

Senator: The New York State Racing, Pari-Mutuel Wagering and Breeding Law Section 102 with 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 a commission and an ability to establish a forum and undertake action. This present meeting of the commission is now called to order. Ms. Secretary will you please call the roll?

Ms. Secretary: John Crotty.

John Crotty: Here.

Ms. Secretary: Peter Moschetti.

Peter Moschetti: Here.

Ms. Secretary: John Poklemba.

John Poklemba: Here.

Ms. Secretary: Barry Sample.

Barry Sample: Here.

Ms. Secretary: Todd Synder.

Todd Synder: Here.

Senator: Ms. Secretary please have the record reflect that a quorum of qualified members are present, thus enabling the transaction of business. Please also note that two-way audio-visual communications have been established between the two meeting locations. In the absence of the designated chair would the members like to select someone for the purpose of presiding over today's meeting?

Unidentified Male: Yes, I would like to nominate Commissioner Crotty.

Unidentified Male: Second.

Senator: Commissioner Crotty?

Commissioner Crotty: Again, I am overwhelmed by your confidence senator. The minutes of the commission meeting adapted August 30th have been provided to the members in advance. At this time are there any edits, corrections, or amendments? Hearing none please let the records reflect the minutes were accepted.

Unidentified Male: As circulated?

Commission Crotty: As circulated. Next on the agenda is a report from Executive Director Rob.

Executive Director Rob: This afternoon I want to provide an overview regarding the development status for four commercial casino projects, discuss an upcoming minority in women-owned business enterprise forum, touch upon some accreditation recently received by the New York Equine Drug Testing and Research Laboratory, and update where we are in the harness rulemaking process. First the status for the casino development process, Del Lago has two defined areas of construction. The initial stage of construction includes the casino, the event center, the Baca House area, all restaurants housed within the casino event center building, the parking garage, and the hotel shell. The final stage of the construction includes the interior hotel build-out. The facility is on schedule to be substantially completed by January 1, 2017, at which time they will enter the final phase of construction. They remain on track for an opening in February of 2017.

The hotel is now one month ahead of schedule and on track to open in the early summer. To date they report being accumulatively 79% complete. As to the specifics of their construction the rough grading is complete. The topsoil and installations are at 75% complete and on schedule to be completed by October 15th. The parking lot asphalt is ongoing; 50% of the parking lots are complete and striped. And all will be 100% complete by November 1st. The casino exterior envelope, exterior installation finishing is 98% complete, and cultured stone is 98% complete. Window installation has also started. With respect to the interior, metal framing is at 90% complete, drywall walls and ceilings are 80% complete. Ceiling vaults are 80%, and paint, stone, tile, and faux finishes are all underway. The hotel concrete was completed on August 19th, and exterior metal framing is at 80% complete. Windows were scheduled for delivery on November 7th and will take about four weeks to install. The precast parking garage erection is complete. The interior lighting and finishes have started. The parking garage will also be completed prior to the casino opening. The Lago Report said in the last month that they have expended approximately 105,000 construction hours.

Rivers Casino is also progressing on schedule. If you remember that is a two-phase construction. Phase one is a low-rise building and consists of the casino, the Baca House offices, a warehouse, event center, and garage. Phase two is the hotel building. Phase one's steel and miscellaneous medals are 87% complete and concrete is 82% complete. Rivers reports other completion percentages for several of the major construction components, 93% in roofing, 99% in fireproofing, 65% in framing and drywall, 67% in plumbing, and 61% in HVAC. Rivers also reports that the precast of the garage is now 97% complete and the project is now 55% complete overall. As to phase two of the hotel, site work is 96% complete, concrete 65%, steel at 92%, elevators are 35% complete, and overall the hotel was 14% complete. To date the overall project has produced over 220,000 construction hours.

Montrain reports that they have fully completed the mass excavation and are at 72% for site retaining walls, 94% with site utilities, 97% with the foundations, excavation, and site grading, and 98% complete with a precast concrete structure parking garage. By the end of the month Montrain reports that they will have started roofing, fireproofing, erection of the curtain length of the podium, and installation of the exterior shell to both the East and West podiums in the hotel. Overall they are at 27% completed. Montrain reports that during the month of August they have expended almost 31,000 union construction hours on the site.

Tioga, which is operated by American Racing and Entertainment also, has made a report on their construction, which includes the development of a hotel, an amenities building, and two restaurants. They state that they are proceeding on schedule and are presently under budget. Virgil's BBQ

restaurant construction has been completed and the restaurant opened on August 2nd. The casino expansion, which is phase one of the project, is 90% complete. Phase two of the project, which is a new hotel, an amenities building, is now 5% complete, having had the groundbreaking this last month. On August 10th a portion of the casino expansion was completed and had to move approximately 260 video lottery terminals into the new areas of the expansion. The move allows remodel work of the existing casino to commence. Other work that has been completed are offices and a main stage outside that will be used to host the future poker room. During the month of August they report some 8,200 construction hours for work at the facility.

