

COMMONWEALTH OF PENNSYLVANIA

GAMING CONTROL BOARD

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IN RE: GREENWOOD GAMING AND ENTERTAINMENT, INC. -  
PETITION REGARDING SHUTTLE BUS REQUIREMENT

\* \* \* \* \*

PUBLIC HEARING

\* \* \* \* \*

BEFORE: WILLIAM H. RYAN, JR., CHAIRMAN  
Gregory C. Fajt, James B. Ginty,  
Keith R. McCall, Anthony C. Moscato,  
Gary A. Sojka, Kenneth I. Trujillo; Members  
Christopher Craig, Representing Robert  
McCord, State Treasurer  
Robert Coyne, Representing Daniel P.  
Meuser, Secretary of Revenue  
Matthew Meals, Representing George Greig,  
Secretary of Agriculture

HEARING: Wednesday, June 13, 2012  
10:00 a.m.

LOCATION: Strawberry Square Complex  
2nd Floor  
Harrisburg, PA 17101

Reporter: Jennifer T. Alves

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A P P E A R A N C E S (Cont'd.)

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CHAIRMAN:

Ladies and gentlemen, my name is Bill Ryan. I'm Chairman of the Pennsylvania Gaming Control Board. Before we begin, as I do all the time, I would like to ask everyone to please turn off cell phones, PDAs and any other electronic device that could make a noise. Thank you.

Joining us today is Chris Craig representing State Treasurer Robert McCord, Bob Coyne representing Secretary for the Department of Revenue Dan Meuser, and Matt Meals representing the Secretary of Agriculture George Greig. Thank you. I'll call the meeting to order because we have a quorum, all members are here. First order of business, I'd like to ask everyone to please stand for the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE RECITED

CHAIRMAN:

We have one public hearing this morning that we will conduct prior to our regularly-scheduled meeting. The hearing pertains to the petition filed by Greenwood Gaming and Entertainment, Inc. to rescind the Board-proposed requirement that it have a shuttle

1 bus between its two facilities. I understand the  
2 parties have reached an agreement to resolve this  
3 matter. Because the settlement does require a change  
4 to a requirement placed upon Greenwood Gaming by the  
5 Board, the Board wanted to hear from the parties,  
6 including the Pennsylvania Thoroughbred Horsemen's  
7 Association who have intervened in this matter.

8           With that being said, I would ask that  
9 all persons who will be participating in these  
10 proceedings come forward. It looks to me like they've  
11 already done so. Anyone else? Everybody's forward?  
12 Okay. Can I also have all persons who are not  
13 attorneys, but who will be presenting evidence for the  
14 petition please stand and be sworn? There are none.  
15 Okay.

16           Before we begin, I would ask that all  
17 persons participating please identify yourselves  
18 before speaking and please, for the sake of the court  
19 reporter, spell your name. That certainly would help  
20 her do her job. Greenwood Gaming, Alan, you may  
21 begin.

22                           ATTORNEY KOHLER:

23           Good morning, Chairman. Good morning,  
24 Commissioners. My name is Alan Kohler, K-O-H-L-E-R,  
25 with Eckert Seamans, representing Parx Casino. I have

1 with me Tom Bonner here as well.

2           As Chairman Ryan indicated, this is a  
3 matter that has been resolved between the parties.  
4 The parties being Parx Casino, the Pennsylvania  
5 Thoroughbred Horsemen's Association, and the Office of  
6 Enforcement Counsel (OEC). When we originally filed  
7 this Petition, it involves the running of the shuttle  
8 bus between the main Parx Casino and the Philadelphia  
9 Park Grandstand. We'll go through a little bit of the  
10 background during the presentation.

11           We originally filed this Petition to  
12 rescind the shuttle bus requirement. The horsemen had  
13 seen some problems with that, so we entered into some  
14 negotiations and we resolved it so that we would only  
15 run the shuttle bus if there's a live race. The  
16 original requirement was during periods of live racing  
17 and simulcast. So if you adopt this settlement  
18 agreement, it will reduce the shuttle bus operations.  
19 I think we're primarily here to answer questions, but  
20 we did prepare a Powerpoint. We'll go through that  
21 real quickly for you, and then proceed as you desire.

