

Rob Williams: This meeting of the commission is now called to order. This meeting is being conducted in conformity with Governor Andrew M. Cuomo's executive order 202.1 which is entitled Continued _____ [00:00:13] Suspension and Modification of Laws Relating to the Disaster Emergency. The order suspended portions of the Open Meetings Law and specifically allows the conduct of meetings by telephone or other similar service. The Governor's executive order in relevant part reads Article VII of the Public Office's Law to be extended necessary to prevent any public body to meet and take such actions authorized by the law without permitting public in person access to the meetings and authorizing such meetings to be held remotely by conference call or similar service provided that the public has an ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.

By executive order 202.60, Governor Cuomo extended the authority of order 202.1 through October 4th. Accordingly this commission meeting is being conducted in conformance with such allowance and we are recording today's meeting for transcription as required. Miss Secretary will you please read the role?

Secretary: John Crotty?

John Crotty: Two, one, here.

Secretary: Peter Moschetti?

Peter Moschetti: Here.

Secretary: John Poklemba?

John Poklemba: Here.

Secretary: Barry Sample?

Barry Sample: Here.

Secretary: Jerry Skernik.

Jerry Skernik: Here.

Barry Sample: Miss Secretary please have the record reflect that a forum of qualified members are present thus enabling the transaction of business. Mr. Channel?

Channel: Minutes of the commission meeting conducted on July 27th, 2020 have been provided to the members in advance. At this time I'd like to ask the members if there are any edits, corrections, or amendments? Anyone have any comment or change? May I have a motion to approve the minutes?

Jerry Skernik: So moved.

Barry Sample: Second.

Channel: All in favor?

Barry Sample: I.

Channel: Okay. We'll go to the next item on the agenda which is rule making. New York State Racing Para Wagering and Breeding Law 104.19 authorizes the commission to promulgate rules and regulations that it deems necessary to carry out its responsibility. To that regard, the commission will from time to time promulgate rules and rule amendments pursuant to the state administrative procedure act. Today we have two rules for adoption. Rob Williams could you please outline the first item please?

Rob Williams: Certainly. The commission proposed a consensus rule making to extend the days after which a harness sport must qualify from 30 days to a day that's determined appropriate by the commission in exception circumstances to address difficulties in establishing a qualifying current performance time given the temporary track closures because of the novel coronavirus pandemic. The notice of proposed rulemaking was published in the June 3rd state register meaning the public comment periods, the proposed consensus rule making expired on August 3rd. No comments were received. Staff recommends that the commission adopt this rule making.

Channel: Commissioners any questions on the adoption of a rule regarding harness sports qualifying in extraordinary circumstances? May I have a motion to adopt this rule?

Barry Sample: So moved.

Jerry Skernik: Second.

Channel: Any discussion on the motion? All in favor?

Barry Sample: I.

Channel: Negative? The motion passes. Rob Williams?

Rob Williams: For commission consideration is the adoption of a consensus rule making to correct cross references in our gaming regulations. The notice of proposed rule making was published in the June 3rd state register meaning the public comment period expired after August 3rd. No comments were received. Staff recommends that the commission adopt this rule making.

Channel: Commissioners any questions on the adoption of a rule making correcting references within the gaming regulations? May I have a motion to adopt the rule?

Barry Sample: So moved.

Peter Moschetti: Second.

Channel: Any discussion? Hearing none all in favor?

Barry Sample: I.

Peter Moschetti: I.

Channel: The motion carries for adjudication. The next item is scheduled business regards adjudications. Today we have one item of adjudication. Rob Williams?

Rob Williams: The commission issued a notice of suspension in hearing of harness trainer Michael Tenning on January 21st, 2020. Imposing a summary suspension for violation of the trainer responsibility rule and the rule against doping agents or drugs including blood doping agents. Specifically two horses trained by Mr. Tenning were found in post-race testing to have have blood doping agent known as Iox 2 present in their systems. These violations were also alleged to establish that Mr. Tenning lacked the character and fitness required to hold a harness racing license pursuant to the licensing standards of the racing paramutual wagering and breeding law. The hearing initially adjourned at Mr. Tenning's request was finally conducted on July 15th, 2020. The hearing officer found that the violations were stablish and that Mr. Tenning's license should be suspended for 20 years. The commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exception of the New York Public Officer's Law section 108.1. The commission duly deliberated and considered this matter and determined upon a five to zero vote to sustain the hearing office's report and recommendations.

