

00:00:00:00
00:00:13:20 >> The New York Racing, Pari-Mutuel Wagering and Breeding Law
00:00:15:20 section 102 provides that the New York State Gaming
Commission
00:00:19:05 shall consist of seven members appointed by
00:00:21:26 the Governor by and with
00:00:23:26 the advice and consent of the Senate.
00:00:25:23 Six members having been confirmed by the New York State
Senate,
00:00:29:05 affords the Commission an ability to establish
00:00:31:17 quorum and undertake action.
00:00:33:24 This meeting of the Gaming Commission is now called to order.
00:00:38:10 Miss Secretary, will you please call the roll?
00:00:40:20 >> John Crotty?
00:00:41:19 >> Here.
00:00:42:12 >> Mark Gearan?
00:00:43:02 >> Present.
00:00:43:20 >> Peter Moschetti?
00:00:44:08 >> Here.
00:00:44:24 >> John Poklemba?
00:00:45:13 >> Here.
00:00:45:29 >> Barry Sample?
00:00:46:27 >> Here.
00:00:47:17 >> Todd Snyder?
00:00:48:11 >> Here.
00:00:51:28 >> Miss Secretary, will you please have the record reflect
that
00:00:53:24 a quorum of qualified members are present,
00:00:56:02 thus enabling the transaction of business.
00:01:01:25 Mr. Chairman?
00:01:03:07 >> Great.
00:01:04:07 Well, good morning.
00:01:05:04 We begin with the approval of the Commission minutes
00:01:07:17 from May 27, 2014.
00:01:10:21 It's been provided to members in advance and I guess I'd ask
00:01:13:27 any members if you have any edits, corrections,
00:01:16:21 or amendments to the minutes.
00:01:18:15 >> No.
00:01:19:22 >> No.
00:01:20:23 >> Okay.
00:01:21:18 Madam Secretary, please let the record
00:01:22:18 reflect the minutes were adopted.
00:01:25:12 Next on our agenda is the report of the executive director.
00:01:28:11 Rob?
00:01:29:28 >> Thank you.
00:01:31:04 I'd like to discuss three issues of potential interest.
00:01:33:24 First to apprise you of the latest activities
00:01:35:26 of the Gaming Facility Location Board,
00:01:37:24 second to briefly recap Belmont Stakes Day,
00:01:41:04 and lastly to discuss recently passed legislation
00:01:44:02 from the legislative session that concluded this last Friday.
00:01:48:00 Since our last meeting on May 27,
00:01:50:07 the Gaming Facility Location Board has issued
00:01:52:06 a variety of guidance documents concerning

00:01:54:20 host municipality resolutions, document submission guidelines,
00:01:59:24 SEQRA guidance and multiple sets of answers
00:02:03:21 to new bidder questions.
00:02:05:18 The Board and Joint Commission on Public Ethics also issued
00:02:09:11 a Q&A regarding casino lobbying jointly.
00:02:15:01 We are now down to 17 potential applicants.
00:02:18:00 Yesterday, Grossinger Development Corporation formally requested
00:02:22:12 a refund of their application fee.
00:02:25:02 We fully refunded their fee late yesterday afternoon.
00:02:29:00 Monday, June 30 at 4 p.m.
00:02:32:03 is, of course, the deadline for the filing of bid applications.
00:02:36:24 Commission staff continues to actively assist
00:02:39:11 the Gaming Facility Location Board,
00:02:41:23 staff remains working on drafts of regulations
00:02:44:26 to govern this new industry, and we have been engaging
00:02:47:27 the New York State Police to ensure
00:02:49:27 that their applicant review proceeds smoothly
00:02:53:04 and meets the expectations of both
00:02:55:10 the Gaming Facility Location Board and you gentlemen.
00:02:59:26 With respect to the Belmont Stakes Day, while California Chrome
00:03:03:21 failed to become the 12th winner of the Triple Crown,
00:03:06:13 NYRA did have quite an impressive day.
00:03:09:06 The on-track handle was \$19.1 million
00:03:12:10 and all-sources handle was \$150 million.
00:03:15:11 Both amounts surpassed previous all-time NYRA records.
00:03:19:15 The previous records were set on October 29 of 2005
00:03:24:21 when a Belmont Cup Day was hosted at Belmont Park.
00:03:30:25 The previous Belmont Stakes handle records
00:03:33:15 were beaten by \$5 million on track
00:03:36:29 and by nearly \$40 million in all-sources handle.
00:03:41:15 The announced attendance was 102,199 which was
00:03:45:12 the third highest attendance in Belmont Stakes' history.
00:03:49:08 NYRA did, however, receive some problems
00:03:51:29 or had some difficulty with patron egress.
00:03:54:28 A record number of fans, some 36,000, arrived at Belmont
00:04:01:06 via Long Island Rail Road.
00:04:03:09 While patron arrival was generally staggered,
00:04:05:13 patron departure was much more concentrated,
00:04:07:29 which led to very long waits for trains.
00:04:11:22 Egress from parking lots was similarly complicated.
00:04:15:01 Obviously, many of the issues such as the LIRR availability
00:04:19:17 and traffic flow once the crowds exit Belmont Park
00:04:23:25 onto local thoroughfares are not solely within
00:04:26:06 NYRA's ability to resolve but NYRA president,
00:04:29:13 Chris Kay, has pledged to work with local officials
00:04:32:18 to address future transportation needs.
00:04:36:17 NYRA did also experience some on-track issues.
00:04:39:13 They lacked some lighting in the remote parking areas, there
00:04:42:07 were a few parking attendants--very few parking attendants
00:04:44:26 directing the egress after the races, and there were some