22           I think, as you probably know, the  
23 shuttle bus requirement originated from our Master  
24 Plan Petition where we were --- in which we were  
25 asking for approval of our main Parx Casino back in

1 2008, 2009 time frame. The Board posted that as a  
2 condition of approving that Master Plan or phase one  
3 of that Master Plan. And as you can see on the slide,  
4 there were some basic conditions imposed. The main  
5 one that's relevant here is that it had to be operated  
6 at all times, simulcast or live racing. There was  
7 also a capacity requirement and there was also a  
8 frequency requirement that were laid out on the side.

9           We've been running the shuttle since it  
10 was imposed by the Board, commencing in 2010. That's  
11 been about two and a half years now. We actually run  
12 the shuttle more frequently than we're required to do  
13 so, only because that's how long, as I understand, it  
14 takes the bus to get back and forth between the two  
15 buildings. They said at 20 minute intervals. It  
16 actually takes 10 minutes, so we do actually run it  
17 twice as much as we're required to do so. We provide  
18 that service under a lease arrangement with Sterling  
19 Transportation. It costs us about \$120,000 per year.

20           As I mentioned previously, or if I didn't  
21 mention previously, when the Board imposed this  
22 requirement they also recognized that potentially the  
23 service may not have the usage that would justify the  
24 cost. They imposed some record-keeping requirements  
25 on Parx related to occupancy of the bus, related to

1 weather on particular days, et cetera, et cetera, and  
2 indicated that if we decide to come in, reduce the  
3 service or rescind the service, we had to present that  
4 data to the Board in support and we did that in the  
5 original Petition.

6           The fact of the matter is the bus does  
7 not have that much usage, even in poor weather parts  
8 of the year. The data is attached to the Petition.  
9 You can analyze it in a number of different ways, but  
10 on the slide you see an example of the averages and  
11 the fact that oftentimes the shuttle is empty or very  
12 close to empty. As I said before, we originally asked  
13 the Board to rescind the requirement of the shuttle  
14 bus service. After discussing this with LBC and the  
15 horsemen, we agreed and filed a settlement with the  
16 Board just to run it during live racing. That would  
17 eliminate the operations during simulcast when there  
18 was no racing.

19           And as you're aware, a lot of things ---  
20 I know that you're aware that a lot of things have  
21 happened with the development of Parx since the  
22 approval of the Master Plan. We've brought gaming  
23 back into the Grandstand. We have simulcast in the  
24 main casino. There is certainly less of a need ---  
25 even if you wanted to participate in every aspect of

1 the activities in the two buildings, there's actually  
2 less of a need to go back and forth than there was  
3 originally, and in fact, we would suggest there's no  
4 reason to go back and forth, except if you want to  
5 watch live racing, and of course there's only live  
6 racing over at the Grandstand. So limiting the  
7 shuttle bus to the Grandstand building, per the  
8 settlement, we believe fulfills any need of any patron  
9 and we still don't expect much in terms of use.

10 With that, we have Mr. Fry, who  
11 represents the Horsemen, here at your request to  
12 answer any questions.

13 CHAIRMAN:

14 Thank you, Alan. Does enforcement  
15 counsel have any comments or questions?

16 ATTORNEY MILLER:

17 We have no questions. We have a few  
18 comments.

19 CHAIRMAN:

20 For the record, your name?

21 ATTORNEY MILLER:

22 Dale Miller, M-I-L-L-E-R, ---

23 CHAIRMAN:

24 Thank you, Dale.

25 ATTORNEY MILLER:

1                   --- Deputy Enforcement Counsel. As Mr.  
2 Kohler said, the purpose of the shuttle bus initially  
3 was to provide gaming patrons with convenient  
4 accessibility to racing activities at the Parx  
5 Grandstand and to provide transportation to racing  
6 patrons back to the Parx Casino. After an evaluation  
7 of all those statistics showing patron use and weather  
8 conditions, which were, in fact, required as part of  
9 the Board Order, Greenwood and Parx believe that the  
10 shuttle bus service was underutilized and no longer  
11 necessary and that's why they filed the Petition.

12                   When they initially filed the Petition,  
13 the Office of Enforcement Counsel (OEC) objected to  
14 the request, simply because we wanted to make sure  
15 that the maintenance of racing and casino activities  
16 was maintained, but after discussions with Greenwood  
17 and the Horsemen represented by Mr. Fry, we reached  
18 this agreement.

