NEW MEXICO HORSE RACING COMMISSION
MINUTES OF THE REGULAR MEETING
Date: January 16, 2020 at 9:06 AM
Place: NMRC Boardroom, 4900 Alameda Blvd. NE, Albuquerque, NM 87113

Members Present: Chairwoman Beverly Bourguet, Vice-Chairman David "Hossie" Sanchez, Commissioner Ken Corazza, Commissioner John Buffington and Commissioner Billy Smith.

NMRC Staff Participating: Executive Director Ismael Trejo and Paralegal Denise Chavez.

Others Present/Participating: Assistant Attorney General Delilah Tenorio

AGENDA ITEM	*Recording #*	*DISCUSSION / CONCLUSIONS / RECOMMENDATIONS*	*ACTION TAKEN*
Public Session: **1. Call to Order and Roll Call**	0:32 – 0:54	Meeting called to order by Chairwoman Bourguet. Roll call was taken by Denise Chavez. Assistant Attorney General Delilah Tenorio was present.	No Action Taken.
2. Pledge of Allegiance	01:00 – 01:14		Pledge of Allegiance was recited.
3. Approval of Agenda	01:33 – 03:01	Chairwoman Bourguet asked if there were any changes to be made to the Agenda. Director Trejo made the following changes to the Agenda: Remove Item 7.(C); add the date December 31, 2019 to Item 7.(G)(4) and 7.(I)(2) should read: "Ratification of Approval to **Amend** 2020 Condition Book"	Motion to accept Agenda as amended by Commissioner Sanchez. Commissioner Smith second motion. Motion passed unanimously.

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4. Approval of Minutes: **A. November 21, 2019**	03:37 – 04:03	Chairwoman Bourguet requested a motion to approve the minutes of the November 21, 2019 Regular Meeting.	Motion to approve November 21, 2019 minutes by Commissioner Smith; Second by Commissioner Buffington. Motion passed unanimously.
5. Chairwoman's Report	04:07 – 14:11	Chairwoman Bourguet welcomed everyone to the meeting. She reminded everyone that the Commission is moving forward as regulators and want to ensure the public that they are following their rules, regulations and statutes. The Commission has been very busy, even before the holidays. Chairwoman Bourguet drove up to Santa Fe and met with Counsel, Delilah Tenorio. She also spent some time with DFA Analyst in Santa Fe in time for the Legislative Session. She also met with the Racing Commission's LFC Analyst, Ms. Ortiz, to work on the FY 2021 budget allocation of moneys (specifically the $300,000 for testing). Chairwoman also spent some time with Executive Director of the Horsemen Erhard. Chairwoman also attended the ARCI National Meeting to discuss the industry's issues. They made some approved amendments to the model rules and there are probably a couple that will impact	No Action Taken.

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		New Mexico. These will be addressed during the rules/medication committee meeting that will be scheduled in February. Chairwoman Bourguet turned it over to Commissioner Buffington to give a race date committee report. Commissioner Buffington said he would like to get started early and so he would like to have a meeting in February after the rules meeting. It should be brief but what he would like to hear is basically the thoughts from the tracks and two horse groups. No actions to be taken but simply to discuss what you think you want to propose for the upcoming year. He encouraged them to think about it and talk amongst themselves. Coordination and consensus before we make those final race dates. No definitive dates just a discussion.	
6. Agency Director Reports: **A. NMHBA**	14:26 – 22:59	Mary Barber, Executive Director of the New Mexico Horse Breeders Association, presented the Race a Day Report for Zia Park through Wednesday, December 18, 2019 stating that they ran 220 NM Bred Races in 53 days. In overnight races, the NMHBA contributed $882,500; in the nine Thoroughbred races the NMHBA contributed $725,000 and for their Quarter horse stake races they contributed $390,000. This was $10,500 more than in 2018. During the Zia Park meet they averaged 4.15 NM Bred races per day and plus 61 for the required three a day.	No Action Taken.

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		For Sunland Park through Tuesday, January 7, 2020 stating that they ran 36 NM Bred Races in 8 days. In overnight races, the NMHBA contributed $86,500; in the two Thoroughbred races the NMHBA contributed $100,000 and for their Quarter horse stake races they contributed $50,000. This was $43,000 less than in 2018/2019 but she believed that was due to the Johnnie Jamison Stakes Race. During the Sunland Park meet they averaged 4.50 NM Bred races per day and plus 12 for the required three a day. She reported that their annual meeting will be held on January 30, 2020 at 9:00 a.m. The location has changed to Ramada Plaza Hotel. They have Board of trustees and three other important items to vote on.	
B. Jockey's Guild **1. Sunland Park Opening**	23:10 – 24:38	Mr. Beech announced that Sunland Park had a great opening. Everything was as it should be, the room was clean and the track was great. A good meeting was had between Management, Jockeys and the Stewards before the first race to go over some procedures and they were well received.	No Action Taken.
C. NMHA Report	24:44 – 33:00	Mr. Erhard reported met with Track Management of each of the 5 tracks. Thanked them for their hospitality and their willingness to collaborate to with the Horsemen's Association. Specifically, he thanked Lonnie Barber in working out the concerns discussed in the last commission meeting regarding	No Action Taken.

