

NEW MEXICO HORSE RACING COMMISSION**MINUTES OF THE REGULAR MEETING**

Date: October 15, 2020 at 9:00 a.m.

Place: Zoom Video Conference – Meeting ID: 833 5334 2287

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

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| Public Session 1: 1. Call to Order and Roll Call | 25:55 – 27:10 | Meeting called to order at 9:04 a.m. by Chairwoman Bourguet. Roll call was taken by Denise Chavez. Assistant Attorney General Delilah Tenorio, Executive Director Ismael Trejo, and NMRC Paralegal, Denise Chavez were also present. | No Action Taken. |
| 2. Pledge of Allegiance | 27:11 – 27:34 | | Pledge of Allegiance was recited. |
| 3. Approval of Agenda | 27:38 – 38:04 | Chairwoman Bourguet asked if there were any changes to be made to the Agenda. Commissioner Buffington said he received a request to allow the NMHA and NMHBA into executive session. Co-Chair Sanchez objected to this request. Commissioner Corazza also opposes this motion. Chairwoman Bourguet reported that this was a request that was brought up in regular commission meeting in September by letter from the NMHA addressed to the Commission. They also reminded the Commission of | Motion to approve Agenda as amended by Mr. Trejo by Commissioner Sanchez. Commissioner Smith second motion. Motion passed unanimously. |

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| | | <p>their request at the Race Dates Meeting to be added to the executive portion of the meeting. She does not believe that this request is threatening and is a viable request. Chairwoman Bourguet said that this matter was brought up by Executive Director Trejo and was just simply overlooked and not placed on the Agenda. Again, Co-Chair Sanchez and Commissioner Corazza strongly object to allowing the Associations into closed session. AAG Tenorio asked the Chairwoman if this request falls within the exceptions of the OMA and that both the NMHA and NMHBA have a standing item on the agenda to be able to deliver their reports and their concerns regarding any issues they have. They will be able to raise any concerns during the second part of the open session of the meeting and recommends that they not be included in Executive Session. Commissioner Buffington withdrew his request.</p> <p>Izzy Trejo requested that item 9. (E)(2) be removed from the agenda as DAA handles the simulcast for the NMSF.</p> | |
| <p>4. Approval of Minutes: September 17, 2020</p> | <p>38:05 – 41:21</p> | <p>Chairwoman Bourguet had a couple of changes:</p> <ul style="list-style-type: none"> On page 18, add the word “Stake” to clarify what the refunds are for. “asked for the stake refunds”. On page 23, Agenda Item 3, the 4th sentence should read 16 trials (instead of head) per day and drew 13 trials for the derby. <p>Chairwoman Bourguet requested a motion to approve the minutes of the Regular Commission Meeting on September 17, 2020 with the amendments she</p> | <p>Motion to approve the minutes from the Regular Commission Meeting on August 20, 2020 with the amendments by Commissioner Buffington; Second by Commissioner Smith. Motion passed unanimously.</p> |

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| | | presented. | |
| 5. Chairwoman Reports | 41:26 – 46:04 | <ul style="list-style-type: none"> Chairwoman Bourguet gave an update on the Senate Bill 4547. It has been placed on hold by 3 Senators. | No Action Taken. |
| A. Race Dates Update | 46:06 – 46:37 | <ul style="list-style-type: none"> Commissioner Buffington reported that there was a Race Dates meeting on October 6 with some good discussions. A consensus was reached that these are uncertain times. | |
| 6. Agency Director Reports: | | | |
| A. NMHBA Report | 46:40 -52:07 | Mary Barber was out sick today so Tom Goncharoff presented the Race-A-Day Report for the Downs at Albuquerque Sunday, September 20, 2020 stating that they ran 86 NM Bred Races in 26 days. In overnight races, the NMHBA contributed \$866,000. This is \$197,000 less than contributed last year. They averaged 3.31 NM Bred per day, +8 for three a day. | No Action Taken. |
| | 52:09 – 54:41 | Tom Goncharoff objected to AAG Tenorio's identification of the NMHA and NMHBA as "Outside Third Parties" and states he believes that both Associations are significant stakeholders. He asked for Ms. Tenorio's clarification as to where on the Agenda does it say that the NMHBA and NMHA will have the opportunity to speak after the executive session has ended as referenced in the earlier discussion to not allow the NMHA and NMHBA into the Executive Session. AAG Tenorio clarified the term "outside third parties" to mean in terms of licensing matters for those particular race tracks. In | |

