

**NEW JERSEY RACING COMMISSION
WEDNESDAY, JANUARY 24, 2024
FREEHOLD RACEWAY
“RENAISSANCE DINING ROOM”
FREEHOLD, NEW JERSEY**

A public meeting of the New Jersey Racing Commission (“NJRC” or “Commission”) was held on Wednesday, January 24, 2024 in the “Renaissance Dining Room” at Freehold Raceway, Freehold, New Jersey.

The following were present:

Lawrence DeMarzo, Commissioner
Michael J. Arnone, Commissioner (by phone)
Arlene Quinones Perez, Esq., Commissioner (by phone)
Charles E. Tomaro, Commissioner (by phone)
Glen Ventrano, Commissioner (by phone)
Judith A. Nason, Executive Director
Samuel Kovach-Orr, Assoc. Counsel, Governor’s Auth. Unit
Sara Ben-David, Counsel to the Attorney General (by phone)
SDAG George Cohen

Executive Director Nason read the following resolution:

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 request of Meadowlands Racetrack and Monmouth Park to amend their 2024 race dates.
2. Legal advice concerning action on the Petition for Rulemaking filed on behalf of Monmouth Park to amend N.J.A.C. 13:70-29.52.

3. Legal advice concerning the initial decision in Thomas Cancelliere v. New Jersey Racing Commission, OAL Docket No. RAC 01797-22.
4. Legal advice concerning a settlement agreement in John Wyatt v. New Jersey Racing Commission, OAL Docket No. RAC 06507-22.
5. 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 DeMarzo motioned to adjourn into Executive Session. Commissioner Perez seconded the motion. All of the Commissioners voted to adjourn.

Commissioner DeMarzo made a motion to adjourn from Executive Session into the Public Session. Commissioner Tomaro seconded the motion and all of the Commissioners voted yes.

CONSIDER APPROVAL OF THE PUBLIC AND EXECUTIVE SESSION MINUTES OF THE NOVEMBER 15, 2023 COMMISSION MEETING

Commissioner DeMarzo made a motion to approve the public and executive minutes of the November 15, 2023 Commission meeting. Commissioner Vetrano seconded the motion and all Commissioners voted yes.

CONSIDER THE GRANT OF A SPECIAL STEEPLECHASE PERMIT TO THE NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION FOR THE STEEPLECHASE MEET AT MOORLAND FARM ON OCTOBER 19, 2024

Executive Director Nason stated that in October, the New Jersey Thoroughbred Horsemen's Association filed an application for a special permit to conduct the steeplechase meet at Moorland Farm on October 19, 2024.

Executive Director advised that the Commission needed to table this matter at the November meeting because the statutory notice period was still pending. The notice period concluded on November 17, 2023.

Executive Director Nason indicated that neither the Borough of Far Hills nor Bedminster Township filed an objection to the special steeplechase meet and as a result, the Commission may now consider the grant of the special steeplechase permit to the THA for the one-day meet on October 19th.

Commissioner DeMarzo made a motion to approve the special steeplechase permit. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF THE CANCELLATION OF RACING AT NEW MEADOWLANDS RACETRACK ON JANUARY 6, 2024

Executive Director Nason stated that a winter storm was forecasted to hit northern New Jersey and New England on January 6 and 7, 2024 with heavy snow and high winds.

Executive Director Nason stated that on the morning of January 6, 2024, General Manager and Chief Operating Officer Jason Settlemoir requested approval to cancel racing at New Meadowlands Racetrack that evening out of an abundance of caution because the forecasted weather to the north and west of the track would make travel to the track extremely difficult, if not impossible.

Executive Director Nason advised that she approved the cancellation of racing subject to the Commission's approval at the January 24, 2024 public meeting.

Commissioner Arnone made a motion to ratify the cancellation of racing at the Meadowlands Racetrack. Commissioner DeMarzo seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF MEADOWLANDS RACETRACK AND MONMOUTH PARK TO AMEND THEIR 2024 RACE DATES

Executive Director Nason stated that the Commissioners may recall that at the last meeting, the thoroughbred dates and standardbred dates, which the two permit holders requested for the Meadowlands Racetrack, were in conflict.

Executive Director Nason went on to say that the Commission approved the dates upon the condition that the permit holders reach an agreement and submit amended race date requests to the Commission prior to the January 2024 meeting.

Executive Director Nason stated that by letter dated December 15, 2023, Monmouth Park filed a request to amend the 2024 thoroughbred dates the Commission allocated for the Meadowlands Racetrack at the November meeting.

Executive Director Nason advised that the amended request is a reduction from 20 days to 10 days at the Meadowlands. Pursuant to the amended request, the main track will not be converted and all 10 days will be conducted on the turf course as it was last year. Races will take place on Fridays and Saturdays from September 20th through October 18th and on Monday, October 14th.