00:04:47:27 apparent issues with the efficacy of security officials.
00:04:51:23 I believe NYRA understands some patrons' experiences were poor
00:04:57:28 and have committed to examining the conditions
00:05:00:07 that led to these experiences.
00:05:02:14 From the Commission staff perspective,
00:05:05:08 we have realized a few lessons
00:05:06:29 relative to our operations and yesterday conducted
00:05:09:21 a meeting chaired by Dr. Palmer
00:05:12:19 to talk about our operations and
00:05:15:20 we anticipate meeting with NYRA staff to discuss our findings
00:05:18:19 and try to resolve any of the issues
00:05:21:15 that we've identified internally.
00:05:23:29 Lastly, at the end of this year's legislative session,
00:05:27:25 this past Friday, a couple of bills passed.
00:05:31:16 Counsel's office will be preparing a memorandum like they did
00:05:34:25 last year that identified all the various legislation that
00:05:38:07 passed during the session but I thought it would be prudent to
00:05:41:14 just touch upon a few highlights from the very, very end.
00:05:44:28 There were two bills that were germane
00:05:46:25 to the Commission's interests: Assembly 10075
00:05:51:14 would amend the tax law to allow video lottery gaming facilities
00:05:55:11 to operate until 6 a.m. and this changed
00:05:58:02 the previous language that requires closure at 4 a.m.
00:06:01:24 The same legislation increased the annual value
00:06:04:11 of free play credits authorized for use by
00:06:07:24 video lottery gaming facilities from 10% to 15%.
00:06:11:12 Both of these changes were intended to enhance
00:06:13:21 revenues and attendance.
00:06:16:11 Senate 5584 would also amend--this one would amend
00:06:20:05 the Racing, Pari-Mutuel Wagering and Breeding Law.
00:06:23:13 This would require that a franchised corporation
00:06:25:29 operating a simulcast feeder
00:06:28:08 in a region wholly contained within one county
00:06:31:02 would be permitted to operate only pursuant to an agreement with
00:06:34:21 that regional off-track betting corporation and that revenues
00:06:38:01 from that agreement would be distributed pursuant to--or from
00:06:41:20 the operation would be distributed pursuant to the agreement.
00:06:45:14 There were several bills that were germane to the Commission
00:06:47:19 that failed to pass both houses.
00:06:49:25 Amongst the most significant was an omnibus Senate bill that
00:06:53:10 would have eliminated a variety of things in horseracing:
00:06:56:15 dark day, maintenance of effort payments
00:06:58:28 made from regional off-track betting corporations
00:07:01:06 to harness race tracks, made some
00:07:03:12 technical corrections to the regulation of
00:07:05:20 multijurisdictional account wagering providers,
00:07:08:09 and provided for the free play and
00:07:12:02 the extension of hours, among other things.
00:07:14:13 It passed the Senate 56 to 2
00:07:16:18 but was not considered by the Assembly.

00:07:19:12 The only other bill that--actually, there was another bill that
00:07:22:23 passed as well that would have extended Catskill OTB
00:07:26:19 into the five counties that comprise New York City
00:07:29:23 which is the former footprint of
00:07:32:11 New York City Off-Track Betting Corporation.
00:07:34:18 This legislation passed the Senate 44 to 15
00:07:37:03 but wasn't considered by the Assembly.
00:07:39:25 The last bill that was a one-house bill that passed
00:07:41:29 in the last week was a bill that would have required
00:07:45:04 NYRA's Independent Business Integrity monitor
00:07:47:23 to make their reports available to
00:07:49:28 the Franchise Oversight Board upon request.
00:07:52:22 That bill passed the Senate 58 to nothing
00:07:55:00 but was not considered by the Assembly.
00:07:56:23 Mr. Chairman?
00:07:59:09 >> Any questions for Mr. Williams on his report?
00:08:03:13 >> We should also note that our acting executive director is
now
00:08:08:11 our official executive director.
00:08:10:09 >> Good point.
00:08:11:21 >> Congratulations on that.
00:08:12:29 >> Much enthusiasm or gratitude, well said.
00:08:15:13 Well, moving on our agenda.
00:08:17:26 The next item for action was the appointment of
00:08:19:25 a Gaming Facility Location Board member
00:08:22:05 but my understanding is that we
00:08:24:16 will not be making that appointment today.
00:08:26:11 Is that correct?
00:08:27:11 >> Yeah, that's correct, Mr. Chairman.
00:08:28:13 We still are waiting on some paperwork that would finalize
that.
00:08:31:09 And it's premature to actually consider
00:08:32:26 any action on that today.
00:08:34:11 >> Great.
00:08:35:17 So we will await that and see.
00:08:39:12 To rule-making.
00:08:41:14 >> Do you have to be present for those appointments?
00:08:44:03 >> You mean, can they be telephone--
00:08:46:13 >> I mean, we're in a time-sensitive nature which said we're
00:08:48:16 gonna do things on a monthly basis going forward.
00:08:51:11 If we do that, the next meeting will be
00:08:52:25 close to the end of July.
00:08:54:17 >> I think if we had an ability to get names in front of you,
we
00:08:58:10 would try to do a teleconference on the record.
00:09:00:18 >> Okay.
00:09:01:24 That seems reasonable enough.
00:09:03:10 >> That would be my preference.
00:09:04:14 We're also looking into the possibility of whether you guys
can
00:09:06:28 exercise an approval in writing to be confirmed but
00:09:13:01 I think the general consensus of the individuals
00:09:15:07 that have expressed an opinion on this

