

NEW JERSEY RACING COMMISSION
WEDNESDAY, SEPTEMBER 19, 2018
“LIBRARY ROOM”
MONMOUTH PARK
OCEANPORT, NEW JERSEY

A meeting of the New Jersey Racing Commission was held on Wednesday, September 19, 2018 in the Library Room, located at Monmouth Park, Oceanport, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Michael J. Arnone, Commissioner
John A. Hoffman, Commissioner
Francis X. Keegan, Jr., Commissioner
Judith A. Nason, Acting Executive Director
DAG Susan M. Scott

Acting Executive Director Judith Nason read the following statement:

“This meeting today conforms with Chapter 231, P.L. 1975, called the ‘Open Public Meetings Act,’ and as per the requirements of the statute, notification of this meeting has been provided with the Secretary of State and with the following newspapers: Daily Racing Form, Bergen Record, Asbury Park Press, Courier-Post and the Newark 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 distribution of the Casino Simulcasting Special Fund monies accumulated in 2017 in the amount of \$473,193.11 pursuant to N.J.S.A. 5:12-205d;
2. Legal advice concerning a proposed settlement agreement with Darby Development, LLC concerning the early closure of the Hillsborough off-track wagering facility and other locations;
3. Legal advice concerning the proposal of new rules or amendments to N.J.A.C. 13:74D-1.1, -1.2, -2.1, -2.2, -2.3, -3.1, -3.2 and -3.3 applicable to sports wagering at a racetrack and the proposed repeal of 1.3;

4. Legal advice concerning the proposal of N.J.A.C. 13:74-2.4, -2.5, -2.6, -2.7 and -2.8 which repeal and replace off-track wagering progress benchmarks required by N.J.S.A. 5:5-130;
5. Legal advice concerning the proposal of amendments to N.J.A.C. 13:74-1.3, -2.1, -2.2, -2.3 and -6.11 made necessary by the proposed new off-track wagering progress benchmarks;
6. Legal advice concerning Monmouth Park's request for approval of various sports wagers involving the 2018 Breeders' Cup races; and
7. Other legal matters which includes Item 15 on the agenda: Consider Monmouth Park's cancellation of thoroughbred racing at the Meadowlands on September 14, 2018.

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. Chairman Clyne seconded the motion. All of the Commissioners present voted to affirm. The Commission then adjourned to Executive Session.

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

CONSIDER APPROVAL OF THE PUBLIC AND EXECUTIVE SESSION MINUTES OF THE JULY 18, 2018 COMMISSION MEETING

Commissioner Hoffman made a motion to approve the public and executive minutes of the July 18, 2018 public meeting. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER A RESOLUTION ON BEHALF OF RAYMOND K. MOLSKI

Acting Executive Director Judith Nason read the following resolution:

WHEREAS, Raymond K. Molski, who was employed by the New Jersey Racing Commission for 21 years, served as the Racing Commission's Assistant Director;

WHEREAS, Raymond K. Molski, in his capacity as Assistant Director, earned the respect of the employees of the Commission and the Commissioners under whom he served;

WHEREAS, Raymond K. Molski was instrumental in the establishment or improvement of important horse racing projects, including the Backstretch Community Assistance Program, New Jersey's racing industry's policy of providing workers' compensation insurance to industry employees, and the implementation of digital licensing;

WHEREAS, Raymond K. Molski's contributions to the New Jersey Horse Racing Injury Compensation Board and involvement with the Council on Compulsive Gambling of New Jersey will not be forgotten;

WHEREAS, Raymond K. Molski earned the respect and admiration of the entire racing community for conducting himself in a professional manner with dignity and integrity.

NOW, THEREFORE, BE IT RESOLVED that the members and staff of the New Jersey Racing Commission pay tribute to Raymond K. Molski for his distinguished career as a public servant, his integrity and character, and the dedication and professionalism he brought to his position as Assistant Director of the Racing Commission.

BE IT FURTHER RESOLVED, that on this 19th day of September 2018, this Resolution shall be recorded upon the permanent record of the New Jersey Racing Commission and a copy, signed by the members of the Racing Commission, be presented to Raymond K. Molski in further appreciation of his devoted service to the New Jersey Racing Commission and the State of New Jersey.

