

**NEW JERSEY RACING COMMISSION
WEDNESDAY, MARCH 20, 2019
NEW MEADOWLANDS RACETRACK
“THE GALLERY” GRANDSTAND BUILDING, 2ND LEVEL
1 RACETRACK DRIVE, EAST RUTHERFORD, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, March 20, 2019 in the Gallery located at the New Meadowlands Racetrack in East Rutherford, New Jersey.

The following were present:

Pamela J. Clyne, Chairman
Francis X. Keegan, Jr., Commissioner
Judith A. Nason, Acting Executive Director
SDAG George Cohen

The following were absent:

Michael J. Arnone, Commissioner

Acting Executive Director 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 filed 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 request of Darby Development, LLC to continue the temporary waiver of N.J.A.C. 13:70-6.5 on an experimental basis to allow the uncoupling of horses at the 2019 Monmouth Park meet;
2. Legal advice concerning the application of Darby Development, LLC for approval pursuant to N.J.S.A. 5:5-189 to utilize thoroughbred purse monies to fund 2019-2020 workers’ compensation insurance premiums for thoroughbred horse racing industry employees;

3. Legal advice concerning the request of the Thoroughbred Breeders' Association of New Jersey to utilize 2018 surplus monies to pay awards pursuant to N.J.S.A. 5:10-7(f)(2)(c)(iii) to breeders of New Jersey-bred horses who earn portions of purses in out-of-state races; and
4. Legal advice concerning the Initial Decision in Kelvin Harrison v. New Jersey Racing Commission, OAL Docket No. RAC 03001-18N; and
5. Other legal matters.

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.

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

CONSIDER APPROVAL OF THE PUBLIC AND EXECUTIVE SESSION MINUTES OF THE FEBRUARY 27, 2019 COMMISSION MEETING

Chairman Clyne made a motion to approve the public and executive minutes of the February 27, 2019 public meeting. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER RATIFICATION OF THE APPROVAL GRANTED FOR THE 2019 HAMBLETONIAN FUTURE WAGER

Commissioner Keegan made a motion to ratify approval granted the New Meadowlands Racetrack to offer the 2019 Hambletonian Future Wager. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE NEW JERSEY THOROUGHBRED HORSEMEN'S ASSOCIATION TO AMEND THE 2019 THOROUGHBRED RACE DATES AT MONMOUTH PARK AND THE MEADOWLANDS RACETRACK

Acting Executive Director Nason stated that on February 26, 2019 the THA filed a request to amend the race dates to run 61 dates at Monmouth Park, 7 days at the Meadowlands on the turf course and one day at Far Hills. She indicated that this is a change from the approval granted at the November 2018 Commission meeting to race 56 days at Monmouth Park, 20 days at the Meadowlands and one day at Far Hills. At the time in November, it was the intention to

possibly turnover the racetrack at the Meadowlands and conduct racing on the dirt course. This decision has been postponed to next year.

John Heims, Esq., representing Monmouth Park, stated that their request that was submitted previously has changed due to the \$10 million for purse subsidies. Jason Settlemoir, the General Manager for the New Meadowlands Racetrack commented that the turnover of the track has been put off until 2020 which was an agreement made between the principals involved. He indicated that during October the New Meadowlands will be racing with a post-time of 7:15 p.m. and he believes that the thoroughbreds will be racing in the afternoon.

There were no public comments concerning the proposed amended race dates.

Chairman Clyne motioned to approve the amended race dates. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE APPROVAL OF THE RACE AND WAGERING FORMAT FOR THE 2019 MONMOUTH PARK MEET

Commissioner Keegan motioned to approve the race and wagering format for the 2019 Monmouth Park race meeting. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF DARBY DEVELOPMENT, LLC TO CONTINUE THE TEMPORARY WAIVER OF N.J.A.C. 13:70-6.5 ON AN EXPERIMENTAL BASIS TO ALLOW THE UNCOUPLING OF HORSES AT THE 2019 MONMOUTH PARK MEET