00:09:18:05 is they prefer to do a formal meeting,
00:09:20:05 formal emergency meeting.
00:09:21:21 >> Oh, okay.
00:09:22:23 >> Do you have a preference?
00:09:24:04 >> No.
00:09:24:29 No, whatever they need.
00:09:26:06 It's just they're in a time-sensitive window.
00:09:27:19 >> 'Cause it's July.
00:09:29:06 >> It's July, people are pulling all around.
00:09:31:04 You wouldn't want to get stuck short.
00:09:32:25 If you could do it by phone and there was conformity of
thought,
00:09:36:04 it would seem reasonable enough to me.
00:09:37:24 >> As long as we had some time with the background materials.
00:09:40:28 >> Understood.
00:09:41:24 >> We could do it, from my perspective--
00:09:43:10 >> Fairly quickly.
00:09:44:15 >> Whatever makes people happy, by phone or in--
00:09:46:14 >> Yeah, that was my only point.
00:09:48:07 It would seem to be harder coordinating a single point in
time
00:09:50:23 over the next 3 weeks than it would be to get everyone
00:09:53:28 on the phone at one single time.
00:09:55:20 >> And rather than wait 'til July 28 as well.
00:09:57:15 >> That was the other thought.
00:09:58:13 >> The phone would be a problem
00:09:59:21 because of open meetings concerns.
00:10:01:12 >> Okay.
00:10:02:21 >> But we could do a video conference and that's readily--
00:10:06:21 easy to do in this.
00:10:07:23 >> Yeah, I'm traveling but I don't know
00:10:09:00 what other people are doing but--
00:10:10:17 >> But we can also, if we were able to obtain
00:10:12:24 a quorum on a video conference,
00:10:15:16 others could call in and express their--how
00:10:18:05 they would vote had they been able to be present in the
video.
00:10:21:28 >> Keep in mind, I have the equipment if
00:10:23:24 it's a weekend we can do it at my house.
00:10:25:26 >> We'll all go to Todd's house.
00:10:27:18 >> Todd's office.
00:10:29:24 >> [laughing]
00:10:32:22 >> You're always welcome in Geneva.
00:10:34:21 >> [laughing]
00:10:37:12 >> Okay, well, why don't we turn, if no other questions on
that,
00:10:40:25 to rule-making.
00:10:42:26 New York State's Racing, Pari-Mutuel Wagering and Breeding
Law
00:10:46:22 104.19 authorizes the Commission to promulgate
00:10:49:13 rules and regulations that it deems necessary
00:10:52:14 to carry out its responsibilities.
00:10:54:15 So in that regard, the Commission will from time to time
00:10:56:29 promulgate rules and rule amendments pursuant to

