

Rob Williams: 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. Four members confirmed by the NY state senate are necessary to afford the commission an ability to establish a quorum and undertake action. This present meeting of the Gaming Commission is now hereby called to order.

This meeting is being conducted in conformity with Governor Andrew M. Cuomo's executive order 202.1 which is entitled Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency. The order suspended portions of the open meeting forum and specifically allows the conduct of meetings by telephone or other similar service. The governor's executive order in relevant part reads Article 7 of the Public Officers Law, to the extent necessary to permit any public body to meet and take such actions authorized by the law without permitting in public, in-person access to meetings and authorizing such meetings to be held remotely by conference call or similar service, provided that the public has an ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.

By executive order 202.95 Governor Cuomo extended the authority of order 202.1 through March 21, 2021. Accordingly, this commission meeting is being conducted in conformance with such allowance and we are recording today's meeting for transcription as required.

Ms. Secretary, will you please call the roll?

Secretary: John Crotty?

John Crotty: Here.

Secretary: Peter Moschetti?

Peter Moschetti: Here.

Secretary: John Poklemba?

John Poklemba: Here.

Secretary: Barry Sample?

Barry Sample: Here.

Secretary: Jerry Skurnik?

Jerry Skurnik: Here.

Rob Williams: Ms. Secretary, please have the record reflect that a quorum of qualified members is present, thus enabling the transaction of business.

Chairman.

Chairman: The minutes of the commission meeting conduct on January 26, 2021, has been provided to the members in advance.

At this time, I'd like to ask the members if there are corrections or amendments?

Hearing none, Ms. Secretary, please let the record reflect the minutes were accepted.

Rulemaking. 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. In that regard, the Commission will from time to time promulgate rules and rule amendments pursuant to the State Administrative Procedure Act. Today, we have two rules for adoption and one proposal for consideration. Rob, would you outline the first item?

Rob Williams: For Commission consideration is adoption of a rule making to explicitly enable qualified authorized organizations lawfully conducting charitable gambling to accept payment for a chance by person check, credit card or debit card. This change will allow organizations seeking to implement contactless payment to readily do so.

A notice of proposed rule making was published in the December 16, 2020, State Register meaning the public comment period expired on February 16. No public comments were received. Staff recommends that the Commission adopt this rule making.

Chairman: Commissioners, are they any questions on the adoption of rule to authorize contactless payment methods for chances in charitable gaming?

Hearing no questions, may I have motion to adopt the rule?

Unidentified Male: So moved.

Chairman: Second?

Unidentified Male: Second.

Chairman: Any discussion on the motion?

Hearing none, all in favor?

Commission: Aye. (in unison)

Chairman: Any opposed?

Motion carried.

Next item, please?

Rob Williams: For Commission consideration is adoption of a rule making eliminating the requirements in charitable gaming that a person participating in the managements or operation of games of chance be a bona fide member of the authorized organization or auxiliary organization for least one year prior to the organization's license period. This proposal will harmonize the participation requirement in games of chance with that required for general participation in bingo and will allow for greater participation in such games. A notice of proposed rule making was published in the December 16, 2020, State Register meaning the public comment period expired on February 16, 2021. No public comments were received.

Chairman: Commissioners, are there any questions on the adoption of a rule to increase participation in the management and operation of charitable games of chance?

Hearing none, may I please have a motion?

Unidentified Male: So moved.

Unidentified Male: So moved.

Chairman: Second?

Unidentified Male: Second.

Chairman: Any discussion of the motion?

Hearing none, all in favor?

Commission: Aye. (in unison)

Chairman: Any opposed?

Motion carried.

Next item.

Rob Williams: For Commission consideration is a proposed rule making to allow for an increase in the frequency of drawings in the Powerball Game. The Multi-State State Lottery Association which administers the Powerball game has concluded that more frequent drawings could attract more customers and has adopted a change in association rules to be effective for the August 23, 2021, drawing to conduct drawings three times a week instead of two. If New York does not accept the change, it would no longer participate in the Powerball game.

Chairman: Commissioners, any questions on the proposal of a rule regarding the frequency of Powerball drawings?

Hearing no questions, may I have a motion on the proposed rule?

Unidentified Male: So moved.

Chairman: Second?

Unidentified Male: Second.

Chairman: Any discussion?

Hearing none, may I have a vote, please? All in favor?

Commission: Aye. (in unison)

Chairman: Any opposed?

Motion carries.

Next item on the agenda is adjudications. Today we have five matters for adjudications. Rob?

Rob Williams: The first matter in the matter of Neal's Backyard, Inc., doing business as The Clifton. On September 2, 2020, the Bureau of Licensing issued a notice of license revocation and order the immediate temporary suspension of the lottery sales agent license of Neal's Backyard, Inc., which is doing business as The Clifton on Maple Avenue in Patchogue. The notice informed Neal's that the suspension was for conduct prejudicial to public confidence in the state lottery and because the licensee's character and general fitness were such that the licensee's participation as a lottery sales agent was inconsistent with the public interest. The notice of hearing alleged that Neal's Backyard, Inc. engaged in conduct that promoted both violence and illegal gambling at a pool alleged to have been operating at The Clifton.