Executive Director Nason pointed out that if approved, the total number of thoroughbred race dates for 2024 will be 62 days, which is the same number of thoroughbred race dates allocated for 2023. The amended race date request will allow standardbred racing to occur on the main track in the fall.

Executive Director Nason advised that on December 23, 2023, New Meadowlands Racetrack ("NMR") also filed an amended race date request with the Commission. New Meadowlands Racetrack has arranged to have the prestigious Breeders Crown races conducted at the track on October 25 and 26, 2024.

Executive Director Nason stated that in the amended date request, NMR asks the NJRC to approve the addition of racing on October 18 and 19, 2024 and the cancellation of Thursdays, January 4 and 11, 2024.

Executive Director Nason stated that if approved, the total number of standardbred race dates at the Meadowlands will continue to be 90 days, which is the same number of standardbred days allocated for this racetrack in 2023.

Commissioner Arnone made a motion to grant the request of Meadowlands Racetrack and Monmouth Park to amend their 2024 race dates. Commissioner DeMarzo seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF CHARITY DAYS FOR 2024

Executive Director Nason stated that pursuant to statute, the Commission must designate 5 race days per permit as charity racing days: 3 days to benefit the developmentally disabled, 1 day for backstretch benevolency programs and 1 day to benefit the Horse Park and retired race horses.

Executive Director Nason advised that staff has prepared a proposed list of charity racing days intended to result in the highest amount of revenue for the charities.

Commissioner DeMarzo made a motion to approve the charity days for 2024. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

CONSIDER ACTION ON THE PETITION FOR RULEMAKING FILED ON BEHALF OF MONMOUTH PARK TO AMEND N.J.A.C. 13:70-29.52

Executive Director Nason advised that on December 13th, the Commission received a petition for rulemaking from John F. Heims, Esq., In-House Counsel for Monmouth Park.

Executive Director Nason stated that the petition asks the Commission to amend N.J.A.C. 13:70-29.52, which is the Pick N rule, by adding a subsection (p) that would allow the racetrack, upon 48-hour notice to the Commission, to elect to pay out an entire Pick (N) pool, including the carryover, on a selected day in accordance with subsection (l) of the rule.

Executive Director Nason indicated that petitioner states that the purpose of the request for rulemaking is that the proposed change will allow the racetrack to remain competitive with out-of-state racetracks and to maximize handle and profits.

Executive Director Nason advised that on December 21st, the Commission filed the required Notice of Receipt of Petition for Rulemaking with the Office of Administrative Law and it will be published in the New Jersey Register on February 5, 2024.

Executive Director Nason pointed out that by rule, the Commission has three possible courses of action on the petition for rulemaking. The Commission can deny the petition, grant the petition and initiate rulemaking within 90 days, or refer the petition to staff for further deliberations for up to 90 days.

Executive Director Nason stated that staff recommend that the Commission refer this matter for further deliberations to allow staff time to determine if payout on a selected day, as proposed by Monmouth Park, would be consistent with the rules and practices of other racing commissions.

Commissioner Vetrano made a motion to refer the petition to staff for further deliberations for up to 90 days. Commissioner DeMarzo seconded the motion and all Commissioners voted yes.

CONSIDER READoption OF THE RULES LOCATED AT N.J.A.C. 13:70 (HORSE RACING)

Executive Director Nason stated that the rules in Title 13, Chapter 70, which regulate thoroughbred racing, are scheduled to expire on August 28, 2024.

Executive Director Nason indicated that the draft Notice of Readoption, if approved and filed with the Office of Administrative Law, will ensure that the horse racing rules remain in effect for the next seven years.

Commissioner DeMarzo made a motion to readopt the rules located at N.J.A.C. 13:70. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

CONSIDER READOPTION OF THE RULES LOCATED AT N.J.A.C. 13:71
(HARNESS RACING)

Executive Director Nason stated that the rules in Title 13, Chapter 71, which regulate harness racing, are also scheduled to expire on August 28, 2024.

Executive Director Nason indicated that the draft Notice of Readoption, if approved and filed with the Office of Administrative Law, will ensure that the harness racing rules remain in effect for the next seven years.

Commissioner Tomaro made a motion to readopt the rules located at N.J.A.C. 13:71. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER READOPTION OF THE RULES LOCATED AT N.J.A.C. 13:74A (SELF-EXCLUSION LIST)

Executive Director Nason stated that the rules in Title 13, Chapter 74A regulate the self-exclusion list. She said these rules implement the statutory provisions that authorize persons who perceive themselves to be problem gamblers to request that their names be placed on the self-exclusion list.

Executive Director Nason explained that entry of a person's name on this list prohibits that person from wagering on horse racing at the racetracks, at off-track wagering facilities, through the New Jersey account wagering system and through fixed odds wagering. These rules are scheduled to expire on July 20, 2024.