Commission representatives will again be participating in the New York State 6th Annual NWB Forum, which is scheduled to be conducted on October 5th and 6th in Albany. One of the articulated goals of the Upstate New York Gaming Economic Development Act of 2013 was to provide opportunity in all phases of casino development and operations to minority and women-owned businesses. All four facilities have been very diligent in making a good faith effort to reach Governor Cuomo's 30% NWB utilization goal. From the beginning of each respective project through the first quarter of this fiscal year, we have seen utilization rates range from a low of 25.77 to a high of 37.9%. Overall there has been an aggregate construction spend of \$110 million dollars and 30.6%, or \$33.1million, has qualified NWB's. Based on the future anticipated construction spend it can be reasonably expected that another \$238.8 million dollars of spending will be driven to NWB's. At the upcoming forum, commission representatives will be participating in a session that will identify future opportunities for NWB businesses as we end the construction phase and enter the operating phase of the casino the end of May.

And while this information has been disseminated widely since our last meeting, I do want to specifically call attention to the recent accreditation received by the New York Equine Drug Testing and Research Laboratory. As you are aware, the commission contracts with the State University of New York in Morrisville, the Morrisville Auxiliary Corporation, which operates the laboratory. The Horsing Racing Testing Laboratory Committee of the Racing Medication and Testing Consortium, or RMTTC, met in early September and voted to fully accredit the laboratory. This is the second major accreditation for the laboratory. In 2014 it received an ISO 17025 Certification, the international standard for analytical laboratories for technical competence in the field of chemical testing by the American Association for Laboratory Accreditation.

Finally I want to update a little bit on the status of harness rule changes that we had previously discussed earlier this summer. Staff continues to work on various rule proposals and amendments and these will include a reorganization of Pick 4, Pick 5, and Pick 6 and the manner undertaken for thoroughbred racing to make them consistent by eliminating discrepancies that arose when such wagers were authorized and amended over a period of years. Staff is also considering other rule changes to assist in making harness racing regionally competitive such as perhaps authorizing a Pick 4 Carryover and also looking at the Superfecta rules and changing those to be a little bit more competitive as well. We anticipate heading for a pre-proposal industry comment in October, and expect to have a full package before the commission at the November meeting.

Unidentified Male: That is great. On the casino side when we were up there, they were winding up their permanent or last gap of financing. Have they done that?

Executive Director Rob: Everyone has the financing finalized except for Montrain, which is still in the process of working through that.

Unidentified Male: That is who you were referring to?

Unidentified Male: Montrain, yeah.

Executive Director Rob: Montrain is still doing that. I think in large measure they may be awaiting the results of the New Jersey referendum to finalize their financing.

Unidentified Male: You mean whether the Northern New Jersey \_\_\_\_\_ [00:11:07]?

Executive Director Rob: Which the most recent news articles indicate that that is problematic.

Unidentified Male: \_\_\_\_\_ [00:11:18] casinos in Northern New Jersey.

Executive Director Rob: Correct.

Unidentified Male: Does that change your yield or just the money?

Executive Director Rob: Just the money.

Unidentified Male: It sounds great. The New York State Racing, Pari-Mutuel Wagering and Breeding Law authorizes the commission to promulgate rules and regulations that are deemed necessary to carry out responsibilities. Through that regard the commission will from time to time promulgate rules and rule amendments pursuant to the State Administrative Procedure Act. Today we have four items for consideration. Rob would you \_\_\_\_\_ [00:11:57]?

Rob: Certainly. For commission consideration the proposed amendments to the rules for licensing and the registration of gaming facility employees and members. As you may recall, the commission previously authorized the proposing of parts 5303 through 5307 on July 6, 2015, and authorizing the adoption of such proposed rules on September 10, 2015. During the licensing process happened, several conversations both within the agency and with perspective licensees about clarifying some aspects of the regulations, they believe that several amendments were 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, or a licensee or a registrant whose license and registration has been revoked reapply. The statutory disqualification criteria for applicants for non-gaming employee registration, the term for a non-gaming employee registration, and which vendors were not required to be licensed or registered.

Staff made two nonsubstantive changes to the proposed text since the commission authorized its proposal. Section 5303.17 is now deleted as a redundancy to statute, and the language in Section 5305.1 was corrected to appropriately reference gaming employee registration. The proposal of this rule text was authorized at the commission's July 25, 2016 meeting. The text of the proposed rule was published in the state registrar on August 10th, meaning that the public comment area expires at the close of business today. Two comments have been received thus far, both from legal representatives of licensees. \_\_\_\_\_ [00:13:47] the inclusion of fields of commerce licensing exceptions. The other comments requested several change including a few to the employee registrant process. Commission staff has considered this later comment and believes that the

suggested changes require examination, especially as they relate to the review of certain past transgressions.