Neal's requested a hearing which was conducted on October 22, 2020. The hearing officer submitted a report to the Commission secretary on November

23, 2020, recommending that the license be revoked. Post report issuance, Neal's submitted objections by email asserting that the pool results were determined by a police reported discharge of firearms and did not relate to people being shot. They also alleged that the Commission counsel's office failed to prove that the pool constituted illegal gambling.

On January 13, 2021, Commission counsel's office withdrew the allegation of promoting illegal gambling which caused the case to be remanded to the hearing officer for consideration in light of such withdrawal. The hearing officer has submitted an updated report, again recommending that the license be revoked. 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.

Chairman: The Commission duly deliberated and considered this matter and determined upon a 5-0 vote to sustain the hearing officer's report and recommendation.

Next item.

Rob Williams: In the matter of Michael Garafola. The presiding judge at Yonkers Raceway suspended operating engineer Michael Garafola for 30 days and fined him \$1000 for a prohibited act in violation of rule 4119.9(a). Specifically, Mr. Garafola was accused in improperly making a harrow adjustment on August 24, 2020, which was judged to be an act detrimental to the best interest of racing.

Mr. Garafola requested a hearing which was conducted on January 13th. The hearing officer submitted a report to the Commission secretary dated February 9th recommending a suspension of 10 days and no fine, or in the alternative, a fine of \$1,500 and no 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.

Chairman: The Commission duly deliberated and considered this matter and determined upon a 5-0 vote to reject the hearing officer's report and find that Mr. Garafola did not violate rule 4119.9(a).

Next item.

Rob Williams: Next item, the presiding judge at Monticello Raceway suspended harness driver Miguel Alejo Hernandez for eight days for causing interference while driving the horse Roland N Rock in the sixth race on December 2, 2020, in violation of rules 4117.4(e) and 4117.4(m).

Mr. Hernandez requested a hearing which was conducted on January 8, 2021. The hearing officer submitted a report to the Commission secretary dated February 9th recommending a suspension of eight days. The Commission

considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial exemption of New York Public Officers Law Section 108.1.

Chairman: The Commission duly deliberated and considered this matter and determined upon a 5-0 vote to sustain the hearing officer's report and recommendation.

Next matter.

Rob Williams: The presiding judge at Monticello Raceway fined driver Gregory Merton \$300 for excessive whipping while driving a horse Weekend Wit BigD in the sixth race on December 30, 2020, in violation of Commission rule 4117.8(c).

Mr. Merton requested a hearing which was conducted on January 14, 2021. The hearing officer submitted a report to the Commission secretary dated February 15, 2021, recommending a \$300 fine. 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.

Chairman: The Commission duly deliberated and considered this matter and determined upon a 5-0 vote to sustain the hearing officer's report and recommendation.

Next matter, please.

Rob Williams: The final adjudication for today is in the matter of Vermani, Inc. On October 16, 2020, the Bureau of Licensing issued a notice of license suspension and ordered the immediate temporary suspension of the lottery sales agent license of Vermani Mobil which is located in Kingston. The notice informed Vermani Mobil that the suspension was due to a failure to remit funds due.

Vermani Mobil requested a hearing which was conducted on January 21, 2021. The hearing office submitted a report to the Commission secretary recommending that the license be revoked. 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.

Chairman: The Commission duly deliberated and considered this matter and determined upon a 5-0 vote to sustain the hearing officer's report and recommendation.

Next item on our agenda is new and old business. Is there any old business anyone would like to raise?

Hearing none, any new business anyone would like to raise?

Hearing none, can go to the next item, or we're pretty close to the end of our meeting which is adjournment. We have a few issues we'd like to talk about that one is this is Problem Gambling Month.

I want to remind everyone that March is National Problem Gambling Awareness Month. The Commission in conjunction with our partners in the Responsible Play Partnership has created a new public service campaign designed to promote responsible play as a practical safeguard against disordered gambling. Among other things, we have raised visibility during the televised New York Lottery drawing, on lottery retail displays, terminals, and our website. We also have been running new television and radio public service announcements speaking to raise responsible gambling awareness.

The next item that I would like to raise before we adjourn is a sad note. We had another death in the Gaming Commission family and a death that is COVID related. I would like to note Seneca Gaming Authority Chairman Michael John passed away on March 8, 2021, due to complications from COVID-19. The Commission and our predecessor, the Racing and Wagering Board, had a long relationship with Mr. John as he served on the Seneca Nation's compact negotiating team, and later served as a Seneca Gaming Authority Commissioner and member of the Seneca Gaming Corporation Board of Directors before returning to the SGA as chairman. His leadership and strong personality will be missed.

I don't know if it's appropriate or not, and if it's not, we're going to do it anyway. Can we just have a moment of silence, please. Thank you, and we wish his family well.

Do any Commissioners have any additional items they'd like to present for consideration today?

Hearing none, we need to talk about our next date, and we all need to work with Kristen like we normally do. The Commission traditionally has met on the fourth Monday of each month which for April would be the 26th. Kristen will be polling everyone for the availability for our next meeting.

Hearing no other issues for consideration today, I'd like to adjourn the meeting for today. Thank you.