

Mr. Rob Williams: New York State racing and pari-mutuel wagering and breeding laws 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 having been confirmed by the New York State Senate affords the commission an ability to establish quorum and undertake action. This present of the meeting of the Commission is now called to order. Miss. Secretary, will you please call the roll.

Miss Secretary: John Crotty?

John Crotty: Here.

Miss Secretary: Peter Moschetti?

Peter Moschetti: Here.

Miss Secretary: John Poklemba?

John Poklemba: Here.

Miss Secretary: Barry Sample?

Barry Sample: Here.

Miss Secretary: Todd Snyder?

Mr. Rob Williams: Miss Secretary, will you please have the record reflect that a quorum of qualified members are present. Thus enabling a transaction of business. Given the absence of a designated chair, would the members like to select a member for the purposes of serving as a presiding officer with today's meeting?

Male: I nominate Peter Moschetti.

Male: Second.

Mr. Rob Williams: Okay. All unanimous?

John Crotty: Yes.

John Poklemba: Yes.

Barry Sample: Yes.

Chairman Moschetti: Thank you for the show of confidence.

Male: Yes.

Male: Yes.

Male: Do a good job.

Chairman Moschetti: The minutes of the commission meeting conducted on August 24, 2015 have been provided to the members in advance. At this time I'd like to ask the members if there are any edits, corrections, or amendments. Hearing none. Madam Secretary, please let the record reflect the minutes were adopted as circulated.

Next up is the report of Mr. Williams our Executive Director.

Mr. Rob Williams: I'll try to be quick here. As you're all aware, the commission conducted two forums since our last meeting. Most of you attended or listened the Lasix forum, which was conducted at the Empire State College in Saratoga Springs. A tremendous amount of information and material was kind of thrust upon you. The video of the day-long event is expected to be posted online shortly. Upon request I can also arrange for any provided or referenced materials to be delivered to your attention. Just let me know. The retired, racehorse event was held on September 1st at the Fasig-Tipton Pavilion in Saratoga. I believe the event was very successful in drawing attention to the issue. One significant thing that came out of the day was that NYRA (New York Racing Association) pledged to donate \$5/start at its tracks to the Thoroughbred Aftercare Alliance. This will match the efforts of the New York Thoroughbred Horsemen's Association, which in 2014 began to contribute \$5/start to aftercare.

Excepting for American Pharaoh, the Travers Day was an extraordinarily successful day. Travers saw a record, all-sources handle of over \$49 million, and on-track handle that day exceeded \$11 million, which was also a record. I would like to recognize that realized that Commissioners Moschetti and Sample were in attendance. The entire meet, which just recently closed, was a success by any objective standard with records set of on-track handle and all-sources handle. On-track handle exceeded \$157.6 million, which is up from last year, which was \$150.3 million, which is up from last year's all-sources handle of \$571 million.

For the first time since its inception in 1990, the Annual New York Night of Champions will be conducted on two nights. This is a championship night for standard-bred horses that are bred in the state of New York. This upcoming Saturday Yonkers is hosting four, \$225,000 finals for three-year olds. In two weeks on September Yonkers is holding a second night also with four, \$225,000 finals for two-year olds. If anyone is interested in attending, please, let me know.

Finally the Gaming Facility Location Board conducted their applicant presentation segment of their request for applications to develop the commercial casino gambling facility in zone two, region five this morning over at the Javits Center here in Manhattan. The board will also be conducting a public-comment event at Broome Community College in Binghamton on September 18th. Mr. Moschetti.

Chairman Moschetti: I think it's rule making next. The New York State 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. To that regard the commission will, from time to time, promulgate the rules and rule amendments pursuant to the state administrative procedure \_\_\_\_\_ [00:04:49]. I guess today we have several items for considerations. Mr. Williams, will you outline the proposal?

Mr. Rob Williams: Certainly. Item 4A regards an amendment to Powerball rules. As you may recollect on July 6, 2015, the commission proposed rule making to allow for necessary regulatory changes to be effective to prevent operations succession of Powerball. New York participates as a member of the Multi-State Lottery Association that administers the Powerball lottery game. MSLA has resolved to modify the Powerball game matrix, which sets forth win probabilities and prizes. The

proposed rule change is intended to increase the odds of winning any particular prize while increasing odds to win the jackpot prize.