Commissioner Keegan motioned to accept the resolution. Chairman Clyne seconded the motion and all Commissioners voted to adopt the resolution.

CONSIDER A RESOLUTION ON BEHALF OF DR. DEBORAH LAMPARTER

Acting Executive Director Judith Nason read the following resolution:

WHEREAS, Dr. Deborah Lamparter, was employed by the New Jersey Racing Commission for 41 years and served as the Racing Commission's Chief State Veterinarian;

WHEREAS, Dr. Lamparter was responsible for creating New Jersey's race day examination procedures which became a model program adopted by racing jurisdictions nationwide and was also instrumental in establishing New Jersey's pre-race Lasix administration procedures;

WHEREAS, Dr. Lamparter's volunteer service as the Team Leader of the Breeder's Cup Injury Management Team since 2006 and her being chiefly responsible for implementing the Breeder's Cup out-of-competition testing program has made her an eminent national and international figure in veterinarian medicine;

WHEREAS, Dr. Lamparter was a member of the American Association of Equine Practitioners since 1977 and has served on a number of the Association's Committees;

WHEREAS, Dr. Lamparter's contributions to the New Jersey Racing Commission, which are essential to the welfare of the horses and humans that compete, have helped shape the racing industry in this State;

WHEREAS, the New Jersey Racing Commission is proud and honored to have had Dr. Lamparter contributing her expertise, devotion and passion as a representative of this Commission.

NOW, THEREFORE, BE IT RESOLVED that the members and staff of the New Jersey Racing Commission pay tribute to Dr. Lamparter for her distinguished career as a public servant and the dedication and professionalism she brought to her position as Chief State Veterinarian.

BE IT FURTHER RESOLVED, that on this 19th day of September 2018, this Resolution shall be recorded upon the permanent record of the New Jersey Racing Commission and a copy, signed by the members of the Racing Commission, be presented to Dr. Deborah Lamparter in further appreciation of her devoted service.

Commissioner Keegan motioned to accept the resolution. Chairman Clyne seconded the motion and all Commissioners voted to adopt the resolution

CONSIDER THE APPOINTMENT OF A REPRESENTATIVE OF THE NEW JERSEY RACING COMMISSION TO THE NEW JERSEY HORSE RACING INJURY COMPENSATION BOARD PURSUANT TO N.J.S.A. 34:15-132

Commissioner Hoffman made a motion to appoint Chairman Clyne and she can appoint a designee if she so elects to the New Jersey Horse Racing Injury Compensation Board. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER DISTRIBUTION OF THE CASINO SIMULCASTING SPECIAL FUND MONIES ACCUMULATED IN 2017 IN THE AMOUNT OF \$473,193.11 PURSUANT TO N.J.S.A. 5:12-205d

Acting Executive Director Nason stated that the Casino Simulcasting Special Fund monies accumulated in 2017 total \$473,193.11. She stated that submissions were received from the racetracks and horsemen's groups for the year in question. The Commissioners voted to allow additional oral comments concerning the 2017 Casino Simulcasting Special Fund monies.

Freehold Raceway

Howard Bruno, General Manager, stated that Freehold had nothing further to add.

New Meadowlands Racetrack

There was no representative from the New Meadowlands Racetrack present.

Monmouth Park (Darby Development, LLC)

Bill Knauf, Vice President, stated that Monmouth Park had nothing further to add.

NJTHA

Michael Musto, Executive Director, had no further comments.

NJTBA

Michael Campbell, Executive Director, had no further comments.

NJSBOA

Al Ochsner, Executive Administrator, had no further comments. Chairman Clyne asked the SBOA to submit information that specifies the amount of monies the SBOA is requesting concerning the retirement organizations which is the information the Commission required last year. Mr. Ochsner stated that while the SBOA does not know the amount of funds it will receive, it is anticipated that 13% of the funds received will be allocated to the retirement organizations and he will provide this information in writing to the Commission.

Acting Executive Director Nason indicated that in the past, once the Commission entertained verbal comments, the record was closed and the matter was referred to a committee. This year only two Commissioners can serve on the committee otherwise it will constitute a quorum.