00:10:59:07 the State Administrative Procedure Act.
00:11:02:10 So today, we have three rule-making items for consideration.
00:11:06:12 So Mr. Williams, if you could outline those proposals,
00:11:08:22 I would be--
00:11:10:00 >> Certainly.
00:11:11:00 The first proposal for Commission consideration is the adoption
00:11:12:29 of amendments to our standardbred
00:11:14:23 out-of-competition testing rule.
00:11:17:00 The proposal was adopted by the Commission
00:11:18:24 at its March 12, 2014, meeting.
00:11:21:18 The proposed amendments will,
00:11:23:21 among other things, clarify the existing rule,
00:11:26:12 incorporate Commission enforcement protocols, and
00:11:29:10 make the rule more uniform with the Commission's
00:11:31:04 thoroughbred racing out-of-competition rule.
00:11:34:06 Only one public comment was received.
00:11:37:04 The Empire State Harness Horsemen's Alliance, which represents
00:11:40:29 harness horsemen's organizations at six New York race tracks,
00:11:44:20 made a multi-faceted argument in opposition to the rule.
00:11:48:06 They previously circulated memorandum from counsel Ed Burns,
00:11:52:16 identified each of the various Alliance arguments,
00:11:56:06 and addressed each.
00:11:58:05 >> Any questions on the adoption of the amendments to our
00:12:01:19 standardbred out-of-competition testing rule
00:12:04:15 as a permanent rule?
00:12:06:14 Any questions from the commissioners?
00:12:09:02 Comments?
00:12:11:10 Ed, anything else to add from your--
00:12:12:25 >> Nothing further to add other than
00:12:14:05 what you've seen before, yeah.
00:12:16:03 >> Right, everything is before as well.
00:12:17:06 Well, may I have a motion then to adopt the amendments to our
00:12:19:05 standardbred out-of-competition testing rule
00:12:21:27 as a permanent rule?
00:12:23:17 >> Sure.
00:12:26:14 >> Motion by Mr. Crotty.
00:12:27:19 Second?
00:12:28:28 >> Second.
00:12:30:18 >> Discussion on the motion?
00:12:32:27 All those in favor?
00:12:34:08 >> Aye.
00:12:35:00 >> Aye.
00:12:35:27 >> Opposed?
00:12:36:17 Motion carries.
00:12:38:27 Next rule-making in regards to the use of cellular phones
00:12:42:11 in a standardbred paddock.
00:12:44:28 >> Last August, the Commission authorized
00:12:47:28 a rule permitting the use of
00:12:49:16 cellular telephones or other electronic communication devices
00:12:52:11 in a designated area of a harness racing paddock or
00:12:55:23 receiving barn, effective for 1 year.
00:12:58:23 The current rule followed a similar 1-year experiment by the

00:13:01:29 former Racing and Wagering Board that had expired on
00:13:04:14 February 15 of 2013.
00:13:07:01 In adopting the rule last August,
00:13:08:25 commissioners expressed the desire to understand
00:13:10:29 how New York's experience was progressing
00:13:13:05 and how other jurisdictions treated the issue.
00:13:16:11 Do we have Brian Barry on the telephone today?
00:13:18:12 >> Yes, we do.
00:13:20:03 Hello.
00:13:21:08 >> Brian is our Director of Racing Officials.
00:13:26:06 He surveyed the presiding judges at the State's race track
and
00:13:29:17 can speak intelligently to what our experience has been.
00:13:33:12 Mr. Barry, would you please report your findings?
00:13:36:09 >> Yes, sir.
00:13:38:10 All of the presiding judges at Yonkers, Monticello, Tioga,
00:13:42:27 Vernon, Saratoga, and Buffalo reported
00:13:47:01 no problems with the new rule.
00:13:49:09 The designated area signs were all posted at the entrance to
00:13:56:14 the paddock and the horsemen were complying and
00:14:01:03 just using that area to make the cell phone calls.
00:14:05:23 There were only two fines for misuse in other areas
00:14:11:16 in the whole year so, after they get a warning,
00:14:16:13 they do use the designated area.
00:14:21:25 As far as the other jurisdictions, it's in the USTA rule
book,
00:14:26:19 rule number 5, number 11(g), that cell phones
00:14:31:10 are permitted in the paddocks.
00:14:34:03 Also, the New Jersey and Pennsylvania Commissions allow them
00:14:41:04 anywhere in the paddock.
00:14:42:29 The only place they restrict them is the track itself.
00:14:46:25 They fine any driver that brings his cell phone
00:14:50:14 out onto the track.
00:14:55:11 >> Other staff research also indicated that Delaware allows
00:14:59:02 the use of the cell phone in a paddock but not while
00:15:02:04 walking or riding a horse and Ohio does not permit
00:15:06:00 the use of cellular telephones in the paddock at all.
00:15:09:11 Other research that was conducted indicates that neither
00:15:12:24 Massachusetts nor Maine seems to have ever addressed this
00:15:15:14 concern and regulation, probably leaving it to
00:15:18:18 the USTA rules for address.
00:15:21:00 Brian, do you have anything else to add?
00:15:22:16 >> No, sir.
00:15:27:00 >> Well, thank you, Brian, and to Rob.
00:15:29:07 Any questions from the commissioners
00:15:30:28 on the proposed rule amendment?
00:15:33:19 Sir?
00:15:36:09 >> As I understand it, this was an experiment.
00:15:38:18 Now with the Commission, the newly constituted
00:15:41:05 Commission, now we're coming back to this
00:15:43:12 for this final.
00:15:44:13 >> Well, the Commission adopted it last August on
00:15:48:09 a 1-year experimental basis to see how the experience
00:15:51:03 would bear out with the rule.