Acting Executive Director Nason stated that the Commission has received a request from Darby Development, LLC to continue the temporary waiver of the uncoupling rule. She indicated that if the experiment is continued, the temporary waiver would allow for the uncoupling of all horses regardless of common trainers or common ownership interests. In support of this request, the Acting Executive Director indicated that Darby included a certification of General Manager William Anderson as well as a copy of the documents that Darby submitted to the Commission last year when they originally made this request. In their request, Darby argues that the Commission should continue to allow uncoupling to address the shortage of race horses and increase the bet worthiness of their product. The certification of General Manager Anderson states that there were no identifiable issues with uncoupling during last year's meet and Mr. Anderson asserts that allowing uncoupling will benefit horse racing by increasing interest in wagering, field and size, thus achieving a larger handle and an improved and more marketable race product.

Acting Executive Director Nason stated that the Commission must decide if the economic impact that Darby believes will occur outweighs any potential negative impact on the integrity of the race and on the wagering public. It was noted that General Manager Anderson certified that there were no identified integrity issues during last year's meet and that Commission staff agrees with this assessment.

The Acting Executive Director indicated that this waiver will be in accordance with N.J.A.C. 13:70-1.39(b) which states in part that the Commission may grant a waiver of the coupling rule if it determines that such a waiver will benefit the horse racing industry in this state.

Mr. Heims confirmed that there were no recognizable issues with the uncoupling last year and while the uncoupling does not fill the fields any more than it would, it does increase the number of betting interests and handle, and in terms of a cost benefit analysis, there seems to be no cost but a tremendous amount of benefit.

Chairman Clyne made a motion to continue the temporary waiver of the coupling rule for the 2019 Monmouth Park meet to allow for the uncoupling of common trainers and common ownership interests as the experiment will benefit the horse racing industry. She included in this motion the provision that the Acting Executive Director shall be granted the sole discretion to terminate this experiment at any point if she believes it is warranted.

Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE APPLICATION OF DARBY DEVELOPMENT, LLC FOR APPROVAL PURSUANT TO N.J.S.A. 5:5-189 TO UTILIZE THOROUGHBRED PURSE MONIES TO FUND THE 2019-2020 WORKERS' COMPENSATION INSURANCE PREMIUM FOR THOROUGHBRED HORSE RACING INDUSTRY EMPLOYEES

The Acting Executive Director stated that on February 19, 2019, the New Jersey Horse Racing Injury Compensation Board met to approve the workers' compensation insurance policy for the horse racing industry employees. The thoroughbred portion of the policy is \$1,512,405 and pursuant to statute that governs the policy, the thoroughbred industry may take 4% from thoroughbred purses to pay for the policy. Currently, Darby and the THA estimates thoroughbred purses will be approximately \$15 million which will result in approximately \$600,000 being applied toward the premium. As a result, the THA requires an additional \$912,405 and is requesting to utilize the money from thoroughbred purses. The Acting Executive Director indicated that pursuant to N.J.S.A. 5:5-189, the THA, as a permit holder, is authorized to enter into an agreement with the THA, as a horsemen's association racing at the meet. The statute also indicates that the Commission may approve this use of purse money if it finds that the use will directly advance, preserve and enhance the overall economic well-being of the thoroughbred horse racing industry in New Jersey. The Acting Executive Director pointed out that the Commission has approved this use of additional thoroughbred purse monies to pay for the thoroughbred portion of the workers' compensation policy for the past two years.

Michael Musto, Executive Director of the THA, commented that this workers' compensation program is extremely beneficial to the racetrack and to the horsemen in that there will be an additional 400 to 500 horses entered at Monmouth Park. Mr. Musto thanked the Commission for supporting this program and especially the Horse Racing Injury Compensation Board.

Chairman Clyne stated the THA has established that this use of thoroughbred purse money to pay the workers' compensation insurance premium directly advances, preserves and enhances the overall economic well-being of the thoroughbred horse racing industry in New Jersey. The Chairman motioned that the Commission approve the use of an additional one million dollars in thoroughbred purse money to pay the premium. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE REQUEST OF THE THOROUGHBRED BREEDERS' ASSOCIATION OF NEW JERSEY TO UTILIZE 2018 SURPLUS MONIES TO PAY AWARDS PURSUANT TO N.J.S.A. 5:10-7(f)(2)(c)(iii) TO BREEDERS OF NEW JERSEY-BRED HORSES WHO EARN PORTIONS OF PURSES IN OUT-OF-STATE RACES

This item was withdrawn by the Thoroughbred Breeders' Association.

