

**NEW JERSEY RACING COMMISSION
WEDNESDAY, SEPTEMBER 18, 2019
FREEHOLD RACEWAY
RENAISSANCE DINING ROOM
FREEHOLD, NEW JERSEY**

A meeting of the New Jersey Racing Commission was held on Wednesday, September 18, 2019 in the Renaissance Dining Room located at Freehold Raceway in Freehold, 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

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 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 New Meadowlands Racetrack's request that the Commission waive N.J.A.C. 13:71-23.8 to allow the racetrack to ban furosemide (Lasix) for all standardbred two year old races in 2020 and 2021 and for the Meadowlands Pace in 2021; and
2. 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. Commissioner Arnone seconded the motion. All of the Commissioners voted to affirm. The Commission then adjourned to Executive Session.

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

CONSIDER APPROVAL OF THE PUBLIC AND EXECUTIVE SESSION MINUTES OF THE MARCH 20, 2019 COMMISSION MEETING

Commissioner Arnone made a motion to approve the public and executive minutes of the May 15, 2019 Commission meeting. Chairman Clyne seconded the motion and all Commissioners voted yes.

Executive Director Nason took a moment to welcome newly-appointed Commissioner Glen Vetrano. Executive Director Nason explained that Commissioner Vetrano has an extensive standardbred background and is a welcome addition to the Commission.

CONSIDER THE RATIFICATION OF THE CANCELLATION OF RACING AT MONMOUTH PARK ON JULY 21, 2019 DUE TO EXTREME HEAT

Executive Director Nason explained that New Jersey experienced extremely high heat and humidity on Haskell weekend. Monmouth Park raced on July 20th, Haskell day, but Commission veterinarians recommended that racing be cancelled on Sunday, July 21st, because it was forecast to be an even hotter day. Monmouth Park made the request to cancel races on July 21st. Executive Director Nason approved the request of Monmouth Park subject to the Commission's ratification at today's meeting.

Chairman Clyne made a motion to ratify the cancellation of races on July 21, 2019 at Monmouth Park. Commissioner Keegan seconded the motion and all Commissioners voted yes.

CONSIDER NEW MEADOWLANDS RACETRACK'S REQUEST THAT THE COMMISSION WAIVE N.J.A.C. 13:71-23.8 TO ALLOW THE RACETRACK TO BAN FUROSEMIDE (LASIX) FOR ALL STANDARD BRED TWO YEAR OLD RACES IN 2020 AND 2021 AND FOR THE MEADOWLANDS PACE IN 2021

Executive Director Nason stated that on May 14th, 2019, New Meadowlands filed a request asking the Commission to waive the rule allowing Lasix for all two year old races being conducted at the Meadowlands in 2020 and 2021 and for the Meadowlands Pace in 2021. New Meadowlands has clarified that this request would apply only to standardbred horses racing at the Meadowlands and would not subject thoroughbred horses to the Lasix ban. Although New Meadowlands withdrew the request on June 24, 2019, the racetrack refiled the request on August 8, 2019.

In support of the request, Jeffrey Gural submitted a written statement explaining that it was not the racetrack's intention to eliminate Lasix permanently. However, Mr. Gural indicated that the racetrack could not ignore the Lasix issue. He indicated that only seven two year old horses raced on Lasix last year at the Meadowlands. Mr. Gural pointed out his belief that several thoroughbred racetracks would be attempting to ban Lasix for two year olds in 2020 and for all three year old stakes races in 2021. He pointed out that the Hambletonian and Hambletonian Oaks have not permitted Lasix for over thirty years. He concluded by stating "it is vital that our industry show that we care about the health of our animals and we believe that this is a simple way to show that we take this matter very seriously."

Executive Director Nason explained that Commission staff circulated New Meadowlands request to the industry groups to allow them to comment. Freehold Raceway indicated that it takes no position on the request and will not be making a similar request at this time for Freehold Raceway. The SBOA indicated that its Board of Directors voted on June 12, 2019, and again on August 27, 2019, not to support the Meadowlands request to suspend the rule allowing the use of Lasix. The SBOA also filed two additional letters written by the North American Association of Racetrack Veterinarians ("NAARV") and Dr. Thomas Tobin, respectively. The NAARV letter points out that both organizations that represent horse racing veterinarians, NAARV and the American Association of Equine Practitioners, support the use of Lasix on race day because "it is simply the right course of action for the equine athlete." Dr. Tobin's letter supports the use of Lasix and stresses that "there is no association in any scientific publication, between furosemide and breakdowns." Executive Director Nason pointed out that New Meadowlands Racetrack has not submitted a veterinarian opinion in support of its request to ban Lasix.

Executive Director Nason continued by explaining that the Racing Commission has a rule, N.J.A.C. 13:71-1.34, that applies to waivers. The rule requires that any request for a waiver "shall set forth in detail all facts that support the necessity of the requested relief." The rule states that the Commission may only grant a waiver if the Commission finds one of three things. 1. Such a waiver will benefit the horse racing industry in the State; 2. Such a waiver is consistent with the intent of the Commission's rules; or 3. Strict application of the rule would create an unnecessary hardship that is contrary to the public interest or the integrity of the sport.

Chairman Clyne made a motion to allow verbal comment on the issue. Commissioner Vetrano seconded the motion and all of the Commissioners agreed.