This would be accomplished by increasing the size of the first set of numbers from which the player chooses from 59 to 69 while decreasing the size of the second set of numbers from 35 to 26. The percentage amount of the prize pool allocated to each prize level would also change. Finally the prize amount for the third-level prize would increase from \$10,000 to \$50,000. The new matrix for the Powerball was scheduled for launch on October 4th nationwide for the October 7th drawing.

Commission staff reviewed the multistate game changes and determined that the proposed rules were acceptable. Obviously without this rule change the lottery would need to remove the game from its portfolio of offerings. We received one public comment relative to this proposal, but it was nonsubstantive.

Chairman Moschetti: Are there any questions by the commissioners regarding adopting the rule amendment regarding Powerball.

Male: What was the comment?

Mr. Rob Williams: The comment was basically, I see that you're doing this game. I have another game I'd like to sell you.

Chairman Moschetti: Anything else.

Male: My understanding is that this rule change is going to be in each state?

Mr. Rob Williams: Correct.

Male: Okay. I got it. Thank you.

Chairman Moschetti: May I have a motion to adopt this Powerball rule amendment?

Male: So moved.

Chairman Moschetti: Second?

Male: Second.

Chairman Moschetti: Any discussion on the motion? Hearing none, all in favor.

John Crotty: Aye.

John Poklemba: Aye.

Barry Sample: Aye.

Chairman Moschetti: Motion carries. The next three items all regard casino licensing regulations. Given the common subject matter with your permission, I'd like to generally discuss all of them together.

Item 4B regards the commercial-gaming, rules-definition section. This rule, which was proposed by the commission on July 6th, provides the definitions applicable to the commercial-casino, gaming rules. The commission received no public comments relative to this proposal.

Item 4C regards the commercial-gaming-entity, licensing section. This rule, which was also proposed on July 6, 2015, addresses gaming-facility, license-application requirements; application forms; application fees; form of license; waiver of license requirements for certain passive investor; suitability determinations; license determination; warden duration of license; post-licensure conditions; and monitoring of project construction. The commission received no public comments relative to this proposal.

Item 4D regards the commercial-gaming, employee-and-vendor-licensing section. This rule was also proposed by the commission on July 6th and addresses general provisions; casino, key-employee licensing; gaming-employee and non-gaming-employee registration; and vendor licensing and registration. The commission did receive one public comment relative to this proposal. In general the comment requested clarification of how the regulations would be implemented. No substantive amendments to the proposal were necessitated by that comment. I do want to add though--and, Ed, maybe you can speak to it--that we have had numbers of conversations with the applicants themselves who have certain concerns relative to the proposed rules but none that rose to a level that they thought necessitated identification and response today. Ed, you want to...

Ed:                         Yeah. We've been engaging with the selected applicants throughout this process to gauge their reaction and input to the various proposals. There are a number of issues that have been raised with us, not in the formal, public-comment context of things we might wish to consider down the line, and as we all know from the commission's activities, rule making is an ongoing process. Even if these rules were adopted today, there's nothing to prevent us down the line from reevaluating certain aspects of them and making amendments if you deem them appropriate.

There were a couple of comments that may be substantive, with which some of the applicants had some concerns or on which [they] might want to suggest some improvements, but their preference would be to engage after the initial rules would be adopted and to see if it would be prudent to tweak some rules here and there and definitions of passive investors and things of that nature. But there are a number of subjects, on which we're continuing to engage with them, but their preference would be, at this point, to see the commission adopt the rules that were initially proposed and then continue the conversation for potential amendments down the line.

Male:                     Why is that easier for them?

Ed:                         This way you would be clear to act on license applications with a set of rules in place sooner than you would be if you had to reorder the rule making process.

Male:                     \_\_\_\_\_ [00:10:49] with an option to have a discussion in the future.

Male:                     I guess the issues that they raised weren't terribly significant.

Ed:                         Yeah. Nothing of great concern.

Male:                     Any changes would have to go through the comment period again, right.