Consideration of the recommended changes means the full rule proposal is no longer right for consideration, rather staff recommends that the commission adopt that portion of the rule proposal unaffected by the comments as a permanent rule. Specially, staff recommends adoption of all proposed amendments accepting those contained in Section 5305 and 5306. Obviously any alteration to those two rules will require further rulemaking action by this commission. Additionally in the event that any subsequent comments received before the close of business today, staff will promptly inform each commissioner.

Unidentified Male: Commissioner's any question about the adoption of amendments to \_\_\_\_\_ [00:14:58] and registration gaming facilities employees and vendors rules. It is subject to no receipt of substantive comments before the close of business today? I am going to have the motion to adopt these rules.

Unidentified Male: I motion.

Unidentified Male: Is there a second?

Unidentified Male: Second.

Unidentified Male: Okay. All in favor?

Unidentified Males: Aye.

Unidentified Male: Any opposed?

Unidentified Male: This is with the exception 5305 and 5306?

Unidentified Male: The motion should be to adopt these rules accepting those amendments contained in 5305 and 5306.

Unidentified Male: Correct.

Unidentified Male: The motion carries. Rob, do you have another item?

Rob: The commission consideration of proposed rules in regard to alcoholic beverages for casinos. New York Racing, Pari-Mutuel Wagering and Breeding Law Section 1340 gives the commission jurisdiction over casino alcoholic beverage licensing and requires the commission to regularly consult with the State Liquor Authority or its designee on all licensing and enforcement matters. Additionally, the law incorporates the State Alcoholic Beverage Control Law, then the regulations, rules, \_\_\_\_\_ [00:16:09] and advisories promulgated by the State Liquor Authority, while allowing the commission the ability to grant \_\_\_\_\_ [00:16:15] to accommodate for the uniqueness of the gaming facilities. The proposed part addresses the issuance of a single alcoholic beverage licenses by the commission, the restrictions and limitations that may be placed on the license, and the duration of the license. In drafting these regulations staff consulted with the State Liquor Authority and solicited and reviewed plans from the four licensed gaming facilities for

providing alcohol to patrons in their facilities. Staff recommends that the commission authorize the proposal of this rule amendment.

Unidentified Male: Are there any questions on the proposal rules that are in the casino alcoholic beverages?

Unidentified Male: These rules will only apply to the four authorized casinos that is it?

Unidentified Male: That is correct.

Unidentified Male: Anyone else? May I have a motion?

Unidentified Male: So moves.

Unidentified Male: So move. Is there a second?

Unidentified Male: Second.

Unidentified Male: Any further discussion? All in favor?

Unidentified Males: Aye.

Unidentified Male: Any opposed? Rob, \_\_\_\_\_ [00:17:22] third item.

Rob: A proportional consideration proposed additions to the general section of the casino gaming regulations. There are certain matters that statutes either direct the commission to regulate or give the commission discretion to regulate. The first of these amendments concerns a statutory requirement to provide the method of notice to be provided to an applicant, registrant, or licensee in regard to the release of information of data provided to the commission from any applicant, registrant, or licensee. The proposed rule sets forth posting on the commission's website as the method of such notice. The second of these amendments addresses how the commission will interpret which gaming facility employees are subject to the prohibitions on employee wager. Pre-proposal comments were solicited from the four gaming facility licensees and incorporated as staff considered appropriate. Staff recommends that the commission authorize the proposal of this rule amendment.

Unidentified Male: Be proposed for \_\_\_\_\_ [00:18:19]?

Unidentified Male: Correct.

Unidentified Male: Commissioner's any questions on the proposal of casino gaming general provision rules? Hearing none do I have a motion?

Unidentified Male: So moves.

Unidentified Male: A second?

Unidentified Males: Second.

Unidentified Male: All in favor.

Unidentified Males: Aye.

Unidentified Male: Any opposed? Motion carries. Rob, \_\_\_\_\_ [00:18:41].

Rob: For commission consideration are proposed rules for electronic table gaming systems. Electronic table games are similar to table games, but \_\_\_\_\_ [00:18:49] wages through electronic systems rather than a dealer. The proposed rule addresses the technical standards for certification and subsystems set forth requirements for communications protocols, system integrity, landed number of generators, maintenance of critical memory, player interface terminals, and notification in case of non-conformance. Staff recommends that the commission authorize the proposal of this rule amendment.

Unidentified Male: Any questions on the proposal?

Unidentified Male: Would these games be active in all four casinos?

Unidentified Male: I believe all four are looking to place some of them at the facility.

Unidentified Male: Thank you.

Unidentified Male: These have similar games already set up, right? The Aqueduct.

