

NEW JERSEY RACING COMMISSION
WEDNESDAY, OCTOBER 23, 2019
MONMOUTH PARK
“LIBRARY ROOM”
OCEANPORT, NEW JERSEY

A special public meeting of the New Jersey Racing Commission was held on Wednesday, October 23, 2019 in the Library Room located at Monmouth Park in Oceanport, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Francis X. Keegan, Jr., Commissioner
Michael J. Arnone, Commissioner
Glen Vetrano, Commissioner
Judith A. Nason, Executive Director
SDAG George Cohen
Lauren LaRusso, Governor’s Authorities Unit (telephone)
Christina Broderick, DAG, Office of the Attorney General
Leland Moore, Office of the Attorney General

Executive Director Nason read the following statement:

“This meeting today conforms with the Open Public Meetings Act and, as per the requirements of the statute, notification of this meeting has been filed with the Secretary of State and with the following newspapers: Daily Racing Form, Bergen Record, Asbury Park Press, Courier-Post and the Star Ledger.

WHEREAS, in order to protect the personal privacy and to avoid situations wherein the public interest might be disserved, the Open Public Meetings Act permits bodies to exclude the public from that portion of a meeting at which certain matters are discussed.

NOW, THEREFORE, BE IT RESOLVED that consistent with N.J.S.A. 10:4-12(b), the Commission will now adjourn to executive session to obtain legal advice protected from disclosure by the attorney-client privilege on the following matters:

1. Legal advice concerning the allocation of horse racing purse subsidies to the thoroughbred and standardbred industries for fiscal year 2020 in accordance with N.J.S.A. 5:5-99.1;
2. Legal advice concerning the adoption of N.J.A.C. 13:74-2.4, 2.5 and 2.6 which repeal and replace off-track wagering progress benchmarks required by N.J.S.A. 5:5-130; and
3. Other legal advice.

Discussion of the above matters falls within the exceptions under the law; specifically, matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the Commission's attorney to exercise his ethical duties as a lawyer, and/or matters involving pending or anticipated litigation."

Commissioner Keegan motioned to adopt the resolution to adjourn into Executive Session. Chairman Clyne seconded the motion. All of the Commissioners voted to affirm. The Commission then adjourned to Executive Session.

Chairman Clyne made a motion to adjourn from Executive Session into the Public Session. Commissioner Vetrano seconded the motion and the Commissioners voted to affirm. The Executive Session ended.

CONSIDER APPROVAL OF THE PUBLIC AND EXECUTIVE SESSION MINUTES OF THE SEPTEMBER 18, 2019 COMMISSION MEETING

Commissioner Arnone made a motion to approve the public and executive minutes of the September 18, 2019 Commission meeting. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER THE ALLOCATION OF HORSE RACING PURSE SUBSIDIES TO THE THOROUGHBRED AND STANDARD BRED INDUSTRIES FOR FY2020 IN ACCORDANCE WITH N.J.S.A. 5:5-99.1

Executive Director Nason explained that Governor Murphy signed S2992, which was codified as N.J.S.A. 5:5-99.1, into law on February 14, 2019. The bill appropriates \$20 million annually for horse racing purse subsidies beginning in FY2019 and continuing for four fiscal years thereafter. The bill specifies exactly how the subsidies must be allocated. Executive Director Nason reminded the Commissioners that the Commission allocated monies for FY2019 at its February 27, 2019 meeting.

Chairman Clyne moved that the Commission allocate the following amounts of monies to the horse racing industry for Fiscal Year 2020 as required by the statute: \$10 million to Monmouth Park overnight purses; \$6 million to New Meadowlands Racetrack overnight purses; \$1.6 million to Freehold Raceway overnight purses; \$1.2 million to New Jersey Sire Stakes purses; \$600,000 to purse bonuses for New Jersey sired horses; and \$600,000 to breeders' awards purses.

Commissioner Vetrano seconded the motion and all Commissioners voted yes.