And further orders that horse sports betting and Show Me Your Guns are disqualified and unplaced from the fourth race at Yonkers Raceway at on December 7th and the seventh race at Yonkers Raceway on December 17th. Both in 2019. On December 17th, 2019, such horses are disqualified from any share of the purse in such races and such shares shall be redistributed among the remaining horses in such races they are entitled to the same.

The next item on our agenda is old business and I know there are two commissions who have some issues they want to raise. Do we want to start with any old business Mr. Krotty?

John Krotty: Yes thank you Mr. Chairman. I wanted it noted that the Saratoga race week just ended and prior in the spring right around the time COVID was unfolding a little bit before, we had made the decision to pass rules that did not allow lasiks in two year old racing and it was met with some amount of acrimony from people who thought that that might not be the proper move. But it is my understand now that we have a very good data point, the Saratoga meet has just ended. There was 60 races where there were non lasiks and treated everyone with a non lasiks entry for a total of 466 total entries in those 60 races. From what I have been told there was only one reported instance of epistatus in that group of people. So the doom and gloom scenario of bleeders and other such things really didn't come to fruition so far. There's a lot more things to look at. The staff is conducting that. They are examining the data. They're comparing the '20 Belmont meet to the spring 2019 meet. Same for the Saratoga meet 2020 to 2019. A lot of variable to consider for sure. Distance, time, weather, and other such factors which will all be put into a report that I think we'll get in the near term and then from that report will probably produce another on after there is more data points to talk to.

But I thought it was a data point worth understanding and noting out there. It looks like the action has occurred and we've been able to sort of see what the impact of it is.

Rob Williams: So we're going to have Steph report back to us at our next meeting in a more comprehensive manner. And Ryan Okrum will be responsible for helping us with that correct?

Ryan: That'd be good and I think we'll get more details on that and I think there's another meet in Belmont now and another one after that. So I think we'll continuously look at it just the facts as they exist so far have been fairly good.

Rob Williams: And at that time we'll have packaged those facts that we can have more around general release. Okay? Very good and the next, any old business regarding the we received a staff report on the use of the crop. And commissioner Moschetti has some comments on where we on the report and where we need to move the next step correct?

Peter Moschetti: Yes correct. So in light of the fact that there had been a number of jurisdictions that were contemplating or have put limitations on the use of the crop during racing, we asked Steph to do some research for us. They produced a pretty comprehensive report in July of 2020. I think from my perspective it's time to move on that issue if we are going to consider everything from an outright ban as they did in New Jersey to the use of the crop for the purposes of encouragement and only limited to the use for safety reasons or corrections to considering what California and Kentucky have done. California limiting the use of the Crop 6th strike and limiting its use to an underhand movement as opposed to an overhand motion. I know that

Kentucky has somewhat similar but not the same rules. So I think time as come. We want to do this, we've talked about doing this. Staff has done their work. I think the last thing we want to do in the month of October potentially if everyone is in agreement is to invite those people that believe should have a say and can shed any more light on the issue before we make a comprehensive decision. And so I think we are going to try and get this together as a meeting in October.

Channel: And I think we all agree that this is a matter that need to be looked at closer sooner rather later. Some of us contend that it's been out there too long. So I think staff needs to look into what type of meeting we need to structure. Whether we can do particularly considering the kind of climate whether we have a virtual meeting. Whether we can have an attendance meeting but whatever will work within the timeframe that's been outlined I think that that would be most useful for us and I think it's necessary to have all parties that are most pertinent available to us at that time.

Peter Moschetti: I just ask it be done by the end of October and if people are not available they're not available. If they want to become involved and put their interest and their reasoning on the record and tell us about it then fine and if they don't show they don't show. That's how I feel.

Rob Williams: We will certainly arrange that.

Channel: Thank you any new business with anyone? Okay that's the end of our published agenda but we need to talk about scheduling for our next meeting. Keeping in mind we have a number of rules that are not going to come to closure in October. We're talking about having that meeting in November. However, we still need to have an October meeting even of that October meeting is particularly around the theme of the October meeting is going to be the crop. If there are other issues that come up that we need to address at that time we can and we should. But if you can work on scheduling those two sessions Kristin that would be fine.

The November meeting for our regular agenda but clearly the October meeting to do the meeting on the crop. I think that's about it. Do we have any other items for consideration? Okay may I have a motion to adjourn?

Barry Sample: So moved.

Jerry Skernik: Second.

Rob Williams: Adjourned.

Channel: Thank you we'll see everyone next month and we're going to be meeting on the crop at that time and hopefully we'll have all relevant guests. Thank you.