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| B. Jockey's Guild | 54:43 – 55:23 | <p>regards to the second opportunity to speak after the executive session, after the motions are made, the Associations are given the opportunity at that point to discuss their concerns when asked if there are any discussions.</p> <p>Commissioner Buffington asked Mr. Goncharoff what was the intent of an email that stated that the purse money at Sunland is really at \$3.5 million, \$1.2 million of that is earmarked for NM Bred Races and \$865,000 for NM Bred Overnight. Was the intent for this money to be distributed to the general purse fund? Mr. Goncharoff responded that it was just to clarify the available funds for that particular meet. The funds are to be spent in the typical way that they have been spent in the past.</p> <p>Izzy Trejo reported on behalf of John Beech that the Zia Park racing surface is in good condition. Since day 1, the jockeys feel that it is a safe racing surface. There have been no issues. The jockey's quarters are in good shape this year.</p> | No Action Taken. |
| C. NMHA Report 1. Report re: Track Surface & Backside Working Conditions at Zia Park | 56:25 – 1:07:48 | <p>Mr. Erhard began by thanking Chairwoman Bourguet and Commissioner Buffington for bringing up the topic of including NMHA and NMHBA during Executive Session today. He also asked a question to AAG Tenorio: with regard to OMA and exclusions and Licensures. He believes that both Associations have evidence that would rebut what has been discussed by some of the licensees. He just requests</p> | No Action Taken. |

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| | | <p>that these discussions be held in open session.</p> <p>Mr. Erhard reported that he represents 3,237 owners and 557 trainers. The NMHA Bylaws direct them to actively promote the sport of horse racing in NM, to represent the horsemen's racing interests, property rights and to work for the improvement of working and/or living conditions for backside personnel. The condition of Zia Park race track surface as well as the working conditions on the backside, to include but not limited to, the availability of water, exercise/training schedule and protocols at best do not address industry standards for "best practices" are substandard and may be dangerous to both the horsemen and the equine athletes. This statement is supported by 68 signatures of horsemen currently holding licenses and working on the backside of Zia Park. From the time the horsemen were allowed on the grounds and the set up stalls, Mr. Erhard said he began receiving multiple calls with complaints regarding the conditions of the barn area. Once the track opened for training and exercise, he began receiving complaints of the racing surface. He observed that the track was not prepared for the meet and confirmed the complaints by the horsemen. NMHA respectfully requests that the NMRC investigate these issues (past and present similar concerns) of Zia Park's as soon as possible. Chairwoman Bourguet asked that Mr. Erhard to send the script that he just read from to the Commissioners.</p> <p>Izzy Trejo reported that the Agency has been preparing and licensing people at the DAA in preparation for the AQHA Challenge Races. There is a lot of interest in the event. We hair tested over 50</p> | |

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| D. NMRC Executive Director Report | 1:07:51 – 1:13:10 | horses last weekend and another 59 horses will be tested this weekend. The Special Agents from Pennsylvania will no longer be coming to NM due to the recent health order by the Governor. The only one that will be in attendance is Luis Alvarez and K9 Chini of Ruidoso. The agency will appear before the LFC in Santa Fe on October 29, 2020 between 1 and 3 p.m. Not sure how this is going to go in trying times. The Agency is pinching pennies and will continue to do so. The Agency will be hiring a Purchasing Agent to aid the CFO in different tasks and other positions. Chairwoman Bourguet asked Mr. Trejo what the status was of the paperwork for these hires. Mr. Trejo reported that as of Monday the purchasing agent has been approved by both SPO and DFA. The attorney paperwork is waiting to be approved. The auditor and the investigator positions paperwork was given to the HR lady, no submissions to Santa Fe as of yet. | No Action Taken. |
| 7. Public Comments | 1:13:13 – 1:13:27 | Ms. Chavez reported that there no public comments received for today's meeting. | No Action Taken. |
| Executive Session: entered at 10:00 a.m. | | | |
| Back into Open Session: 3:35 p.m. | 8:03 – 8:15 | | |
| 8. Licensing/Pending Litigation/Appeals/Hearing Officer's Reports/Employment Contracts A. SunRay Park (Audit Update) | 2nd Recording 8:23 – 9:39 | AAG Tenorio announced that the commission wishes to entertain a motion to close out this matter. The Commission received enough information and is satisfied that SunRay Park has successfully completed the 2019 audit process under Rule 15.2.2.8(D)(1) and will withdraw the Pre-Referral Settlement Agreement | Motion to close out this matter, withdraw the Pre-Referral Settlement Agreement and any fines and penalties associated made by Commissioner |