CONSIDER APPROVAL OF THE 2019-2020 BUDGET OF THE NEW JERSEY JOCKEY'S HEALTH AND WELFARE TRUST

The Acting Executive Director indicated that on January 9, 2019, the New Jersey Jockey's Health and Welfare Trust submitted its proposed budget for May 1, 2019 to April 30, 2020 and the proposed budget was endorsed by its Board of Trustees. Its estimated budget of the New Jersey Jockey's Health and Welfare Trust is \$183,170 and is 2.4% higher than its 2018 approved budget of \$178,873. The Acting Executive Director stated that N.J.S.A. 5:5-151(c) provides for an annual statutory contribution of \$150,000 to the New Jersey Jockey's Health and Welfare Trust. The budget anticipates contributions in addition to the statutory contribution of \$44,914 from active and retired riders and projects a surplus of \$11,744.

Mr. Heims commented that as in year's past, there is always an attempt to run a small surplus for the program and he would like to continue to utilize that surplus.

Commissioner Keegan motioned to approve the budget. Chairman Clyne seconded the motion and all Commissioners voted yes.

CONSIDER APPROVAL OF THE NEW JERSEY RACING COMMISSION'S FY 2019 PROGRAM BUDGET

Acting Executive Director Nason stated that the projected budget for FY 2019 is \$6,406,643 and this budget is a 14.8% decrease over the FY 2018 budget which was \$7,517,983. She indicated that the decrease is caused in part by the retirement of several key Racing Commission employees over the past several months.

Chairman Clyne motioned to approve the FY 2019 program budget. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER THE INITIAL DECISION IN KELVIN HARRISON V. NEW JERSEY RACING COMMISSION, OAL DOCKET NO. RAC 03001-18N

Acting Executive Director Nason stated that on June 24, 2017 the horse “Spicebomb” won the ninth race at the Meadowlands Racetrack. Following the race, the horse tested positive for cocaine and its metabolite at a very low trace level and the Judges determined that the level was a mitigating factor and imposed a \$1,000 fine on the trainer. The trainer, Mr. Harrison, appealed and the matter was forwarded to the OAL. The Administrative Law Judge issued an Initial Decision on January 30, 2019, which upheld the penalty imposed by the Judges, finding that the trainer violated N.J.A.C. 13:71-23.1 and 23.6.

Chairman Clyned motioned to adopt the Initial Decision. Commissioner Keegan seconded the motion and all Commissioners voted yes.

ITEMS FOR DISCUSSION AND INFORMATION

Acting Executive Director Nason acknowledged the Commission’s receipt of the following audited financial statements:

- Thoroughbred Breeders’ Association of New Jersey’s audited financial statements for the 2018 calendar year;
- Standardbred Breeders’ and Owner’s Association’s Audited Financial Statements for the 2018 calendar year; and
- Darby Development, LLC and Affiliate’s Audited Financial Statements for the 2017 calendar year

Financial Status

The financial status was available upon request.

OTHER

Jason Settlemoir, COO and General Manager of the New Meadowlands Racetrack wanted to advise that the New Meadowlands and Woodbine Entertainment Group has developed a new wager called the CAN-AM wager which is a Pick-4 and is approved by the regulatory body in Canada and subsequently approved by the New Jersey Racing Commission staff. The wager will begin this Friday, March 22, 2019 and if it is successful, the New Meadowlands will continue offering the wager on Saturday nights. Mr. Settlemoir also stated that he feels as an industry, we have gotten too far in the other direction concerning the past zero post-times, and as a result, the New Meadowlands and Woodbine Entertainment will begin to reduce the drag past zero and move back in the other direction.

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:

Judith A. Nason, Acting Executive Director