Unidentified Male: Those are video lottery games.

Unidentified Male: So they are a separately regulated.

Unidentified Male: They all have table games.

Unidentified Male: Right, they all have table games. This is an electronic version of table games that has grown in popularity in different commercial casino context as people prefer to play an electronic version of something as opposed to \_\_\_\_\_ [00:20:02].

Unidentified Male: This is really just a \_\_\_\_\_ [00:20:07] rule for these casinos.

Unidentified Male: And these are more setting forth regulations for the technical standards of how they are tested for integrity before they are rolled out on the floor.

Unidentified Male: How do we know there are a landed number of generators?

Unidentified Male: Exactly, and it is keeping the data that needs to be retained.

Unidentified Male: Did \_\_\_\_\_ [00:20:26] issue with that several years back? Was it \_\_\_\_\_ [00:20:30] Aqueduct that is performed?

Unidentified Male: Yeah, every once in a while there are code errors. We also had something at Yonkers that was similar that required adjustments to the code by the vendor for the video lottery gaming operators as well.

Unidentified Male: Are these games available at the Indian casinos?

Unidentified Male: They are not right now.

Unidentified Male: Would they be if we past it?

Unidentified Male: Yeah, any game or procedure that the commission approves will have the ability to be asked for by the Indian tribes.

Unidentified Male: So wouldn't it be automatic they would have to come to us?

Unidentified Male: We would have to provide it to the tribes then they would be able to pick or choose as to whether they accept that.

Unidentified Male: Okay.

Unidentified Male: There is an informative obligation on behalf of the compacts for us to supply those new changes to the various tribes.

Unidentified Male: So if we were to adopt this particular regulation after the comment period, it would automatically be available to the Indian casinos?

Unidentified Male: That is correct.

Unidentified Male: You have to put them on notice within a reasonable time?

Unidentified Male: The compacts do not say that, but we have \_\_\_\_\_ [00:21:38] them with rules as we have gone through the rulemaking process so they would be aware of it.

Unidentified Male: Any other comments? May I have a motion?

Unidentified Male: So moves?

Unidentified Male: Second?

Unidentified Male: Second.

Unidentified Male: All in favor?

Unidentified Males: Aye.

Unidentified Male: Any opposed? Motion carries. Alright. We have a couple of adjudications today. Mr. Williams?



Mr. Williams: The first is Anthony A. Ciuffetelli. The presiding judge at Saratoga Raceway fines standardbred trainer, Anthony Ciuffetelli \$250 for failing to honor his declaration to race the horse star-studded cast in the fifth race on June 19, 2016 in violation of commission rules. Mr. Ciuffetelli paid the fine and requested a hearing, which was conducted on August 17th. The hearing officer's final report and recommendation were delivered to the commission secretary on September 2nd. The hearing also recommended that the fine be upheld. 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: We did duly deliberate on this matter and determined on a vote of five to nothing to sustain the hearing officer's report and recommendation. Now we go into the matter of Mr. Hoffman.

Unidentified Male: In the matter of Alan Hoffman, on May 19, 2016 the commission issued a summary suspension of Standard REG-1, Alan Hoffman, following a post-race positive for cobalt at Monticello Raceway. The commission alleged that Mr. Hoffman actually trained the horse, Baltimore AS, which raced on March 16th finishing third by using a front trainer or a \_\_\_\_\_ [00:23:35]. The summary suspension cited violation of commission rules against the administration of cobalt and trainer misrepresentation. As you recollect from previous discussion, the adjudication of the trainer of record, or alleged \_\_\_\_\_ [00:23:48], Dennis Washington, is in progress. As to the present case, Mr. Hoffman failed to appear at a hearing scheduled June 20th, which resulted in the hearing officers declaring default.

Upon subsequent motion by Mr. Hoffman, a hearing officer reopened the adjudication and scheduled additional hearing time. Before the scheduled date of the additional hearing, Mr. Hoffman wrote to the hearing officer declining to participate. The hearing officer's final report and recommendation were delivered to the commission secretary on August 1st. The hearing officer recommended that Mr. Hoffman receive a lifetime suspension. 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: We did duly deliberate on this matter and it came to a five to nothing vote to sustain the hearing officer's report and recommendation. So we go onto any items of any old business. Do you have any?

Unidentified Male: \_\_\_\_\_ [00:24:53] agenda.

Unidentified Male: Any new business to consider would be next.

Unidentified Male: No new business.

Unidentified Male: Okay. Traditionally the commission meets on the fourth Monday of each month, which in October would be October 24th. We have several rules that expire on the 31st. Perhaps we can consider a meeting date in proximity to that date. Ms. \_\_\_\_\_ [00:25:15] will you please poll the numbers for the next potential date.

Secretary: Checked.

Unidentified Male: Thank you so much. That concludes \_\_\_\_\_ [00:25:24].