Chairman Clyne motioned to close the record but allow the SBOA to submit further information. Commissioner Hoffman seconded the motion and all Commissioners voted yes.

Commissioner Hoffman motioned that Chairman Clyne and Commissioner Keegan be appointed on the Casino Simulcasting Special Fund Committee. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF THE APPROVAL GRANTED TO FREEHOLD RACEWAY OF OFFICIALS, DEPARTMENT HEADS, POOLS, POST-TIME AND PRICES FOR ADMISSION, PARKING AND PROGRAMS FOR THE FALL MEET

Commissioner Hoffman made a motion to ratify prior approval granted Freehold Raceway for the 2018 fall meet. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF THE APPROVAL TO CANCEL LIVE RACING AT FREEHOLD RACEWAY ON SEPTEMBER 3, 2018 DUE TO THE UNAVAILABILITY OF HORSES

Chairman Clyne moved that the Commission ratify approval of the cancellation of racing at Freehold Raceway on September 3, 2018 and that the Commission designate September 29, 2018 at Freehold Raceway as the replacement "Charity Race Day for the Developmentally Disabled." Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE APPROVAL OF OFFICIALS, DEPARTMENT HEADS, POOLS, POST-TIME AND PRICES FOR ADMISSION, PARKING AND PROGRAMS FOR THE FAR HILLS SPECIAL STEEPLECHASE MEET

Acting Executive Director Nason indicated that this is the first year legal pari-mutuel wagering will be conducted on the Far Hills meet under the permit of Monmouth Park. The request includes approval to offer exchange wagering and simulcasting. She reminded Monmouth Park that the request for a 4 for 4 Grand Slam parlay sports wager needs to be submitted to the Division of Gaming Enforcement for approval.

Commissioner Hoffman motioned to approve the race format for the Far Hills special steeplechase meet with the exception of the 4 for 4 Grand Slam parlay sports wager. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER A PROPOSED SETTLEMENT AGREEMENT WITH DARBY DEVELOPMENT, LLC CONCERNING THE EARLY CLOSURE OF THE HILLSBOROUGH OFF-TRACK WAGERING FACILITY AND OTHER LOCATIONS

Acting Executive Director Nason stated that the settlement agreement with Darby Development, LLC involves one alleged violation of N.J.S.A. 5:5-137 concerning the early closure of the Hillsborough Off-Track Wagering facility and other locations. As part of the settlement agreement, Darby Development will make a payment of \$10,000 in full and final satisfaction of the matter, and pursuant to the terms of the settlement agreement, the payment shall be used for the Backstretch Fund in accordance with the requirements of N.J.S.A. 5:5-44.8(a).

Chairman Clyne made a motion to accept the settlement agreement. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE PROPOSAL OF NEW RULES OR AMENDMENTS TO N.J.A.C. 13:74D-1.1, -1.2, -2.1, -2.2, -2.3, -3.1, -3.2 AND -3.3 APPLICABLE TO SPORTS WAGERING AT A RACETRACK AND THE PROPOSED REPEAL OF 1.3

Acting Executive Director Nason indicated that emergency sports wagering rules were previously adopted in June 2018 and the rules expire in March 2019. Pursuant to the Administrative Procedure Act, the Commission is required to propose new sports wagering rules.

Chairman Clyne made a motion to approve the advertisement of the proposed amendments and new sports wagering rules. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE PROPOSAL OF N.J.A.C. 13:74-2.4, -2.5, -2.6, -2.7 AND -2.8 WHICH REPEAL AND REPLACE OFF-TRACK WAGERING PROGRESS BENCHMARKS REQUIRED BY N.J.S.A. 5:5-130

Acting Executive Director Nason stated that the Commission promulgated benchmark rules, however, the rules were stayed in 2014 while litigation proceeded in Federal Court. The rules are now obsolete and the Commission needs to propose new progress benchmarks rules.

Commissioner Hoffman made a motion to approve the advertisement of the proposed amendments and new rules. Commissioner Arnone seconded the motion and all Commissioners voted yes.

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

Acting Executive Director Nason stated that the proposed amendments are made necessary by the proposal of the off-track wagering benchmark rules that were previously considered.