00:15:53:00 >> And to look at other jurisdictions.
00:15:54:14 >> And to see what the experience was in other jurisdictions.
00:15:57:05 >> I think we were concerned there was gonna be
00:15:58:07 an enforcement issue, maybe there'd be some resistance
00:15:59:25 and it appears that we have not seen that
00:16:02:11 in any significant regard.
00:16:03:23 >> My understanding is there were only, I think, two fines
for
00:16:06:23 people who wouldn't comply.
00:16:08:21 Generally, what happens is if one of the judges sees someone
who
00:16:12:14 is not in compliance, he informally reminds them of the rule
and
00:16:15:28 tells them where to go and people comply.
00:16:21:03 >> All right.
00:16:23:03 Well, may I have a motion then to propose a regulation
00:16:25:05 authorizing the use of cellular telephones or other
00:16:27:22 electronic communication devices in a designated area
00:16:30:27 of a standardbred paddock?
00:16:32:21 >> Motion.
00:16:35:05 >> So moved.
00:16:36:09 >> Okay. Second?
00:16:37:29 >> Any discussion on the motion?
00:16:40:00 All in favor?
00:16:41:24 >> Aye.
00:16:42:14 >> Aye.
00:16:43:03 >> Opposed?
00:16:43:23 The motion carries.
00:16:45:24 Next is our rule-making regarding conflict of interest by
00:16:48:22 officials in standardbred racing.
00:16:51:17 >> For Commission consideration is a proposed amendment of
its
00:16:54:16 standardbred rules intended to strengthen
00:16:56:23 conflict of interest provisions.
00:16:59:05 A current rule prohibits a racing secretary or
00:17:01:12 assistant secretary from being licensed as an owner, trainer,
00:17:06:01 or driver during the racing season.
00:17:08:29 There are, however, potential conflicts of interest if
00:17:11:18 a racing secretary or assistant racing secretary
00:17:14:05 were allowed to race or drive a horse,
00:17:16:23 even if such racing occurred out of the state
00:17:19:10 because working for or competing against an owner of a horse
00:17:24:08 which may appear in New York could be perceived as a
compromise
00:17:29:07 to the objective performance of the official's duties.
00:17:33:13 This proposal aims to strengthen the current rules by
broadening
00:17:37:06 the prohibition against the activities
00:17:39:10 in which the officials may engage.
00:17:42:20 >> Any questions?
00:17:45:01 >> Yeah, I actually have a question.
00:17:46:13 Ed, does this rule come into alignment with
00:17:49:25 the existing thoroughbred racing rule?
00:17:53:21 >> There is not a similar rule in thoroughbred racing

00:17:58:26 but, as a practical matter,
00:18:01:06 we don't have people who are race officials
00:18:03:29 ever even proposing or asking for clearance to ride a horse
00:18:08:15 or be a jockey.
00:18:10:10 But you do see that in--
00:18:11:29 >> Is there some reason that I--like, I don't have the
00:18:14:04 experience to recognize why that's always gonna be the case
or
00:18:16:19 is it just a matter of time before it arises?
00:18:18:25 >> It's hard to make weight on the thoroughbred side.
00:18:21:08 Not so hard on the trotter size.
00:18:26:14 I mean, I guess we could.
00:18:28:18 >> Wouldn't you want to just harmonize the rules just--
00:18:30:29 >> Yeah.
00:18:31:26 >> Seems to me that that would be a reasonable step to take.
00:18:34:04 >> We could look into a parallel and teed it up for you
00:18:36:26 for future consideration.
00:18:38:04 >> If we looked into that, then I'd be--you know,
00:18:39:28 I have no other questions about this rule.
00:18:41:28 >> So we'll all wait.
00:18:43:28 That's a separate matter.
00:18:45:19 Any more questions on this ruling?
00:18:50:10 Great, okay.
00:18:51:16 Well, may I have a motion then to adopt a proposed rule-
making
00:18:53:25 regarding conflict of interest by officials
00:18:56:05 in standardbred racing?
00:18:58:08 >> So moved.
00:18:59:06 >> It's been moved.
00:19:00:01 Second?
00:19:00:24 Second.
00:19:01:19 Any discussion on the motion?
00:19:03:08 All in favor?
00:19:04:12 >> Aye.
00:19:04:29 >> Aye.
00:19:05:24 >> Opposed?
00:19:06:20 The motion carries.
00:19:08:26 Next on our agenda is adjudications.
00:19:10:29 And the Commission has four hearing officer reports
00:19:14:13 for consideration today.
00:19:17:13 >> I'd like to raise a question for Ed.
00:19:19:05 Ed, I think that when it comes to adjudications, we have the
00:19:22:13 opportunity to have a private discussion and I'd like to
suggest
00:19:26:06 that we do that before we proceed.
00:19:28:09 >> Yes, subdivision 1 of section 108 of the Public Officers
Law
00:19:32:22 provides that the State Open Meetings Law does not apply to
00:19:36:12 judicial and quasi-judicial proceedings which these
00:19:39:18 administrative adjudications are so,
00:19:42:25 at the discretion of the Commission,
00:19:44:19 you could choose to fully discuss things at an open meeting
00:19:47:15 or discuss some matters privately amongst yourselves
00:19:50:25 at your option.