Executive Director Nason advised that the draft Notice of Readoption, if approved and filed with the Office of Administrative Law, will ensure that the self-exclusion rules remain in effect for the next seven years.

Commissioner DeMarzo made a motion to readopt the rules located at N.J.A.C. 13:74A. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER ADOPTION OF NEW RULES LOCATED AT N.J.A.C. 13:74C
(EXCHANGE WAGERING)

Executive Director Nason stated that the proposed exchange wagering rules were advertised for public comment at 55 N.J.R. 1623 (August 7, 2023). The Commission did not receive any comments on the proposed rules.

Executive Director Nason advised that the exchange wagering rules are substantially the same as the rules previously adopted by the Commission in 2014 that were set forth in Title 13, Chapter 74C. These rules expired on April 20, 2022.

Executive Director Nason stated that New Jersey's exchange wagering system ceased to operate in September 2020 when Betfair US, LLC, the exchange wagering services agent, withdrew from the project.

Executive Director Nason pointed out that Darby Development, LLC, the exchange wagering management agent, has indicated that it is looking for an entity willing to reopen the exchange.

Commissioner DeMarzo made a motion that the Commission approve the adoption of the new rules located at N.J.A.C. 13:74C. Commissioner Perez seconded the motion and all Commissioners voted yes.

CONSIDER PROPOSED AMENDMENTS TO N.J.A.C. 13:70-3.30 AND 29.60;
N.J.A.C. 13:71-27.58; N.J.A.C. 13:72-1.1 AND 2.12; AND N.J.A.C. 13:74-1.1 AND
6.9 EXTENDING THE EXPIRATION OF MUTUAL TICKETS TO CONFORM TO
THE STATUTORY AMENDMENTS

Executive Director Nason stated that in P.L. 2021, c. 89, the Legislature amended certain statutes to extend the expiration date of pari-mutuel tickets from six months to twelve months from the date of sale.

Executive Director Nason stated that when the Legislature amended the statutes to extend the expiration of pari-mutuel tickets, those changes were implemented on the statutes' effective date. The Commission must now amend its rules to conform them to the statutory requirements.

Executive Director Nason advised that before the Commission are four separate draft Notices of Proposal which amend the rules referenced on the agenda to extend the date upon which a pari-mutuel ticket expires by an additional six months. The four draft Notices of Proposal amend the cited rules in Chapter 70 (horse racing), Chapter 71 (harness racing), Chapter 72 (casino simulcasting) and Chapter 74 (off-track and account wagering).

Executive Director Nason stated that staff recommend that the Commission approve the proposed amendments for publication in the New Jersey Register to obtain public comment.

Commissioner DeMarzo made a motion to approve the Notices of Proposal. Commissioner Tomaro seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE PROPOSED 2024 BUDGET OF THE THOROUGHBRED BREEDERS' ASSOCIATION OF NEW JERSEY

Executive Director Nason stated that on December 21, 2023, the Thoroughbred Breeders' Association of New Jersey ("TBA") submitted a proposed budget for 2024. The projected revenue for 2024 is \$68,150 with projected expenditures of \$277,074.

Executive Director Nason stated that the projected in-house revenue for 2024 includes \$20,000 from the New Jersey Thoroughbred Festival due to a sponsorship agreement with Malouf Auto Group and BCB Community Bank.

Executive Director Nason explained that the budget anticipates that the New Jersey Stallion Auction will generate \$25,000 for the 2024 breeding season. Other income includes membership dues, foal registrations and stallion registrations.

Executive Director Nason stated that subtracting the proposed 2024 in-house revenue of \$68,150 from the proposed expense budget, results in a request for Commission approval of \$208,924.

Commissioner DeMarzo made a motion to approve the Thoroughbred Breeders Association of New Jersey's proposed 2024 budget. Commissioner Arnone seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE PROPOSED 2024 STATUTORY BUDGET OF THE NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION, INC.

Executive Director Nason stated that the New Jersey Thoroughbred Horsemen's Association ("THA") has submitted its proposed 2.9% statutory budget for calendar year 2024. The statutory budget is funded by statutes, such as N.J.S.A. 5:10-7, which direct that a portion of sums deposited in pari-mutuel wagering pools be directed "for programs designed to aid the horsemen."

Executive Director Nason advised that the THA anticipates \$600,000 in revenue which is the same amount projected in its 2023 budget. The THA also projects expenditures of \$600,000, resulting in a balanced budget.

Executive Director Nason stated that the 2.9% statutory budget appears to be in compliance with N.J.A.C. 13:70-1.30, which requires that a minimum of 70% of the statutory revenue be spent on benevolence programs.

Executive Director Nason stated that pursuant to the proposed 2024 budget, 84.83% of the statutory revenue will be spent on benevolence programs.