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		SunRay's Condition Book. He also thanked Sunland Park's Management Rick Baugh and his staff working together on the contract and export signal. He was able to attend the track inspection at the track conducted by the racing commission. He found the whole experience to be enlightening. He has been working closely with Chris McEarlean as they close the dates for racing at Zia Park. He reports that he has just started working with Jeff True in terms of getting ready for the upcoming meet in Ruidoso and the same with Don Cook. He went over some statistics for 2019 Race Meets: There were 10,333 QH starts and $18,481,863.00 purses paid; 10,998 TB starts and $24,219,387.00 purses paid for a total of 21,311 starts and $42,701,250.00 purses paid which was a slight increase from 2018. Commissioner Smith said that the amount of the purses paid here in the State of NM is amazing. Commissioner Corazza state that the Horsemen's Executive Board voted to speak against the ARCI rules in Tucson. He said he believes that is a disaster, in this day and age we are trying to make public perception and a matter of the horse. He wanted to know what the Horsemen's thought	

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		process was for doing so. Mr. Erhard said that the rational and thought process at that point in time was at the advice of Dr. Clara Fenger. Basically what they were really asking for was that the issue be tabled so more research can be conducted before a decision was actually made by ARCI.	
D. NMRC Executive Director's Report	33:20 – 46:06	Director Trejo talked about the handful of people there that went to the symposium in Tucson. He got to spend time and get to know Mr. Erhard and Mr. Rader. He reported that at the symposium there was a discussion about synthetic surfaces versus dirt surfaces. He said one gentleman got up to speak and said he feels that the government is going push synthetic down the industry's throat. They strongly feel that synthetic tracks are much more safer and conducive to a horse's well-being by minimizing catastrophic injury rates. This will be an ongoing debate. He discussed the 14 day stand down period for corticosteroid and the 48 hour NSAID rules. These did pass at the ARCI meetings. They will be discussed at the upcoming rules/medication committee meeting. There were a few jurisdiction that opposed these rules (Louisiana, Washington, and Oklahoma) but they are looking for more foundation before making a decision. He said once we started testing a lot of bloods the corticosteroid positives decreased significantly and our catastrophic breakdowns also decreased significantly. In speaking with Dr. Waterman, he believes that these go hand-in-hand. It's something	No Action Taken

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		that needs to be looked at and considered. He was most impressed by the presentation of Jennifer Durenberger at the symposium. Her presentation was about the general public does not accept making a living off of animals despite of it being normal to us. She called it racing's "Social License to Operate." He said that animal activist really fight for what they believe and it may be a battle from here on out. He talked about the meetings in Santa Fe as discussed by Chairwoman Bourguet. Commissioner Smith asked how far off Mr. Trejo believed that the Federal Government is going to become really involved in the racing industry. Mr. Trejo believes that we are a ways off before that happens. Chairwoman Bourguet asked about Dr. Waterman's attendance at the meetings and when his contract is due. Mr. Trejo replied that he has frequent contact with Dr. Waterman and he has let him know that his presence would be much appreciated at these meetings.	

7. Unfinished/New Business and/or Action Items Regarding Licensing: **A. Open Meeting Resolution for 2020**	46:30 – 47:57	Director Trejo presented the Open Meeting Resolution for 2020. A Resolution is presented to the Commission every January for approval. The only change made to this Resolution is changing the number of hours that a proposed agenda for any regular meeting will be available 120 hours instead of 72 hours before the meeting. Making it available the Friday before instead of the Monday before the meeting. Assistant Attorney General Counsel, Tenorio, confirmed that it falls within the rules of the State of New Mexico's Open Meeting Act.	Motion made to approve as amended made by Commissioner Sanchez. Second by Commissioner Smith. Motion passed unanimously.
B. Appointment of Hearing Officer **1. In the Matter of John Stinebaugh (Sample #NM33041)** **2. In the Matter of John Stinebaugh (Sample #E282517)**	48:01 – 52:23	Assistant Attorney General Tenorio presented 2 different orders both in the matters of John Stinebaugh. Pursuant to 15.2.1.9(C)(7)(a) NMAC, "... if in any case a combination of objections to a presiding officer(s) would result in the matter not being heard, the removal of the hearing officer shall not be effective." Since the Commission only has one hearing officer, any objection to Mr. Fitzwater would result in these matters not being heard. Commissioner Smith asked why an objection was made, is there bad-blood? No reason was given for the objection – reason for objection is not needed.	Motion to approve order in Sample #NM33014 was made by Commissioner Corazza. Second by Commissioner Sanchez. Motion passed unanimously. Motion to approve order in Sample #E282517 was made by Commissioner Sanchez. Second by Commissioner Smith. Motion passed unanimously.
C. Approval of Relief Vet for Sunland Park Race Meet	52:38 – 53:26	Director Trejo requests approval of Relief Vet, Frank Anderson to relieve the RC's Official Vet, Richard E. Mobley as he is having a procedure done and a Vet	Motion to approve made by Commissioner