CONSIDER THE PROPOSAL OF AMENDMENTS TO N.J.A.C. 13:70-11.12 AND PROPOSED NEW RULES N.J.A.C. 13:70-11.12A AND 11.12B (RIDING CROP PROHIBITED; EMERGENCY USE OF RIDING CROP; RIDING CROP)

Executive Director Nason explained that the proposal before the Commission will be advertised for public comment if approved. The new rules and amendments would prohibit the use of the riding crop in thoroughbred racing except when necessary to control the horse for the safety

of the horse or rider. The proposal would allow jockeys to continue to carry riding crops but limits the acceptable uses of the riding crop and specifies the permissible dimensions and construction of the riding crops. If approved, the proposal may meet the deadline to be published in the December 2, 2019 edition of the New Jersey Register, at which time the public would receive a 60-day period for filing comments.

Commissioner Vetrano asked whether amendments could be made after the advertisement period. Executive Director Nason answered that amendments could be made thereafter.

Chairman Clyne made the following motion: "The Commission's rules currently allow the use of the riding crop to encourage the horse. As the Executive Director pointed out, this proposal would prohibit the use of the riding crop except when necessary for the safety of the horse and rider. This Commission is responsible for the health, safety and welfare of the horses and humans who compete. I think it is time that to move forward and consider changing our current, riding crop rules. As a result, I move that the Commission propose these new rules and amendments for public comment."

Commissioner Arnone seconded the motion.

Commissioner Arnone asked how these rules were constructed and if they were created solely in house. Executive Director Nason answered that they were based upon the rule proposal recently considered in California in March 2019. She also explained that staff worked very hard on these rules to create the proposal before the Commissioners.

Commissioner Arnone then asked if the Commission had the opportunity to make amendments after comments were received from the public. Executive Director Nason answered that the Commission would have that opportunity.

Commissioner Vetrano asked whether there is a uniform change throughout the industry towards this type of rule. Executive Director Nason explained that New Jersey is in the forefront of the proposal to ban the usage of riding crops in thoroughbred racing. She also stated that The Jockey Club made a public call at its Roundtable Conference earlier this year for states to move forward in banning the use of the riding crop to encourage of the horse.

Dennis Drazin questioned that if federal legislation were to be enacted and be inconsistent with New Jersey law, would that federal law take precedence as a national uniform standard. Executive Director Nason responded that the Commission would have to take a look at any such legislation when presented.

Dennis Drazin then asked if these proposed rules would be available prior to publication in the NJ Register. Executive Director Nason explained that the proposals would not be available until published. She indicated that the NJRC will make them available on the Commission's website as quickly as possible upon publication so that all members of the public had the same amount of time in which to respond.

The matter was brought to a vote and all Commissioners voted yes to publish the proposal.

CONSIDER THE PROPOSAL OF AMENDMENTS TO N.J.A.C. 13:71-20.14 (WHIPS) AND N.J.A.C. 13:71-20.15 (RESTRICTED USE OF WHIP AND PROHIBITION OF GOADING DEVICES)

Executive Director Nason stated that the proposal would restrict the use of the whip in standardbred racing and would limit drivers to wrist action only while keeping a line in each hand throughout the race. The proposal would also prohibit one-handed whipping at any time during the race and would shorten the permissible length of the whip and the snapper. The proposal would also require a post-race visual inspection of each horse to look for evidence of excessive or brutal use of the whip. Executive Director Nason then explained that this rule would be consistent with rules already adopted in Minnesota, Indiana and Ontario.

Commissioner Vetrano commented that uniform national rules would be helpful to the industry and for the health and welfare of the animal. He added that he is interested to see the industry's opinion and comments on this proposal.

Chairman Clyne moved to publish the proposed standardbred whipping rule amendments for public comment. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE PROPOSAL OF NEW RULES N.J.A.C. 13:70-1.43 AND N.J.A.C. 13:71-1.38 (CANCELLATION OF RACING TO PROTECT THE HEALTH, SAFETY AND WELFARE OF RACING PARTICIPANTS)

Executive Director Nason explained that this new rule is being proposed to both the thoroughbred and standardbred rule chapters and would give the Executive Director of the Commission the authority to postpone or cancel racing in the event of the existence of extreme weather conditions. She also stated that the rule would provide clarity and reassure the public that a regulatory process is in place to oversee race conditions in order to protect the horses and humans who compete.

