

**MINUTES OF THE
NEW YORK STATE
GAMING COMMISSION MEETING
AUGUST 1, 2013
NEW YORK, NEW YORK**

A meeting of the New York State Gaming Commission was called to order on Thursday August 1, 2013 at 11:06 a.m. at the Empire State Development Corporation located in New York, New York.

1. Call to Order.

The meeting was called to order by Acting Executive Director Robert Williams. Establishment of a quorum was noted by Acting Secretary Buckley. In physical attendance were Commissioners John Crotty, John Poklemba, Barry Sample and Todd Snyder.

2. Designation of Presiding Officer

Mr. Williams noted that by statute, the Governor is to designate a member of the Commission as Chair. Mr. Williams noted that no such designation has occurred, and requested that the Commission determine a Presiding Officer for this meeting. Commissioner Sample moved that Commissioner Poklemba preside over the meeting.

ON A MOTION BY: Commissioner Sample
APPROVED: 4-0

3. Approval of the Meeting Minutes for June 26, 2013 and July 11, 2013

Minutes of the Commission meetings conducted on June 26, 2013 and July 11, 2013 were considered. Mr. Poklemba requested edits, corrections, or amendments. None was offered.

ON A MOTION BY: Commissioner Crotty
APPROVED: 4-0 (No changes are noted)

4. Report of Acting Executive Director

Mr. Williams reported that Governor Andrew Cuomo had signed into law the Upstate New York Gaming Economic Development Act, a comprehensive new law that, pending approval of a referendum this fall, would establish four destination gaming resorts in Upstate New York. He also advised the Governor had traveled to western New York to meet with Seneca Nation of Indians President Barry Snyder and start the process of implementation of the Memorandum of Understanding by and between the Seneca Nation and the State of New York.

Mr. Williams provided an overview of the Commission responsibilities under the new law and outlined the Commission's responsibilities under the Seneca MOU. With respect to the new statute, Mr. Williams discussed several provisions of the new law including the establishment of a separate board to be known as the New York gaming facility location board; licensing and regulatory authority; alcoholic beverage control referendum monitoring; and video lottery gaming.

With respect to the Seneca Memorandum of Understanding, Mr. Williams outlined certain obligations of the Commission. These obligations included cessation of operation, ultimate removal and prohibit of the reintroduction of any and all stepper-reel video lottery terminal devices and a proposed rulemaking to prohibit the use of the terms "slots," "slot machines," and "casino" or "casinos" for marketing or other purposes by video lottery gaming device facilities or licensed agents of the State Lottery, operating within such exclusivity zone.

Commissioner Crotty asked about the time frame of when certain actions would need to occur should the referendum pass. Mr. Williams responded that the siting board would need to issue a Request for Proposals within 90 days of January 1, 2014.

5. Final Commission Adjudication: Matter of James Martuscello

Harness trainer James Martuscello appealed a decision of the presiding judge at Saratoga Raceway, who ordered the return of purse money won by horses that were allegedly ineligible to race. The Commissioners adopted the Hearing Officer's Report and Recommendations.

ON A MOTION BY: Commissioner Snyder

APPROVED: 4-0 (Adopting Hearing Officer Report and Recommendations)

6. Rulemaking

- a. Permanent Adoption of Implementation of Substantive Changes and Procedures Pertaining to Equine Drugs and Reporting Requirements for Thoroughbreds.

Mr. Burns asked the Commission to consider for permanent adoption rule amendments that have been in place since December 26, 2012. He described the rulemaking as a recommendation of the New York State Task Force on Race Horse Health and Safety. These rules provide for longer time periods in which corticosteroids and clenbuterol cannot be administered to a thoroughbred horse before its next race.

ON A MOTION BY: Commissioner Snyder

APPROVED: 4-0

- b. Permanent Adoption of Ability of a New Owner of a Claimed Horse to Void the Claim.

Mr. Burns asked the Commission to consider for permanent adoption a current emergency rule that allows the new owner of a claimed horse to void the claim when the horse is transported off the track.