00:19:52:04 >> So Mr. Chairman, I'd actually suggest that we
00:19:53:21 take a brief recess from the public meeting
00:19:56:16 and have a discussion about the adjudications
00:19:58:21 that are on the agenda so that we can move
00:20:00:19 more smoothly through the public meeting.
00:20:02:17 >> And then to return to our business.
00:20:04:02 >> And then return, yes.
00:20:05:09 >> And do we want to vote on that or can I just rule on that?
00:20:08:19 >> I think you could say, well, you know, if you don't hear
00:20:11:23 any objections to that--
00:20:13:09 >> Any instruction to this--it's a run.
00:20:15:10 It's a good suggestion, concurrent with--okay, so why don't
we
00:20:17:16 take this break for executive session or whatever the
particular
00:20:23:26 appropriate term would be and we'll be back.
00:20:26:03 >> Just consideration of judicial
00:20:27:21 and quasi-judicial applications.
00:20:29:13 >> For the record, it's not an executive session.
00:20:31:21 You could temporarily adjourn the meeting
00:20:33:17 and then discuss some of this business elsewhere
00:20:37:21 but it's technically not an executive session
00:20:39:19 of the same meeting, yeah.
00:20:41:05 >> We're in essence going off the record.
00:20:42:07 >> Yes.
00:20:42:29 >> Terrific.
00:20:43:21 >> Very good.
00:20:53:22 >> Thank you.
00:20:54:23 We're now returning from a session to consider judicial or
00:20:59:09 quasi-judicial review, pursuant to the Public Officers law
00:21:03:05 108.1, and so we now return to our public meeting.
00:21:07:16 The Commission, following this quasi-judicial deliberation,
has
00:21:11:18 considered remanding the cases of in the matter of Anthony W.
00:21:16:04 Dutrow and in the matter of Peter Kazamias for a hearing.
00:21:21:04 So may I have a motion to remand those cases?
00:21:27:24 >> Motion.
00:21:28:14 >> Motion has been made.
00:21:29:18 Seconded?
00:21:30:13 >> I'll second it.
00:21:31:18 >> Any discussion on the motion?
00:21:35:03 >> I just wanted to add that upon remand in the Dutrow
matter,
00:21:39:22 we note the hearing officer's consideration that there be no
00:21:47:01 authority to suspend the penalty as it was done in that
matter.
00:21:51:14 The penalty that was imposed may not be suspended.
00:21:57:29 >> Any other discussion or questions on the motion that's
been
00:22:01:17 made and seconded?
00:22:02:25 All those in favor?
00:22:04:13 [ayes all around]
00:22:06:02 >> Opposed?
00:22:07:14 The motion is accepted.

00:22:12:12 So we go to our next consideration.
00:22:18:03 >> Next matter is in the matter of Edward J.
00:22:19:23 Williams.
00:22:21:09 On November 21st, 2013, the Bureau of Licensing declined to
00:22:25:16 license Edward J.
00:22:27:27 Williams as a harness-racing driver and trainer.
00:22:30:09 The denial was based on the conclusion that his experience,
00:22:33:17 character, and general fitness are such that his
participation
00:22:37:12 in racing or related activities would be inconsistent with
the
00:22:41:02 public interest, convenience, or necessity, or with the best
00:22:44:04 interest of racing generally.
00:22:47:05 After Mr. Williams appealed, a hearing was conducted on April
00:22:50:05 22nd, 2014.
00:22:52:23 The hearing officer report and recommendations were delivered
to
00:22:55:14 the Commission secretary on June 4th.
00:22:57:29 The hearing officer recommended that the license denial be
00:23:00:00 upheld.
00:23:02:09 The hearing officer also recommended a course of action
beyond
00:23:05:04 the judicatory matter, and I would like the Council to
00:23:07:19 discuss this particular aspect of the case.
00:23:11:15 >> Yes.
00:23:12:21 What is at issue for the Commission's final determination is
the
00:23:17:15 propriety of the license denial of the applicant for a
00:23:21:15 trainer/driver license.
00:23:23:20 Part of the recommendations of the hearing officer went
beyond
00:23:26:29 that particular matter and made some suggestions about other
00:23:32:08 licenses he may or may not be able to apply for in the
future.
00:23:36:21 And my recommendation to you is that whatever you decide,
00:23:42:15 whether to accept or reject the hearing officer's
modifications,
00:23:47:25 that it be limited to the matter before you, which is the
00:23:52:14 licensure as a driver/trainer.
00:24:01:17 >> Okay, all members have received a copy of the hearing
00:24:03:04 officer's report and have had an opportunity to review the
00:24:06:09 record of the hearing.
00:24:08:26 >> Would any of the Commissioners like to discuss the report
or
00:24:12:03 the recommendations?
00:24:14:06 >> Mr. Chairman, I'm inclined to accept the recommendation of
00:24:21:10 the hearing judge to deny the license.
00:24:26:14 I understand Council's reservations about some of his more
00:24:30:24 creative statements.
00:24:32:01 But the basics of his findings seem to me to be his
00:24:37:06 recommendation that the decision to deny the license to be a
00:24:40:22 trainer/driver be upheld, the denial be upheld, and I would
00:24:44:23 support that.

00:24:46:05 But I'd also just like to be clear--Ed, can you clarify for me?