Chairman Clyne made a motion to approve the advertisement of proposed amendments to the off-track wagering rule. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER MONMOUTH PARK'S REQUEST FOR APPROVAL OF VARIOUS SPORTS WAGERS INVOLVING THE 2018 BREEDERS' CUP RACES

The Acting Executive Director indicated that Monmouth Park is requesting Commission approval of various sports wagers it intends to offer in connection with the Breeders' Cup races which will be conducted at Churchill Downs on November 2 and 3. The Acting Executive Director indicated that Racing Commission approval is needed for legal wagers that are accepted on horse races that are conducted in another state. The Interstate Horse Racing Act requires that the Racing Commission in the state where the wagers are placed grant its approval. Other approvals are also necessary.

Commissioner Hoffman motioned to approve the request subject to Monmouth Park obtaining the consents required by the Interstate Horse Racing Act and the approval of the New Jersey Division of Gaming Enforcement. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER MONMOUTH PARK'S CANCELLATION OF THOROUGHBRED RACING AT THE MEADOWLANDS ON SEPTEMBER 14, 2018

The Acting Executive Director stated that on September 14, 2018 the Commission received a request from Darby Development, LLC to cancel live racing at the Meadowlands due to the wet turf course at the Meadowlands Racetrack. Darby Development LLC indicated that this was an act of God and they are not presently considering rescheduling the matter at this time.

Chairman Clyne indicated that this agenda shall be divided into two parts—to reschedule the Charity Racing day and to consider the cancellation of the race date. The Chairman understands that the cancellation of the race was posted on the Monmouth Park web site several days prior to the cancellation and the Commission was not notified until the day of the canceled date.

John Heims, Race Secretary at Monmouth Park, advised the Commissioners that Judith Nason notified Bill Knauf, of Monmouth Park, that the Commission did not receive a request for the cancellation. He stated that, at this point, he drafted a letter immediately and emailed it to Acting Executive Director Nason, the email did not go through. He attempted to fax the letter and it would not go through so he forwarded the letter from his private law firm. Mr. Heims described the track conditions as being far inundated with moisture and dampness and it continued on from the Tuesday when they decided to cancel all the way up through the Friday. After racing at the Meadowlands on Saturday, the track was chewed up so Darby knew for certain they made the right call in cancelling racing on Friday. The course will have to be evaluated in order for Darby to assess whether it is going to make up the date.

Chairman Clyne asked John Heims why the cancellation was placed on the web site and the Commission was not notified. John Heims noted a recent change in personnel for Darby and responded that it was an oversight on the part of his office and Bill Knauf to notify the Commission.

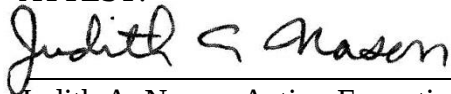
Commissioner Hoffman asked John Heims if Monmouth Park conferred with the Meadowlands as to what their staff thought about the condition of the turf course. Mr. Heims responded that Monmouth did consult with the Meadowlands and if there was no more rain they thought it might be suitable for Friday. John Heims stated that in the interest of the horsemen entering horses, if they wound up not racing, they thought it was best just to cancel racing. Commissioner Hoffman stated that he read that the owner of the Meadowlands said his staff felt that the turf was fine. John Heims stated that was not the conversation he had with the Meadowlands' staff. Commissioner Hoffman asked John Heims if he is aware that the racetrack has to notify the Commission and he said that he is certainly aware now.

Chairman Clyne motioned to reschedule the Charity Race Day Developmentally Disabled to September 29, 2018. Commissioner Hoffman seconded the motion and all Commissioners voted yes.

Commissioner Hoffman made a motion to have staff conduct an investigation and recommendation as to whether it was appropriate for Monmouth Park to cancel the September 14 race date and the rationale as to why the Racing Commission was not notified. Chairman Clyne seconded the motion and all Commissioners voted yes with the exception of Commissioner Arnone who voted no. The motion carried.

There being no further discussion or comments from the public, Chairman Clyne moved that the meeting be adjourned. Commissioner Keegan seconded the motion and it was approved unanimously.

ATTEST:

A handwritten signature in cursive script, reading "Judith A. Nason", written over a horizontal line.

Judith A. Nason, Acting Executive Director