Commissioner DeMarzo made a motion to approve the New Jersey Thoroughbred Horsemen's Association's proposed 2024 statutory budget. Commissioner Tomaro seconded that motion and all Commissioners voted yes.

CONSIDER THE INITIAL DECISION IN THOMAS CANCELLIERE V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 01797-22

Executive Director Nason stated that on May 15, 2021, "Ruthless Hanover," which was trained by Petitioner Thomas Cancelliere, won the 10th race at the Meadowlands Racetrack. The horse's post-race sample tested positive for Aminocaproic Acid, commonly known as Amicar, which is a Class 4 drug. Split sample testing confirmed the positive.

Executive Director Nason explained that the Board of Judges conducted a hearing and determined that Petitioner violated N.J.A.C. 13:71-23.1, 23.6, 23.7 and 23.8. The judges fined Petitioner \$1,000, disqualified the horse, ordered loss of purse and imposed ½ Multiple Medication Violation ("MMV") point.

Executive Director Nason advised that the Petitioner appealed and the matter was transmitted to the Office of Administrative Law ("OAL") as a contested case.

Executive Director Nason stated that on December 28, 2023, the Administrative Law Judge ("ALJ") issued an initial decision which affirmed the findings of violation and the \$1,000 fine, disqualification of the horse and loss of purse. However, the ALJ failed to consider the Board of Judges' imposition of the ½ MMV point.

Executive Director Nason explained that the initial decision is before the Commission to adopt, reject or modify. Executive Director Nason recommended that the Commission modify the initial decision by authorizing the issuance of the draft final decision.

Executive Director Nason stated that although the ALJ affirmed the findings of violation and the other penalties the Board of Judge imposed, he failed to address the ½ MMV point. This error should be corrected.

Commissioner Demarzo made the following motion:

“The ALJ failed to address the ½ MMV point imposed by the Board of Judges. MMV points are important because they accumulate and deter future positives. I move that the Commission adopt the ALJ’s findings of fact and conclusions of law but modify the penalties he imposed to include the ½ MMV point imposed by the Board of Judges.

I move that the Commission approve the draft final decision and direct staff to issue it on the Commission’s behalf.”

Commissioner Tomaro seconded the motion and all Commissioners voted yes.

CONSIDER A SETTLEMENT AGREEMENT IN JOHN WYATT V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 06507-22

Executive Director Nason stated that on February 25, 2021, a New Jersey Racing Commission investigator found that trainer John Wayne Wyatt (“Petitioner”) possessed hypodermic needles, other instruments of injection, and injectable substances in his stabling area at Busy Bee Farm, a licensed off-track training facility. The items confiscated included six lactated ringers solution bags, which were sent for testing. The solution in one bag tested positive for flunixin.

Executive Director Nason explained that on March 3, 2021, when Commission investigators went back to the farm to interview Petitioner, the Commission’s investigators discovered additional needles in his stabling area.

Executive Director Nason stated that on June 16, 2022, the Board of Judges conducted a hearing and found that Petitioner violated N.J.A.C. 13:71-7.29(a)(13), 23.6(c) and (d), and 23.9. The Board issued Ruling No. 22FRE83, which imposed two consecutive six-month license suspensions and two \$1,000 fines for the violations.

Executive Director Nason advised that the Petitioner appealed and the matter was transmitted to the Office of Administrative Law as a contested case.

Executive Director Nason stated that counsel for the parties have negotiated a proposed settlement agreement. Pursuant to the proposed settlement, Petitioner would agree to serve a 9-month license suspension, pay a \$3,000 fine, withdraw his appeal and waive his right to a hearing. He would have a record of violating N.J.A.C. 13:71-7.29(a)(13), N.J.A.C. 13:71-23.6(c) and (d) and N.J.A.C. 13:71-23.9.

Executive Director Nason stated that the decision whether or not to accept the terms of the proposed settlement agreement lies within the Commission's expertise and discretion.

Commissioner Vetrano made a motion to approve the proposed settlement agreement. Commissioner Perez seconded the motion. Commissioners Arnone, Perez, Tomaro and Vetrano all voted yes. Commissioner DeMarzo voted no.

Executive Director Nason stated that the motion carries.

ITEMS FOR DISCUSSION AND INFORMATION

The Executive Director asked if anyone would like to comment or bring new business to the Commission's attention.

John Campbell, President and CEO of the Hambletonian Society, recommended that the Commission consider the Association of Racing Commissioners International's Model Rules. Specifically, Mr. Campbell recommended that the Commission consider the Model Rule governing breaking.

There were no additional comments or questions.

Commissioner Arnone moved that the meeting be adjourned. Commissioner Tomaro seconded the motion and all of the Commissioners voted yes.

ATTEST:



Judith A. Nason, Executive Director