		is needed for the 2020 Sunland Park Race Meet. Dr. Anderson was the only one who submitted a bid for this position.	Smith. Second by Commissioner Sanchez. Motion passed unanimously.
D. Rules Hearing	54:22 – 01:01:38	Chairwoman recited the Opening Statement of the Public Rule Hearing Procedures.	No actions taken.
	01:01:39 – 01:03:04	AAG Tenorio introduced 8 Exhibits into evidence.	
1. Subsection H of 15.2.1.8 NMAC	01:04:12 – 01:09:32	AAG Tenorio read the proposed amendments to 15.2.1.8(H). Discussion of submitted email from Sheryl Edgar on Items 1 and (second) 3. Sheryl Edgar stated that 15.2.1.8 H is duplicative of the current Gaming rule 15.2.2.9 and suggests striking the rule.	
2. Subsection B of 15.2.5.10 NMAC	01:09:36 – 01:11:11	AAG Tenorio read the proposed amendments to 15.2.5.10(B). No comments or further discussion.	
3. Subsection A of 15.2.5.11 NMAC	01:11:14 – 01:13:23	AAG Tenorio read the proposed amendments to 15.2.5.11(A)(1) and (2). No comments or further discussion.	
4. Subsection A of 16.47.1.10 NMAC	01:13:25 – 01:18:15	AAG Tenorio read the proposed amendments to 16.47.1.10(A)(2), (3) and (6). Commissioner Buffington had a question as to whether a test is available at every race track. Director Trejo confirmed that the stewards have the test is available at every track. Commissioner Smith asked if a trainer is in good standing in another jurisdiction	

		and comes back to NM, would this rule apply to them or would they get credit? Director Trejo said we would reciprocate if the trainer has activity in another jurisdiction – we would count that.	
5. Subsection B of 16.47.1.10 NMAC	01:18:16 – 01:19:30	AAG Tenorio read the proposed amendments to 16.47.1.10(D)(3), (4) and renumbered (5), (6) and (7). No comments or further discussion.	
E. Rules Adoption	***Recording - (Part 2)***	Sign-In sheet admitted as Exhibit 9. Hearing adjourned at 10:28 a.m. Ten minute Break	
1. Subsection H of 15.2.1.8 NMAC	00:40 – 03:46	AAG Tenorio presented wording that needs to be changed to 15.2.1.8(H) the wording should be horse breeder's association instead of horsemen's association. No comments or discussion regarding this change.	1. Motion to adopt Subsection H of 15.2.1.8 NMAC by Commissioner Smith; Second by Commissioner Sanchez. Motion passed unanimously.
2. Subsection B of 15.2.5.10 NMAC	03:54 – 04:35	No further comments or discussion made to this rule.	2. Motion to adopt the amendments to Subsection G of 15.2.5.10 NMAC by Commissioner Sanchez; Second by Commissioner Smith. Motion passed unanimously.
3. Subsection A of 15.2.5.11 NMAC	04:39 – 05:15	No further comments or discussion made to this rule.	

4. Subsection A of 16.47.1.10 NMAC	05:18 – 05:50	No further comments or discussion made to this rule.	3. Motion to adopt amendments to Subsection A of 15.2.5.11 NMAC by Commissioner Smith; Second by Commissioner Buffington. Motion passed unanimously. 4. Motion to adopt amendments to Subsection A of 16.47.1.10 NMAC by Commissioner Sanchez; Second by Commissioner Smith. Motion passed unanimously. 5. Motion to adopt amendments to Subsection B of 16.47.1.10 NMAC by Commissioner Smith; Second by Commissioner Buffington. Motion passed unanimously.
5. Subsection B of 16.47.1.10 NMAC	05:53 – 06:28	No further comments or discussion made to this rule.	
F. Approval for Sunland Park **1.**			