19                   After the Horsemen were permitted to  
20 intervene in this matter, representatives of all three  
21 parties signed a Consent Agreement to resolve the  
22 issue, and that agreement is what is before you for  
23 consideration. As Mr. Kohler said, the agreement, if  
24 approved by you, would reduce but not eliminate the  
25 shuttle bus requirement and would keep it as a free

1 ride, so anybody that wanted to go back and forth can  
2 ride it for free. I personally have ridden it, and  
3 it's a very nice ride.

4 CHAIRMAN:

5 Albeit a short ride.

6 ATTORNEY MILLER:

7 It is a short ride. But I can tell you  
8 that they do maintain it. They're very nice new buses  
9 and there's no complaints from the OEC.

10 We, as part of the Consent Agreement, as  
11 a signatory of the Consent Agreement, would ask that  
12 it be adopted. We think that the Board's concern that  
13 we have the interactivity of racing and casinos is  
14 maintained. It is definitely within the Consent  
15 Agreement. We ask this be adopted. Mr. Fry is here  
16 as the other signatory to the agreement, and he can  
17 speak on behalf of the Horsemen.

18 CHAIRMAN:

19 Mr. Fry?

20 ATTORNEY FRY:

21 Thank you, Mr. Chairman. Gary Fry,  
22 F-R-Y, firm of Archer and Greiner, representing the  
23 Pennsylvania Thoroughbred Horsemen's Association. We  
24 are in agreement with Mr. Kohler's comments, as well  
25 as Mr. Miller's comments. We believe that the

1 proposed Consent Agreement addresses adequately our  
2 concerns, as well as the concerns that Mr. Miller  
3 initially expressed.

4 CHAIRMAN:

5 Thank you, sir. Now, I want to --- just  
6 for my own edification perhaps, how much does this  
7 save Greenwood?

8 MR. BONNER:

9 Chairman, we're going from about ---.

10 CHAIRMAN:

11 Can you just, for the record ---?

12 MR. BONNER:

13 Yes, Thomas Bonner, B-O-N-N-E-R. Mr.  
14 Chairman, we're going from about 7 days a week, 12  
15 hours a day of service to 4 days a week, about 6 hours  
16 of service, so it's maybe 40 percent of the expense  
17 that we had before.

18 CHAIRMAN:

19 Okay. Any other questions, comments?

20 MR. SOJKA:

21 I think this should be put into context.  
22 If you look at what you showed us, Alan, the issue  
23 goes back farther than that. If you recall, the  
24 original concerns had to do with unifying the  
25 Grandstand and the other building. There was even

1 talk of a physical structure, then Smarty Jones's Way  
2 and a bus was an accommodation to that issue. Then  
3 we've gone through all of this. I think what we have  
4 in front of us is a model of how a Licensee should  
5 respond and I hope you'll cut us enough slack to say  
6 that we're working toward our goal of --- we're still  
7 developing what we would call reasonable regulation.  
8 Our principle is to protect the public, protect all  
9 the entities, the Horsemen, you guys, but this has  
10 been a step-by-step-by-step careful process, which I  
11 hope now will not be unnecessarily bureacratic and  
12 still covers all of the needs and is an example,  
13 maybe, how this industry needs to come online, so I'm  
14 pleased.

15 ATTORNEY KOHLER:

16 We agree with your comments,  
17 Commissioner. I think this has generally been  
18 successful and, from Parx's perspective, necessary in  
19 order to approve the arrangement we are proposing. As  
20 I pointed out to the Board from the beginning, it may  
21 be provided for some time and then modified or  
22 rescinded, and that's what's happened. So I think the  
23 whole thing has worked well and has sort of proceeded  
24 how it was originally envisioned to proceed.

25 CHAIRMAN:

1 Any other questions, comments from the  
2 Board? Anybody else? Do any of the parties have any  
3 further comments?

4 Okay. Thank you. This concludes the  
5 public hearing, ladies and gentlemen. We will vote on  
6 this matter today under Chief Counsel's report. Thank  
7 you, gentlemen.

8 \* \* \* \* \*

9 HEARING CONCLUDED AT 10:15 A.M.

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12  
13 CERTIFICATE

14 I hereby certify that the foregoing  
15 proceedings, hearing held before Chairmany Ryan, was  
16 reported by me on 06/13/2012 and that I Jolynn C.  
17 Prunoske read this transcript and that I attest that  
18 this transcript is a true and accurate record of the  
19 proceeding.

20 Jolynn C. Prunoske  
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