00:24:50:10 It's my understanding that such a finding, if we were to all

00:24:53:11 support that or by majority to support that, that nothing in

00:24:57:11 saying or doing that would prevent Mr. Williams from applying or

00:25:03:07 reapplying, applying for an assistant license or reapplying for

00:25:07:14 a trainer/driver license based on that determination.

00:25:12:18 >> You're correct.

00:25:15:28 >> Thank you.

00:25:16:28 >> Any other discussion or questions on the report or the

00:25:19:08 recommendations?

00:25:22:26 Okay, hearing none, may I have a motion, then, to adopt the

00:25:24:26 hearing officer's report and confirm its finding and

00:25:28:10 recommendations as submitted?

00:25:31:15 >> I will make a motion to affirm the finding that the

00:25:36:01 decision to deny should be upheld, which is not the finding as stated.

00:25:44:25 >> Is there a second?

00:25:45:28 >> I'll second.

00:25:46:20 >> Mr. Snyder.

00:25:48:09 Any discussion on the motion as stated?

00:25:50:27 >> I'd just like to say this.

00:25:53:15 I don't agree.

00:25:54:11 I believe that we should not accept the hearing officer's

00:25:57:02 finding.

00:25:58:04 I do not think the gentleman should have been denied a

00:26:00:21 license.

00:26:04:05 Not to diminish the seriousness of the allegation, but it is

00:26:08:08 a

00:26:12:08 misdemeanor conviction that's more than 40 years old.

00:26:15:02 And based on that and based on what I read in the record and

00:26:16:14 the

00:26:21:03 gentleman's background, I believe he should not have been

00:26:26:16 denied

00:26:28:06 a license.

00:26:29:20 So I would not vote in favor.

00:26:31:02 >> Any other discussion on the motion?

00:26:32:14 Okay.

00:26:33:16 Why don't we have a vote, then?

00:26:35:04 All in favor, say, "Aye."

00:26:37:24 [ayes]

00:26:41:11 >> Opposed?

00:26:45:06 [two nays]

00:26:49:12 >> Motion carries.

00:26:55:29 Our final matter is in the matter of Winkys Pride.

00:26:58:06 On September 6th, 2013, the judges at Batavia Downs

00:27:02:00 harness

00:27:05:00 craft disqualified the horse, Winkys Pride, for various

00:27:08:00 starting

00:27:11:00 and racing infractions in violation of Commission Rules

00:27:14:00 4115.2d,

00:27:17:00 4115.2f, and 4017.4b, and finally, 4117.4f.

00:27:05:15 Winkys Pride finished the race in first place, but was placed
00:27:08:14 seventh by the judges pursuant to rule 4117.12a.
00:27:15:08 After Robert M Hummel, the owner of Winkys Pride, appealed,
the
00:27:19:20 hearing was conducted on April 11th, 2014.
00:27:23:13 The hearing officer's report and recommendations were
delivered
00:27:25:26 to the Commission secretary on May 26th.
00:27:28:17 The hearing officer recommended that the Commission sustain
the
00:27:31:25 judge's placement decision, finding violations of two rules,
00:27:36:08 4115.2d, and 4115.2f.
00:27:41:06 All members have received a copy of the hearing officer's
00:27:43:09 report, and have had an opportunity to review a record of the
00:27:46:22 hearing.
00:27:48:29 >> Would any of the Commissioners like to discuss the report
or
00:27:52:01 its recommendations?
00:27:56:02 Discussion on the matter?
00:27:57:24 May I have a motion, then, to adopt the hearing officer's
report
00:27:59:18 and confirm its findings and recommendations as submitted?
00:28:03:16 >> So moved.
00:28:04:25 >> Motion is made.
00:28:05:19 And seconded?
00:28:07:13 Mr. Sample.
00:28:08:09 Discussion on the motion?
00:28:12:04 All in favor, say, "Aye."
00:28:13:25 [ayes]
00:28:15:05 >> Opposed?
00:28:16:27 The motion carries.
00:28:20:08 Okay, we're now down to new and old business.
00:28:22:24 First, consider any new business to be brought before the
00:28:28:24 Commission.
00:28:33:17 I guess for old business, I guess I would ask you, Rob, to
give
00:28:36:26 perspective.
00:28:37:19 At our last meeting, we adopted the rules for the planned
00:28:42:23 multi-state lottery for Cash For Life, and it would be
helpful,
00:28:47:04 I think, to get your assessment of the initial implementation
of
00:28:50:12 that new Cash For Life game.
00:28:52:27 >> Certainly.
00:28:53:22 Gardner Gurney, who's the director of the lottery, reported
that
00:28:55:21 the initial experiences have been very positive with this
game.
00:28:59:13 The Lottery Division had anticipated the game would generate
00:29:02:00 sales increase of \$.08 per capita on a weekly basis, net of
the
00:29:06:12 removal of the Sweet Millions game, which this one replaced.
00:29:10:23 Actual performance has been at \$.11 net for the first three
00:29:13:14 drawings.