1. Ratification of Approval to Amend 2019 Import Simulcast List	06:50 – 08:14	Director of Sunland Park's Racing, Dustin Dix requested ratification of approval to amend 2019 Import Simulcast List to add Africa on Christmas Eve (the only content available).	Motion to ratify the amendment made by Commissioner Sanchez. Second by Commissioner Smith. Motion passed unanimously.
2. Ratification of Approval for Change in Officials	08:18 – 09:00	Dustin Dix requested ratification of approval for changes in officials. Position that were not filled in November.	Motion to ratify the amendment made by Commissioner Sanchez. Second by Commissioner Smith. Motion passed unanimously.
3. Jockey and Exercise Rider Insurance for February 2020 – January 2021	09:05 – 10:20	Dustin Dix presented Jockey and Exercise Rider Insurance for approval. The Policy runs from Feb., 2020 to Jan., 2021. Good news, reduction in rate – first in many years. He believes this reduction in rate was due to loss ratio being down.	Motion to approve the Jockey and Exercise Rider Insurance made by Commissioner Smith. Second by Commissioner Sanchez. Motion passed unanimously.
4. Ratification of Approval for the Change in December 31, 2019 and January 3, 2020 Wagering Format	10:21 – 11:21	Dustin Dix is requesting ratification of approval for the change in the wagering format. There are two days: December 31, 2019 (cancel show wagering) and January 3, 2020 (6 trials for the Shue Fly and 3 TB races.)	Motion to ratify the approval for the changes to 12/31/19 and 1/3/20 made by Commissioner Sanchez. Second by Commissioner Smith.

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			Motion passed unanimously.
	11:31 – 19:00	Dustin Dix gave a brief update of Sunland's 2019 and 2020 racing season through Sunday (first 11 race days). They are very happy with their handle. Opening Day was one of the best handles they have had in over a decade on and off track. On December 26, they did over 90k on track. Christmas Eve was a huge day as well, they handled over 1.6 million for the day. Through Sunday, on-track handle is up over 15% and the off-track up over 53%. Running 12 QH races a week and spreading them out over 3 days and front-loading them which seems to be helping. Hopefully the momentum will continue. Discussion with Commissioner Sanchez regarding construction near the racetrack. Discussion with Commissioner Corazza regarding the Lasix procedure.	No Action Taken.

G. Approval for Zia Park **1. Ratification of Approval to Amend 2019 Import Simulcast List**	19:30 – 20:06	Chris McErlean is requesting ratification of approval to amend 2019 Import Simulcast List to add Africa on December 24, 2019 and add Australia (Newcastle, Randwick, Warwick and Sunshine Coast) for December 25, 2019.	Motion to ratify the approval of the amendment to 2019 Simulcast Import List made by Commissioner Sanchez. Second by Commissioner Smith. Motion passed unanimously.
2. Ratification of Approval to Run 11 Races a Day	20:07 -22:34	Zia Park is requesting an addition of a race to 11 races near the end of their meet. Chairwoman Bourguet asked what kind of money did this addition bring? Buffington asked about additional purse money for this additional race.	Motion to ratify the approval to run 11 races a day made by Commissioner Sanchez. Second by Commissioner Smith. Motion passed unanimously.
	22:37 – 26:07	Mr. McErlean provided an update of the racetrack 2019. Total handle stand point is the largest total handle ever at Zia Park – over $26 million, up 7% on export handle and just about 1% on one-track handle. He thanked the Horsemen's Association for all their assistance. They had their lowest numbers in catastrophic during the actual racing and in terms of their metric per 1000 starters 1.45 which was a significant decline from the year before. Commissioner Corazza commended Zia on a good job!	No Action Taken.

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3. Ratification of Approval to Change Post Times	26:25 – 26:40	Mr. McErlean requested ratification of approval to change post time. Post time was adjusted to 11:45 a.m.	Motion to Ratify the amendment to post time was made by Commissioner Sanchez. Second by Commissioner Smith. Motion passed unanimously.

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H. Approval for SunRay Park **1. Ratification of Approval to Amend 2019 Import Simulcast List**	27:00 – 27:54	Lonnie Barber requested ratification of approval to amend 2019 Import Simulcast List to add Africa on December 24, 2019.	Motion to ratify the approval of the amendment to 2019 Simulcast Import List made by Commissioner Sanchez. Second by Commissioner Smith. Motion passed unanimously.
2. Ratification of Approval to Amend 2020 Condition Book	27:57 – 33:50	Lonnie Barber requested ratification of approval to amend 2020 condition book. These amendments were pursuant to discussions with the Horseman's Association. Commissioner Buffington made comments and suggestion for next year. Chairwoman Bourguet was appreciative for working with the Horsemen's Association on this condition book. Commissioner Sanchez discussed "haul-in" issues with Mr. Barber.	Motion to ratify the approval of the amendment to 2020 Condition Book made by Commissioner Sanchez. Second by Commissioner Smith. Motion passed unanimously.