Ed: Yeah, so any future tweaks in definitions or tweaks in exceptions or clarifications of certain things would be proposed as an amendment to adopted rules, and that would open a public-comment period and then ultimately be considered in the license.

Chairman Moschetti: All set?

Ed: Yes, sir.

Chairman Moschetti: For clarity purposes I'm going to call for a consideration vote on each of the proposed casino regulations individually. Item 4B, adoption of commercial-gaming definitions. First are there any questions on adopting the commercial-gaming definition? May I have a motion then to adopt the commercial-gaming-definition rules.

Male: So moved.

Chairman Moschetti: Second?

Male: Second.

Chairman Moschetti: All in favor?

John Crotty: Aye.

John Poklemba: Aye.

Barry Sample: Aye.

Chairman Moschetti: Any opposed? The motion carries. Next is item 4C, adoption of commercial gaming facility licensing. Are there any questions on adopting the commercial-gaming-facility, license rules. Hearing none, may I have a motion to adopt the commercial-gaming, licensing rules.

Male: So moved.

Male: So moved.

Chairman Moschetti: Second?

Male: Second.

Chairman Moschetti: Any discussion on the motion? All in favor?

John Crotty: Aye.

John Poklemba: Aye.

Barry Sample: Aye.

Chairman Moschetti: Opposed? The motion carries. Next item 4D, proposal of commercial-gaming, employee-and-vendor licensing. Are there any questions on adopting these commercial-gaming, employee-and-vendor licensing?

Male: Yeah, moved.

Chairman Moschetti: You have a motion. That's the motion?

Male: Moved. Yes. Moved.

Chairman Moschetti: Second?

Male: Second.

Chairman Moschetti: Discussion on the motion? Hearing none. All in favor?

John Crotty: Aye.

John Poklemba: Aye.

Barry Sample: Aye.

Chairman Moschetti: Opposed? The motion carries. Did I say 4?

Male: I think you skipped B.

Chairman Moschetti: Did I?

Male: I think you did A, C, D.

Male: No.

Male: He said, B? Okay.

Male: Yeah. We're good.

Male: Did B, C, and D.

Male: Yeah. We're good.

Male: We got C too, right?

Chairman Moschetti: Yes.

Male: B, C, And D.

Chairman Moschetti: I'll go back to you Rob.

Mr. Rob Williams: We're now up to item 4E, which regards various minority- and women-owned, business-enterprise rules. These rules, which were also proposed by the commission on July 6th, established requirements for and approvals of [the following]: MWV utilization plans, reporting, failure to attain MWV goals, waiver, establishment and approval of work-force-diversity plans, reporting and

compliance monitoring, and failure to attain workforce diversity goals. The commission received no public comments relative to this proposal.

Chairman Moschetti: Commissioners are there any questions on adopting the proposed minority- and women-owned, business-enterprise-requirement rules. None. May I have a motion to adopt the minority- and women-owned, business-enterprise-requirement rules?

Male: So moved.

Chairman Moschetti: Second?

Male: Second.

Chairman Moschetti: Any discussion on the motion? All in favor?

John Crotty: Aye.

John Poklemba: Aye.

Barry Sample: Aye.

Chairman Moschetti: Any opposed? Motion carries. Mr. Williams, can you briefly outline the process under which these adoptions become finalized.

Mr. Rob Williams: Yes. Certainly. Correct me if I'm wrong. These newly adopted rules don't become affective until the notice of adoption is published in the state register. Given today's adoption we are most likely to make the next available, state-register publication, which would be September 30th. When the register is published, then those rules become effective.

Chairman Moschetti: Will you please call the next item then, Mr. Williams?

Mr. Rob Williams: Sure. We're onto adjudications. We have one hearing-officer report for consideration today. That's in the matter of Kevin Erby [PH]. On March 25, 2015 the Bureau of Licensing decline to license Kevin Erby as a peace officer. The denial was based on a conclusion that his experience, character, or general fitness are such that his participation in racing or related activities would be inconsistent with the public interest, convenience or necessity or with the best interest of racing generally. Specifically Mr. Erby disclosed certain criminal history on his license application and made false or inconsistent statements on his license application. After Mr. Erby appealed a hearing was conducted on July 10, 2015. The hearing officers report and recommendations were delivered to the commission secretary on August 26th. The hearing officer recommended that he license-application denial be upheld. At a meeting conducted pursuant to the judicial or quasi judicial proceedings exemption of the New York public-officers law section 108.1. The commission considered this matter.