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| <p>B. Licensure and Race Dates</p> <ol style="list-style-type: none"> 1. Sunland Park 2. Zia Park 3. Downs at Albuquerque 4. NM State Fair 5. SunRay Park 6. Ruidoso Downs | <p>9:51 – 21:00</p> | <p>and any fines and Penalties associated with the Pre-Referral Settlement Agreement against SunRay Park.</p> <p>AAG Tenorio announced that the Commission wishes to entertain a motion to approve race dates for the race tracks as follows: Sunland Park, 42 days, beginning December 26, 2020 and ending March 30, 2021; Zia Park, 36 days, beginning on September 27, 2021 and ending on December 15, 2021; DAA, 18 days beginning on July 31, 2021 and ending on August 28, 2021 to include the AQHA 2021 Challenge on October 23, 2021; NM State Fair, 17 days, beginning on August 29, 2021 and ending on September 19, 2021; SunRay Park, 17 race days beginning on April 23, 2021 and ending on May 24, 2021; Ruidoso Downs, 50 days beginning on May 21, 2021 and ending September 6, 2021, this includes Memorial Day and Labor Day.*</p> <p>*For all Racetracks, the Commission would like to make them aware that if circumstances or conditions change, particularly regarding the COVID-19 Pandemic, the Commission intends to revisits these dates at a future meeting and will provide proper notice to the racetracks as required by the OMA.</p> <p>Discussion: Richard Erhard of NMHA reported that they are disappointed to see that these days are being approved. They disagree with these dates. NMHA opposes these dates.</p> | <p>Smith. Motion was Seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to approve the provision race dates as listed by AAG Tenorio was made by Commissioner Sanchez. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> |

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| C. Ruidoso Downs/Jeff True (Licensing) | 21:09 – 22:32 | <p>Tom Goncharoff of NMHBA reiterate what Mr. Erhard just said. He clarified with Chairwoman Bourguet that if conditions change regarding the pandemic, the dates may be changed also. Madam Bourguet confirmed that there is an * by all these dates. She went on to explain that every day the casinos do are not allowed to open, the amount of money decreases and make it fiscally difficult to run. Mr. Goncharoff said it is comforting to know that if the Racinos open back up that these dates will be revisited.</p> <p>Mr. Erhard came back and said he did not initially understand but feels better that there is an * by all these dates and they may be revisited if and when the circumstances change.</p> <p>Commissioner Buffington reported that this is definitely a difficult situation, however, we are hoping that things change soon.</p> <p>AAG Tenorio reported that the Commission would like to entertain a motion to amend the Settlement Agreement to include the lack of requesting approval for amending post times on August 21, 22 and 23, 2020. The reduction of the fine as requested by Mr. True's attorney was denied and will remain at \$10,000.00</p> <p>AAG Tenorio reported that these were legal updates and do not require any action as this time. 23:00 –</p> | <p>Motion to amend the P.S.A. and keep fine as is was made by Commissioner Sanchez. Motion seconded by Commissioner Corazza. Motion passed unanimously.</p> <p>No Action Taken.</p> |

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| D. Gotovac & Bolen v. Trejo, NMRC (Pending/Threatened Litigation) E. McMullen & Langford v. NMRC, <i>Bourguet</i> (Pending/Threatened Litigation) F. NMHA (Pending/Threatened Litigation) G. NMHA (Licensing) | 22:36 – 23:50 23:53 – 25:20 | 23:50 also applies to H, below. AAG Tenorio reported that the Commission would like to entertain a motion to extend a Pre-Referral Settlement Agreement to the NMHA for violation of NMAC 16.4.1.8(A) which requires licensure of the NMHA and whose license has expired or been expired since March 31, 2019 and the Settlement Agreement will also include the fine of \$10,000.00. AAG Tenorio reported that this was also a legal update and not action is required by the Commission at this time. | Motion to approve a P.S.A. and fine of \$10k was made by Commissioner Corazza. Motion seconded by Commissioner Sanchez. Motion passed unanimously. No Action Taken. |
| H. Rodriguez & Valeriano v. NMRC (Update) | 23:00 – 23:50 | AAG Tenorio reported that the Commission would like to entertain a motion to table this matter to allow General Counsel the opportunity to review the record so she can provide the Commission with a recommendation | Motion to table this matter until the next meeting was made by Commissioner Smith. Motion seconded by Commissioner Sanchez. Motion passed unanimously. |
| I. In The Matter of John Stinebaugh (Hearing Officer's Report) | 25:25 – 26:30 | AAG Tenorio reported that the Commission would like to entertain a motion to table this matter and request that Mr. Alvidrez provide the information as requested by the NMRC so this can be thoroughly discussed and a decision be made at the next meeting. | Motion to table this matter until the next meeting was made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion |
| J. Aminadab Alvidrez (Licensing) | 26:32 – 27:40 | | |