I. Approval for Ruidoso Downs **1. Approval of 2020 Stall Applications for TB and QH**	33:55 – 34:46	Jeff true requested approval of 2020 stall applications for TB and QH. No changes made aside from the dates. Horsemen have weighed in and approve these documents.	Motion to approve of the 2020 Stall Applications for TB and QH made by Commissioner Sanchez. Second by Commissioner Smith. Motion passed unanimously.
2. Approval of 2020 Wagering Format	34:47 – 38:08	Jeff True is requesting approval of the 2020 Wagering format. They are making a couple of changes: dropping the twin-tri and adding a pick five as well as on trials days they will be adding pentafecta pools. Pick five will have a carryover using method 1. Commissioner Corazza asked what the minimum charge will be for the pentafecta (.50).	Motion to ratify the approval of the amendment to 2019 Simulcast Import List made by Commissioner Sanchez. Second by Commissioner Smith. Motion passed unanimously.
3. Approval of Live Racing Post Times	39:20 – 44:22	Jeff True is requesting approval of live racing post times as suggested on charts.	Motion to approve Live Racing Post Times made by Commissioner Sanchez. Second by Commissioner Smith. Motion passed unanimously.

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J. Public Comment	46:20 – 52:31	State Representative Candy Ezzell had to excuse herself earlier due to inclement weather. **Scott Berry, City Manager –** City of Raton would like the Commission to consider a 6th license in Raton. **Retha Shiplet** – She seconded what Mr. Berry had to say.	No Action Taken.
Closed: Executive Session (11:38 a.m.)	52:40 – 52:55	Roll call vote to go into Executive Session taken by Denise Chavez.	Chairwoman moved to go into Executive Session. Commissioner Sanchez second.
Open Session Resumes at 1:49 p.m.		Chairwoman Bourguet announced the Commission was now in open session and affirmed that the Commission discussed only those matters specified in the motion to close the meeting in accordance with Section 10-15-1 (J).	No Action Taken.

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8. Licensing/Pending Litigation/Appeals/Hearing officer Reports/Employment Contracts:	***Recording - (Part 3)***		
A. In the Matter of Joel Valeriano & Owner Javier Rodriguez (Hearing Officer's Report)	00:35 – 01:12	AAG Tenorio stated that in the Matter of Joel Valeriano & Owner Javier Rodriguez the Commission would like to table approval of the hearing officer's report so counsel can thoroughly review it and draft a potential order to adopt that Report.	Motion to approve by Commissioner Sanchez. Second by Commissioner Smith. Motion passed unanimously.
B. In the Matter of Noe Amaya & Gaston Valenzuela (D-202-CV-2019-03250)	01:14 – 01:34	Assistant Attorney General Tenorio stated Sections 8. B, 8. C, 8. D, 8. F and 8. G were all updates and require no action at this time.	No Action Taken.
C. In the Matter of Victor Diaz & Lorenzo Vega (D-202-CV-2019-03251)		Update of case law by Assistant Attorney General Tenorio that required no action at this time.	No Action Taken.
D. In the Matter of Juan Torres (D-202-CV-2019-04020)		Update of case law by Assistant Attorney General Tenorio that required no action at this time.	No Action Taken.

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E. In the Matter of Diego Cordova (Licensing)	01:35 -02:04	Assistant Attorney General Tenorio stated that the Commission would like to entertain a motion approving the issuance of a license to Mr. Cordova.	Motion to approve by Commissioner Smith. Second by Commissioner Buffington. Motion passed unanimously.
F. Zia Park (update on licensing)	01:14 – 01:34	Update of Zia Park by Assistant Attorney General Tenorio that required no action at this time.	No Action Taken.
G. SunRay Park (update on licensing)	01:14 – 01:34	Update of SunRay Park by Assistant Attorney General Tenorio that required no action at this time.	No Action Taken.
9. Adjournment	02:10 – 02:20	Chairwoman Bourguet called for a motion to adjourn. The meeting adjourned at 1:51 PM.	Motion was made to adjourn meeting by Commissioner Corazza. Second by Commissioner Sanchez. Motion passed unanimously.

2 Mar 20
Chairwoman Beverly Bourguet Date

2-20-2020
Executive Director Ismael Trejo Date