Chairman Moschetti: The commission duly deliberated and considered this matter and determined upon a vote of five to nothing unanimously to sustain the hearing officers report and recommendations, which would be a denial for license. Does anyone have any other new business or any new business to consider? Hearing none. Next item on the agenda would be old business. Is there any old business to consider. We have the scheduling of the next meeting. Scheduled for September 24th. In October we will return to our practice of meeting on the fourth Monday of the month. Please advise Ms. Buckley of

your availability. That concludes today's published agenda. Do any of the commissioners have any items they like to present to the consideration.

Male: No.

Mr. Rob Williams: Just let me say that I want to thank staff for putting together the Lasix forum, which was outstanding. We had panel members from across the nation and internationally. It was informative. I think there's still a lot of issues that we, as the commission, will probably want \_\_\_\_\_ [00:17:05], but I thought the day was excellent, informative, had very impressive people come and speak and give us some information. I can say the same for the racehorse aftercare forum, again, had a tremendous panelist, it was very informative. That day went very well. There are issues, again, I think that the commission will want to pursue. I thought you did a great job. Those were national and international individuals who came to speak. It was a great job.

Male: Rob, what do we plan for follow up on the Lasix and the retired...

Mr. Rob Williams: Well, on the Lasix issue it's more of a discussion that should be had internally whether it be individually by members, or we can get together collectively in a public forum to discuss it. But there are a variety of things that have been raised individually with me. Some members have concerns with the way that Lasix is utilized in New York State.

Male: It's not going to come up on a future agenda?

Mr. Rob Williams: I would assume so. As far as the retired, racehorse forum, we are still in the process of undertaking some original research relative to that basically involved around trying to examine where New-York-bred horses have ended up. Those who have left within the last couple of years were trying to get some actual data relevant to that that maybe will give us a better sense of what kind of a problem there is and where these horses end up overall.

Male: That would be the thoroughbreds and the standard-breds.

Mr. Rob Williams: We haven't delved into the standard-breds yet. At this point the thoroughbred-- Lee, correct me if I'm wrong. In horses that last ran within the last three years or prior to three years ago but five years out, there are like 3,600 New-York-bred horses that have retired, so it's kind of a colossal undertaking to identify where these horses are.

Male: That's a large number.

Mr. Rob Williams: Jack Knowlton at retired, racehorse seminar put together a slideshow that illustrated that a substantial number of these retire out of the state, so we're trying to track down those horses to at least figure out what happened to them.

Male: The aftercare organizations that spoke were talking about the percentage, and it was pretty high in New York, of horses that they end up with, surprisingly so. There's some discussion about the utilization of the chip with the horses, so that you can follow them or that there's a means or method to follow them in the future. It's all interesting things.

Mr. Rob Williams: The general sense was until we have the data, good data as to how big the problem is it's hard to address it from a plenary standpoint.

Male: That will be coming up on a future agenda also then?

Mr. Rob Williams: Yes.

Male: Thank you very much.

Mr. Rob Williams: That research continues.

Male: There was a series of questions. I'm with Peter. I thought the staff did an excellent job putting together the panel. There was a series of open-ended questions that the various experts were going to come back to us with, and I thought putting those together, at some level, would be very useful before we sort of set up the next forum, but I don't think it should take a long period of time to call them and put together \_\_\_\_\_ [00:20:22] sort of open...

Male: Yeah. We'll call them. Now that the material is online, we can go through as well and make sure that we identify who it suggested that it would be providing us with for responses and we can keep them honest in that regard.

Male: Yeah. I thought you guys put together a phenomenal panel. It was really informative, so it was great work.

Male: Very. Congratulations to Lee on that one. Nice job.

Male: Yeah. Well done, Lee.

Male: Good job, Lee.

Chairman Moschetti: Alright guys. Unless there's anything else, I guess we're adjourned.

Male: Thanks, Peter.

Male: Thank you.

Chairman Moschetti: Bye guys.

[End of Audio]