Commissioner Keegan made a motion to advertise the proposed new rules for public comment. Commissioner Arnone seconded the motion.

Dennis Drazin asked whether the rule would include moving races off of the turf in the existence of heavy rain while still continuing with the rest of the racing card. Executive Director Nason explained that the rule envisions the Commission and the racetrack personnel being in contact throughout this process and indicated that the rule is more intended to handle extreme conditions such as heat or ice.

Dennis Drazin explained that the racetracks have very little time to make a decision. Executive Director Nason said she understands the timing concerns and noted that the proposal intends that the racetracks make the initial determination whether to cancel races for inclement conditions.

All Commissioners voted yes to publish the proposal for public comment.

CONSIDER THE PROPOSED OF AMENDMENTS TO N.J.A.C. 13:70-2.1 AND 14.16 AND N.J.A.C. 13:71-4.1 AND 20.14 (DEFINITIONS; EQUINE FATALITY REPORT)

Executive Director Nason explained that these rule amendments are proposed for both thoroughbred and standardbred racing. In thoroughbred racing, the amendments would require a necropsy be conducted on any horse that dies on the racetrack during racing or training or within one hour of racing or training on a racetrack. In standardbred racing, the amendments would require a necropsy be performed on any horse that dies on the racetrack or any horse that dies within one hour of racing on the racetrack. The amendments would also establish a 48-hour timeframe within which a horse's death must be reported to the Commission and would require the deceased horse's attending veterinarian to provide treatment records of the deceased horse for the 30 day period preceding the horse's death. These treatment records must also be submitted within the 48-hour timeframe following the horse's death.

Commissioner Vetrano asked if this would affect training facilities as well because a one-hour notification would be difficult to satisfy if a death occurred at a training facility. Executive Director Nason answered that that provision of the rule would only apply to deaths occurring on the racetrack.

Commissioner Keegan stated that necropsies can provide important data as to why a horse broke down and that this information is important. He then moved that the Commission propose these amendments to the equine fatality rules.

Commissioner Arnone seconded that motion and all Commissioners voted yes.

CONSIDER APPROVAL OF FREEHOLD RACEWAY'S OFFICIALS, POOLS, POST-TIMES AND PRICES FOR THE 2019 SUMMER/FALL MEET

Executive Director Nason stated the general information relating to Freehold Raceway's 2019 Summer/Fall meet. She explained that there were no changes from the Winter/Spring meet. On September 27, 2019, Freehold Raceway sent a letter requesting approval for the format of the 2019 Summer/Fall meet. The Executive Director reviewed the request and sent a letter to Freehold Raceway, dated October 11, 2019, approving the format of the 2019 Summer/Fall meet subject to the ratification of the Commission.

Chairman Clyne moved to ratify the Executive Director's action. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF NEW MEADOWLANDS RACETRACK'S OFFICIALS, POOLS, POST-TIMES AND PRICES FOR THE 2019 FALL/WINTER STANDARDBRED MEET

Executive Director Nason stated the general information relating to New Meadowlands Racetrack's 2019 Fall/Winter meet. She explained that the only change from the Winter/Spring meet earlier this year was that Scott Warren replaced Peter Koch as the Racing Secretary. On

October 1, 2019, New Meadowlands sent a letter requesting approval for the format of the 2019 Summer/Fall meet. The Executive Director reviewed the request and sent a letter to New Meadowlands Racetrack, dated October 11, 2019, approving the format of the 2019 Fall/Winter meet subject to the ratification of the Commission.

Chairman Clyne moved to ratify the Executive Director's action. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE MONMOUTH PARK AT THE MEADOWLANDS RACETRACK'S OFFICIALS, POOLS, POST-TIMES AND PRICES FOR THE 2019 THOROUGHBRED RACE MEET

Executive Director Nason stated the general information relating to Monmouth Park at the Meadowlands 2019 meet. On September 27, 2019, Monmouth Park requested approval for the format of the 2019 meet. The Executive Director reviewed the request and sent a letter to Monmouth Park, dated October 11, 2019, approving the format of the 2019 meet subject to the ratification of the Commission.