Scott Warren of New Meadowlands Racetrack spoke in support of the request. He stated that New Meadowlands does not want to debate the scientific argument of whether Lasix is good or bad for racehorses. Mr. Warren explained that New Meadowlands' request was based from a public relations standpoint and that they are only asking to ban the use of Lasix on two year olds and in the Meadowlands Pace, which is their signature pace race. He explained that banning Lasix in the racetrack's premier pace race would bring the standards of that race in line with the racetrack's premier trotting race, the Hambletonian, which already bans the use of Lasix. The request to ban Lasix use on two year old horses comes from a belief that two year olds will be given a better opportunity to develop and recover and not be pushed into racing too quickly if Lasix is not available to them.

Howard Bruno stated that Freehold Raceway had nothing to add beyond its written statement.

Mark Ford of the SBOA stated that when the current Lasix program was adopted there was a lot of time, effort and research put into it. The Lasix program is working very well and the SBOA does not see the point of going back and messing with the program. He also stated that it is impossible to know what is going to happen in the future regarding the public's reaction. The SBOA takes the position of "let's wait and see" before dismantling a system that has worked so well.

John Heims of Darby Development stated that Monmouth Park's sole goal is for the betterment of the horses and they follow the position of the American Association of Equine Practitioners who have stated that Lasix is the most effective treatment to be used on the horse. He pointed out that the purpose of the AAEP is to look out for the best interest of the horses. He also brought up a statement made by the ARCI that pointed out that a ban of Lasix would result in alternative treatments with dangerous side effects that must be considered when making this decision.

Executive Director Nason placed the matter before the Commission for action.

Chairman Clyne made the following motion:

New Meadowlands Racetrack is asking the Commission to waive N.J.A.C. 13:71-23.8, which creates uniform procedures for the race day administration of furosemide to horses. In seeking a waiver, NMR has the burden of setting forth in detail all facts that support the necessity for the requested relief.

While I commend NMR and Mr. Gural for making this request with a view toward preserving and protecting horse racing, I do not believe that NMR has submitted facts that establish the necessity of waiving the rule to allow NMR to ban Lasix as requested. The Commission received multiple veterinary positions that support the race day use of Lasix. In contrast, the Commission did not receive any veterinary opinion that supported the prohibition of Lasix for two year old horses.

I do not believe that NMR has met its burden of establishing that waiving the rule will benefit the horse racing industry in this State or that a waiver would be consistent with the intent of the Commission's rules. In addition, I do not believe that NMR has shown that strict application of the rule would create an unnecessary hardship for the racetrack that is contrary to the public interest or the integrity of the sport.

Waiving the rule would create inconsistency in New Jersey. Although NMR seeks to ban Lasix for two year old standardbred horses, Freehold Raceway has not requested that the rule be waived for its racetrack. In addition, the SBOA does not support the request to ban Lasix.

For these reasons, I move that the Commission deny New Meadowlands Racetrack's request to waive the furosemide rule.

Commissioner Vetrano seconded the motion and all Commissioners voted yes.

CONSIDER DISTRIBUTION OF THE CASINO SIMULCASTING SPECIAL FUND MONIES ACCUMULATED IN 2018 IN THE AMOUNT OF \$468,223.65 PURSUANT TO N.J.S.A. 5:12-205d

Executive Director Nason stated that the Commission has received written requests from each of the racetracks and horsemen's organizations for a share of the casino simulcasting special fund monies. Executive Director Nason explained that the actual amounts distributed to the requestors is not a question for this meeting. Today, the Commission need only decide whether to allow the racetracks and horsemen's organizations to make verbal statements to supplement their written requests.

The Commissioners then agreed to allow the requestors to make supplemental verbal comments.

Executive Director Nason summarized the statutory parameters of the requests and stated that Monmouth Park has requested the "most significant share of available CSF monies." Freehold Raceway has requested \$200,000. New Meadowlands has requested "an appropriate portion of the monies." The SBOA has request "a fair allocation after the monies have been distributed to the racetracks" which will be used for the health and welfare trust and the backstretch community assistance program. The SBOA said it will distribute approximately 15% of the funds it receives to programs for retired racehorses. The THA has requested 25% of the CSF to be used for health programs and a weekly health clinic. The TBA has requested \$78,037.28 which will go towards the 2019 New Jersey bred incentive program.

Monmouth Park did not wish to add anything additional to their written submission.

Freehold Raceway did not wish to add anything additional to their written submission.

New Meadowlands Racetrack did not wish to add anything additional to their written submission.

The SBOA did not wish to add anything additional to their written submission.

The THA did not wish to add anything additional to their written submission.

The TBA did not wish to add anything additional to their written submission.

There were no further comments. The Commission then decided to close the record.

Executive Director Nason explained that the procedure in the past was to appoint a committee to evaluate the requests of the racetracks and horsemen's associations and to make recommendations at a public meeting as to how to distribute the monies.

Commissioner Keegan moved to appoint himself and Chairman Clyne to the Casino Simulcasting Special Fund Committee as they have served on the committee in the past. Commissioner Vetrano seconded the motion and all the Commissioners voted yes.

Executive Director Nason explained that copies of the information comprising the Agenda "B" items were available to anyone present.

Michael Musto of the THA brought forth new business asking why certain post-race test results have been taking such a long time to receive.

Executive Director Nason assured Mr. Musto she would look into the matter and provide him with an answer.

Executive Director Nason also mentioned that the Commission would likely schedule a special meeting in October and would be in touch with the industry and public when such a meeting was scheduled.

Chairman Clyne moved to adjourn the meeting. Commissioner Keegan seconded the motion and it was approved unanimously.

ATTEST:



Judith A. Nason, Executive Director