00:29:14:29 In real dollars, Sweet Million was attaining an average of
00:29:18:06 \$280,000 per drawing during the last month.
00:29:22:22 Cash For Life has had draw sales of \$1.26 million for the
first
00:29:26:07 draw, 1.42 for the second draw, and 1.52 for the third draw.
00:29:32:07 This past Monday, we actually had the first New York win of a
00:29:35:15 thousand dollar a day for life.
00:29:37:28 This occurred with a purchase at a 7-Eleven in Bayside,
Queens.
00:29:41:06 We also had a second place winner, which is a thousand
dollars
00:29:44:21 per week for life, which was made at a purchase in East
00:29:48:29 Rockaway.
00:29:51:02 The bottom line is that this game has produced \$1.2 million
in
00:29:54:07 education for the first three drawings.
00:29:56:26 Very successful to begin the month.
00:29:58:22 >> Well, thank you for the update.
00:30:01:02 Any other new business to consider?
00:30:04:23 >> Just one thing.
00:30:06:20 Mr. Burns had distributed to us a schedule of presumptive
00:30:13:26 penalties, as we discussed at a prior meeting.
00:30:19:09 I've reviewed them, and I wanted to thank Ed for putting it
00:30:24:01 together, he and his staff, and also I would ask the
Commission
00:30:28:17 be considered in the future, developing a rule based upon
these
00:30:34:04 penalties that have been imposed, so it should give the
hearing
00:30:40:09 officers and the staff some type of direction as to the
proper
00:30:46:18 penalties that should be imposed for the various offenses,
and
00:30:50:06 leaving it to the Commission in the future to be able to
adjust
00:30:54:21 those, depending upon the experience.
00:30:57:15 If a certain regulation were to be violated repeatedly,
perhaps
00:31:01:26 we would consider an increase in the penalty.
00:31:05:09 So just something for future consideration and I would ask
the
00:31:11:14 staff that they would take a look at that, and maybe propose
00:31:14:16 something for us in the future, if the Commission agrees.
00:31:19:17 >> Any reflection on that?
00:31:21:05 >> Certainly.
00:31:22:00 Well, I'll talk with Ed later today, and we'll start
00:31:24:23 consideration of how we can approach, at least starting the
00:31:28:04 research and getting back to you at the next meeting as to
what
00:31:31:24 the possibilities are related so that.
00:31:34:29 >> I agree with you, John.
00:31:36:16 It was very helpful.
00:31:37:21 >> As a further observation, I have to commend my assistant
00:31:40:20 counsel, Rick O'Dell*, for pulling all of those materials

00:31:42:28 together.
00:31:44:08 >> Well done.
00:31:45:06 >> Very well.
00:31:46:01 >> Yep.
00:31:47:09 Well, and finally, at the last meeting, I suggested that we
00:31:49:26 establish a uniform date for our meetings, the fourth Monday
of
00:31:54:12 the month was best decided, I think, as a uniform date that
we
00:32:01:06 can at least plan on going forward.
00:32:03:05 That would bring us to July 28th for our next meeting.
00:32:07:15 Should any Commissioner have any conflict, you can coordinate
00:32:09:08 that with Miss Buckley*, but that would be the next suggested
00:32:13:07 date, unless there are apparent conflicts that might suggest
00:32:17:04 moving.
00:32:19:25 Ron tells me that the tentative dates for the next two
meetings
00:32:23:17 certainly fall during the conduct of NYRA's summer meet, and
the
00:32:29:00 suggestion has been made to consider the possibility of our
00:32:32:02 meeting in Saratoga Springs.
00:32:34:18 >> Excellent idea.
00:32:37:28 >> For July?
00:32:39:11 >> For July or August or some hybrid.
00:32:44:05 >> Peter may be on to something.
00:32:45:18 Peter may be on to something.
00:32:49:24 >> Norberg* Fund meeting is the 29th, so that would actually
be
00:32:53:09 consistent with, if you're going to do an in-person
attendance
00:32:58:27 there, consistent with--
00:33:01:09 >> Do you want it make it that Tuesday?
00:33:03:07 >> Or we could adjust it to the 29th.
00:33:05:00 >> Kill two birds with one stone?
00:33:06:12 >> I can't do the 29th.
00:33:08:07 >> Yeah, I'm not actually in country the 29th.
00:33:11:14 But we have enough members to have a quorum.
00:33:14:12 >> So why don't we coordinate that with--people can
coordinate.
00:33:19:26 >> Yeah, I don't know if I can get to Saratoga on the 28th,
00:33:21:14 actually.
00:33:22:07 I'm back on a red-eye that morning, Monday morning, yeah.
00:33:25:28 >> But it could be the next week?
00:33:29:03 So anyway, we can coordinate our schedules to notify Miss
00:33:33:24 Buckley of availability.
00:33:35:17 Go from there.
00:33:37:10 That concludes today's published agenda.
00:33:40:26 Do any of the Commissioners have any other additional items
to
00:33:43:25 present for consideration?
00:33:47:29 Well, hearing none, the meeting of this New York State Gaming
00:33:50:26 Commission meeting is adjourned.
00:33:53:12 Thank you all very much.