Commissioner Poklemba noted for the record that the New York Task Force on Racehorse Health and Safety should be commended for its excellent work.

ON A MOTION BY: Commissioner Snyder

APPROVED: 4-0

- c. Permanent Adoption of Use of Cellular Telephones in the Paddock.

Mr. Burns asked the Commission to consider a one-year extension of an experiment allowing the use of cellular telephones or other electronic communication devices in a designated area of a harness racing paddock or receiving barn. In response to a question from Mr.

Snyder, Mr. Burns explained that the policy behind a ban on the use of such devices is to inhibit the communication of improper information from the paddock for wagering.

Mr. Poklemba requested Staff provide both a memorandum regarding how the issue is addressed in other states and a report regarding of the experience in New York during rule extension period.

ON A MOTION BY: Commissioner Snyder

APPROVED: 4-0 (1 year from adoption)

7. NYRA Request for Pick Five and Show Quinella Wagers

The New York Racing Association, Inc. (NYRA) requested approval to offer two new wagers, a Pick Five and a Show Quinella. The Commission considered such request pursuant to Rule 4011.28, which provides that a racing association may – with the prior permission of the Commission – offer any type of pari-mutuel wagering as defined in the December 1996 Association of Racing Commissioners International model rules.

Mr. Burns asked the Commission to consider such request, subject to specific conditions. The recommended conditions included passage of the statutorily required test of the totalisator system with respect to each wager; written Commission wager name approval; offer of the Show Quinella in races with a minimum of five betting interests; stewards' establishment of appropriate conditions and procedures regarding racing surface changes; and prominent NYRA posting of a complete set of rules for each such wager.

Mr. Crotty expressed reservations about the proposed Pick Five wager, stating that he was uncertain that the new wagering activity would offset decreased activity in the Pick Four and Pick Six wagers. Mr. Crotty, however, stated he was willing to permit NYRA to experiment with the wager and see the results. Mr. Snyder stated that he would be interested in reviewing data regarding the effects of the new wagers on handle. David O'Rourke, NYRA Vice President of Corporate Development, stated that NYRA was interested in commencing the new wagers at the Belmont Park 2013 Fall Championship Meet. He agreed to work with Commission staff to assemble the requested wagering data.

The Commissioners then considered whether to authorize staff to permit NYRA to offer the Pick Five and Show Quinella wagers during the Fall Meet, subject to discussed conditions.

ON A MOTION BY: Commissioner Snyder

APPROVED: 4-0

8. Resolution in Regard to Delegation of Authority

At the Commission's June 26, 2013 meeting, Commissions requested clarification of Resolution 03-2013, which regarded Delegation of Authority. A revised draft was circulated for consideration. Mr. Snyder remarked that he had thoughts on the draft resolution he wished to consider and requested deferral of action. The Commissioners unanimously agreed.

DEFERRED

9. New Business/Old Business

a. Notice of Proposed Rulemaking.

As new business, Mr. Williams requested the Commission consider a Notice of Proposed Rulemaking that seeks to prohibit the use of terms "slots," "slot machines" and "casino" or "casinos" for marketing or other purposes by video lottery gaming device facilities or licensed agents by the Lottery operating within a certain geographic zone in western New York.

ON A MOTION BY: Commissioner Crotty

APPROVED: 4-0

b. Draft Mission Statement.

As old business, Mr. Williams reported that the agency's Mission Statement was revised per Commissioner direction. At the meeting of June 26, 2013, the Commissioners adopted a proposed Mission Statement subject to inclusion of a statement of recognition regarding the safety and welfare of race horses.

10. Scheduling of Next Meeting

Mr. Poklemba suggested deferral of scheduling the next meeting pending consideration of a permanent schedule. All Commissioners agreed.

11. Adjourn

Mr. Poklemba asked if any Commissioners had any additional items to discuss or present. Hearing none, the meeting was adjourned at 12:07 p.m.