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| 3. Approval of 2020/2021 Race Dates | 33:06 – 33:15 | Approved Race dates were announced earlier. Please see Item 8(B) for these approved dates. | Commissioner Sanchez. Motion passed unanimously. |
| 4. Approval of 2020/2021 Post Time Schedule | 33:16 – 34:38 | Dustin Dix is requesting approval of the 2020/2021 post time schedule starting at 12:25 p.m. on December 26, 2020 through February 9, 2021 and then moving to 1:00 p.m. February 13, 2021 to the end of the meet. | Motion to approve the 2020/2021 Post Time Schedule as submitted was made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously. |
| 5. Approval of 2020/2021 Wagering Format | 34:40 – 36:52 | Dustin Dix requested approval of the 2020/2021 Wagering Format as submitted (multiple submissions). | Motion to approve the 2020/2021 Wagering Format as submitted was made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously. |
| 6. Approval of 2020/2021 Stall Application | 36:54 – 38:10 | Dustin Dix requested approval of the 2020/2021 Stall Application as submitted. There were no changes other than dates and deadlines and when the stable area is opened. | Motion to approve the 2020/2021 Stall Application was made by Commissioner Smith. Motion seconded by Commissioner Sanchez. Motion passed unanimously. |

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| <p>7. Approval for Extension of 2020/2021 Condition Book (Condition Book #1)</p> <p>8. Approval for Extension of 2020/2021 Stakes Schedule</p> <p>9. Approval for Extension of 2020/2021 Purse Schedule</p> <p>C. Approval for Zia Park</p> <p>1. 2021 Primary Application</p> <p>2. 2021 Simulcast License</p> <p>3. 2021 Race Dates</p> | <p>38:14 – 43:33</p> <p>43:40 – 45:22</p> <p>45:24 – 46:34</p> | <p>Dustin Dix reported that pursuant to NMAC 15.2.2(T) where it states that these next 3 items need to go before the Commission for approval 60 days prior to the next race meet, however, Sunland Park is requesting an extension until they have a clearer idea when gaming will be operating again. At that time they will also have a better idea of the purse, stakes and condition book.</p> <p>Chris McErlean requested approval of their 2021 Primary Application, including the change of race dates as mentioned earlier (36 race days beginning 09/27/21-12/15/21.</p> <p>Chris McErlean requested approval of their 2021 Simulcast License as submitted.</p> <p>Approved Race dates were announced earlier. Please see Item 8(B) for these approved dates.</p> | <p>Motion to table this matter until the next meeting was made by Commissioner Smith. Motion seconded by Commissioner Sanchez. Motion passed unanimously.</p> <p>Motion to approve Zia Park's 2021 Primary Application with amended race days was made by Commissioner Buffington. Motion seconded by Commissioner Smith. Motion passed unanimously.</p> <p>Motion to approve Zia Park's 2021 Simulcast License as submitted was made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> |