Chairman Clyne moved to ratify the Executive Director's action. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE APPROVAL OF THE FAR HILLS SPECIAL STEEPLECHASE MEET'S OFFICIALS, POOLS, POST-TIMES AND PRICES

Executive Director Nason stated the general information relating to the Far Hills Special Steeplechase meet. She explained the participation of Darby Development and the Far Hills Race Association. On September 13, 2019, Monmouth Park sent a letter requesting approval for the format of the Far Hills meet. The Executive Director reviewed the request and sent a letter to Monmouth Park, dated October 11, 2019, approving the format of the 2019 Far Hills Special Steeplechase meet subject to the ratification of the Commission.

Executive Director Nason asked Dennis Drazin if he had any information regarding this year's wagering at the meet. Mr. Drazin stated that the live handle at the meet was \$294,000, up from \$210,000 the year before and that the simulcast handle was \$438,000, up from \$355,000 the year before.

Executive Director Nason noted that next year will be the 100th year of the steeplechase meet and wished Dennis Drazin best of luck with the anniversary meet.

Commissioner Keegan moved to ratify the Executive Director's action. Commissioner Vetrano seconded the motion and all Commissioners voted yes.

CONSIDER THE ADOPTION OF AMENDMENTS TO N.J.A.C. 13:74-2.4, 2.5 AND 2.6 WHICH REPEAL AND REPLACE OFF-TRACK WAGERING PROGRESS BENCHMARKS REQUIRED BY N.J.S.A. 5:5-130

Executive Director Nason explained that before the Commission is the adoption of a proposal that was published at 50 N.J.R. 2217(a) on November 5, 2018. Adoption of this proposal would repeal N.J.A.C. 13:74-2.4 through 2.8 and replace them with new rules 2.4, 2.5 and 2.6. The new rules replace the off-track wagering benchmark rules which set forth criteria for the statutory provision in N.J.S.A. 5:5-130 requiring that progress continue to be made on an annual basis in establishing an off-track wagering facility. The new rules grant the permit holders, horsemen's associations and well-suited entities more time to file an application, complete the application process and open the OTW for business.

After the proposal was published, the Commission received comments filed by Dennis A. Drazin, Chairman and CEO of Darby Development, LLC, and from James C. Meyer, Esq. on behalf of Freehold Raceway Off-Track, LLC and ACRA Turf Club, LLC. Staff summarized the comments and drafted responses, which were provided to the Commissioners. In addition, staff recommends the non-substantive changes in the Commissioners' packets.

The Executive Director noted that if the Commission votes to adopt, the adoption will likely appear in the New Jersey Register on November 18, 2019. The new rules will become effective when published.

Chairman Clyne moved to accept the summary of the comments and responses and to adopt the proposal. Commissioner Arnone seconded the proposal and all Commissioners voted yes.

CONSIDER THE ADOPTION OF AMENDMENTS TO N.J.A.C. 13:74-1.3, 2.1, 2.2, 2.3 AND 6.11 MADE NECESSARY BY THE ADOPTION OF THE NEW OFF-TRACK WAGERING PROGRESS BENCHMARK RULES

Executive Director Nason explained that the matter before the Commission is an adoption of a proposal that was published at 50 N.J.R. 2217(a) on November 5, 2018. The proposal contained technical and grammatical amendments to the off-track wagering rules listed in this agenda item, that were made necessary by the new benchmark rules the Commissioners just voted to adopt. The Commission received one comment, filed by Dennis A. Drazin. The comment, a summary of the comment and a draft response was provided to the Commissioners.

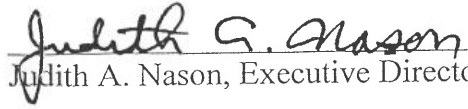
The Executive Director noted that if the Commission votes to adopt, the adoption will likely appear in the New Jersey Register on November 18, 2019.

Chairman Clyne moved to accept the summary of the comments and responses and to adopt the proposal. Commissioner Keegan seconded the proposal and all Commissioners voted yes.

No members of the audience raised new business with the Commission.

Commissioner Arnone moved to adjourn the meeting. Commissioner Vetrano seconded the motion and it was approved unanimously.

ATTEST:


Judith A. Nason, Executive Director