairs Shops, The New York Association of Convenient Stores, and The Long Island Gasoline Retailers Association. This comment opposed enforcement of the proposed penalties in regards to lottery vending machines until commission fits each lottery vending machine with an identification card reader, urged a hearing process for lottery retailers, recommended that it be made unlawful for a person under the age of 18 to provide a lottery ticket to an underage customer and sought certain clarifying language and access to the commissions enforcement plan before it was placed into practice. Commission staff here also considered the joint comment and does not recommend any amendments to the proposed rule making. Finally I wish to note that the rule making process for this particular proposal commenced before casino gambling rule making starting, thus the present rule contains no language addressing violations in such industry. Staff is working an amendment to reflect casino gambling for the near future. Overall staff recommends adoption of this proposal as a permanent rule.

Unidentified male: Commissioners any questions on the proposal of consequences for commission licensees, agents, or other regulated parties who violate the prohibition on underage wagering. Hearing none. May I have a motion?

Unidentified male: Motion.

Unidentified male: Second.

Unidentified male: All in favor?

Unidentified male: I.

Unidentified male: I.

Unidentified male: Motion carries. Rob will you call the last item.

Unidentified male: Certainly. As item 4D for commission consideration is a proposal regarding independent testing laboratories to be used in commercial casino gambling. These proposed rules require a gaming facility licensee and test and certify slot machines and other gaming equipment licensed by the independent gaming test laboratories prior to operation. The proposed parts addresses a variety of topics including the standard licensing and operating of independent testing laboratory, notification and reporting requirements, and the reporting of equipment inspections and certification results. The proposed part also makes the proposed rules applicable to the systems and equipment used in the conduct of video lottery gaming. The proposed texts was circulated to several independent laboratories for their review and comments. Pertinent comments have been received and incorporated. Staff recommends that the commission authorize the proposal of the rule making.

Unidentified male: Any questions of the proposal of independent testing laboratory rule?
Hearing none. May I have a motion?

Unidentified male: Motion.

Unidentified male: Second?

Unidentified male: Second. All in favor.

Unidentified male: I.

Unidentified male: I.

Unidentified male: I.

Unidentified male: Motion carries. Next up Rob is adjudications.

Unidentified male: In front of us today the commission has three hearing officer reports for consideration. The first is in the matter of Corning VFW Post 524. By notice of hearing dated March 1, 2016, commission staff initiated a hearing process to suspend or revoke the license to conduct games of chance of Corning VFW Post 524 on the grounds that the Post had failed to file quarterly statement of Bell Jar Operations for three quarters in 2011, each quarter of 2012 and 2013, three quarters of 2014, and three quarters of 2015; for a total of 17 quarters. Due to relevant charitable gaming statutes and regulations, a hearing is required before the suspension or revocation of games of chance licensing. The hearing officer may recommend action to be taken against the licensee. A hearing was conducted on April 1, 2016. The hearing officers final report and recommendations were delivered to the commission secretary on May 9th. The hearing officer recommended that Post 524's license to conduct games of chance be suspended for 90 days and that the post be fined 200 dollars for each of the 17 violations for the obligation to file a quarterly statement of Bell Jar Operations for a total fine of 3400 dollars. The hearing officer further recommended that the suspension be stayed for 60 days and not impose if Post 524 pays such fine

within the 60 day stay period, files within the stay period each outstanding quarterly statement of Bell Jar Operations for the 2nd, 3rd, and 4th quarters of 2015. The commission has 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 did duly deliberate this matter and determined upon a vote of four to nothing to sustain the hearing officers report and recommendation. Next case please.

Unidentified male: The next case is in the matter of the 40 and 8 Club. By notice of hearing dated March 1st, the commission staff initiated a hearing process to suspend or revoke the license to conduct games of chance of the 40 and 8 Club on the grounds that the club had failed to file any quarterly statements of Bell Jar Operations for each quarter in 2013, 2014, and 2015. Under the relevant charitable gaming statutes and regulations, a hearing is required before suspension or revocation of a games of chance license, a hearing officer will then recommend a course of action to be taken against the licensee. A hearing was conducted on April 1, 2016. The hearing officers final report and recommendations were delivered to the commission secretary on May 9th. The hearing officer recommended that The 40 and 8 Club's license to conduct games of chance be suspended for six months and the organization be fine 200 dollars for each of the 12 violations of the obligation to file a quarterly statements of Bell Jar Operations for a total fine of 2400 dollars. The commission has 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 did duly deliberate this matter and determined upon a vote of four to nothing to sustain the hearing officers report and recommendation. Rob if you could please call the next case.

Unidentified male: The next case is the matter of David Russo. On December 30, 2015 the presiding judge at Monticello Raceway suspended the trainers license of David Russo for 30 days and fined him 3000 dollars for being responsible for drug positives of caffeine and its metabolites theophylline, theobromine, and 1-7 1-7 dithienylethene in a horse he raced in violation of commission rule 4120.2N. After Mr. Russo appealed a hearing was conducted on March 30, 2016. The hearing officers final report and recommendations were delivered to the commission secretary on April 22nd. The hearing officer recommended the suspension and fine be upheld. The commission considered this matter in a meeting conducted pursuant to the judicial and quasi judicial proceedings exemption of New York Public Officers Law section 108.1.

Unidentified male: The commission did duly deliberate this matter and determined upon a vote of four to nothing to sustain the hearing officers report and recommendation. Okay we go onto any old business. Any items of old business?

Unidentified male: No.

Unidentified male: Hearing none. Lets go on to new business. Are there any items of new business to consider? Hearing none. We have discussed the scheduling of the next meeting. It is scheduled for June 27th. I will ask everyone to please advise Ms. Buckley of your availability. This concludes todays published items. Do the commissioners have any items that they would like to present for consideration? Hearing none. Before I conclude, I would like to thank the staff at Del

Lago for making arrangements for a possible commission visit to the site. Unfortunately, the schedules did not afford an availability to travel to Western New York today. We hope that our staff will soon be able to visit. Hearing no other items for consideration, this meeting of the New York State Gaming Commission is adjourned.