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| 4. Approval to Amend 2020 Racing Officials | 46:39 – 47:52 | Chris McErlean reported some adjustments and additions to the previously approved of Racing Officials submissions. These changes are identified on the list submitted. | Motion to approve amended 2020 Racing Officials made by Commissioner Smith. Motion seconded by Commissioner Sanchez. Motion passed unanimously. |
| 5. Approval to Amend 2020 Jockey/Exercise Rider Insurance | 47:55 – 1:06:29 | <p>Chris McErlean requested approval of the amended 2020 Jockey/Exercise Rider Insurance. Mr. McErlean reported that Zia Park, on May 30, 2020, submitted a request for a reimbursement of 50% of the jockey accident and exercise rider policy for the race meet. This was approved at the June 25, 2020 regular commission meeting. Subsequent to this, Zia Park race meet was reduced to 36 days. The insurance policy for the jockeys is dependent on race dates, so Zia Park has recalculated the amount required for this race meet for 36 days (and provided that amount on their request). The exercise rider insurance was also reduced – this is dependent on training days, which again because of the change in Zia Park’s racing schedule, was a reduced number from the original request. The original amount requested was: \$47,443.00 and the revised amount is: \$33,212.00.</p> <p>Commissioner Smith clarified that the NMHA is NOT going to pay their portion. Mr. McErlean confirmed that he has seen correspondence confirming that.</p> <p>Chairwoman Bourguet asked Mr. Erhard of NMHA if the horsemen have or intend on paying this. Mr.</p> | <p>Motion to approve the amended 2020 Jockey/Exercise Rider Insurance made by Commissioner Smith. Motion seconded by Commissioner Sanchez. Motion passed unanimously.</p> |

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| 3. 2021 Race Dates | | | |
| 4. Approval of Amended Post Times for the AQHA Challenge Championships to Run on Saturday, October 24, 2020 | 1:08:52 – 1:10:30 | Don Cook requested approval of the amended post times for the AQHA Challenge Championships on Saturday, October 24, 2020. First post 4:10 p.m. and last post 7:55 p.m. Being that the sun sets approximately at 6:19 p.m the last five races will run under the lights. | Motion to approve the amended post times on October 24, 2020 made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously. |
| 5. Approval of Fourth Quarter 2019 Simulcast Expense Adjustment | 1:10:35 – 1:12:27 | Don Cook requested approval of the 4 th Quarter 2019 Simulcast Expense Adjustment as submitted. Chairwoman asked Mr. Trejo if Amber Trujillo will be now reviewing these reports. Mr. Trejo said yes, until we get an auditor hired. Adjustments were also reviewed and approved by Mr. Trejo. | Motion to approve the 4 th Quarter 2019 Simulcast Expense Adjustment made by Commissioner Buffington. Motion seconded by Commissioner Smith. Motion passed unanimously. |
| 6. Approval of First Quarter 2020 Simulcast Expense Adjustment | 1:12:28 – 1:13:21 | Don Cook requested approval of the 1 st Quarter 2020 Simulcast Expense Adjustment as submitted. | Motion to approve the 1st Quarter 2020 Simulcast Expense Adjustment made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously. |
| | | Don Cook requested approval of the 2 nd Quarter 2020 | |

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| <p>7. Approval of Second Quarter 2020 Simulcast Expense Adjustment</p> <p>E. Approval for New Mexico State Fair 1. 2021 Primary Application</p> <p>2. 2021 Race Dates</p> <p>F. Approval for SunRay Park 1. 2021 Primary Application</p> | <p>1:13:25 – 1:14:20</p> <p>1:14:25 – 1:15:27</p> | <p>Simulcast Expense Adjustment as submitted.</p> <p>Don Cook requested approval of their 2021 Primary Application, including the change of race dates as mentioned earlier (17 race days beginning 08/29/21-9/19/21.</p> <p>Approved Race dates were announced earlier. Please see Item 8(B) for these approved dates.</p> <p>Bradley Boehm requested approval of their 2021 Primary Application, including the change of race dates as mentioned earlier (17 race days beginning 04/23/21-05/24/21.</p> | <p>Motion to approve the 2nd Quarter 2020 Simulcast Expense Adjustment made by Commissioner Smith. Motion seconded by Commissioner Sanchez. Motion passed unanimously.</p> <p>Motion to approve NM State Fair's 2021 Primary Application with amended race days was made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to approve SunRay Park's 2021 Primary Application with amended race days was made by Commissioner Sanchez. Motion seconded by</p> |

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| 2. 2021 Simulcast License | 1:20:29 – 1:21:23 | Approved Race dates were announced earlier. Please see Item 8(B) for these approved dates. | Motion passed unanimously. |
| 3. 2021 Race Dates | | This matter was addressed earlier in the meeting. Please see minutes Item 8.(C) for what occurred. | No further action taken. |
| 4. Early Post Times for August 21, 22, and 23, 2020. | 1:21:30 – 1:23:04 | | |
| 10. Adjournment at 4:50 p.m. | 1:23:05 - end | | |



11/24/20

Chairwoman Beverly Bourguet

Date



11-24-2020

Executive Director Ismael Trejo

Date