

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

Date: September 1, 2020 at 1:00 PM

Place: Zoom Video Conference – Meeting IDs; Session 1 and Session 2 – **884 3303 9288**

Members Present: Chairwoman Beverly Bourguet, Vice-Chair 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	29:58 – 31:10	Meeting called to order by Chairwoman Bourguet at 1:01 p.m. Roll call was taken by Denise Chavez. Assistant Attorney General Delilah Tenorio, Executive Director Izzy Trejo and NMRC Paralegal Denise Chavez were present.	No Action Taken.
2. Pledge of Allegiance	31:18 – 31:34		Pledge of Allegiance was recited.
3. Approval of Agenda	31:38 – 34:40	Chairwoman Bourguet asked if there were any changes to be made to the Agenda. Commissioner Corazza suggested tabling In the Matter of Javier Rodriguez and Joel Valeriano in Executive Session as this meeting was called for the purpose of discussing Zia Park (Licensing). Commissioner Buffington asked if this was a time sensitive item, if not he concurs with Commissioner Corazza as did Co-Chair Sanchez. Chairwoman Bourguet thinks this should stay on just in case documents need to be sent out sooner rather than later. AAG Tenorio will	Motion to approve Agenda by Commissioner Smith. Commissioner Buffington second motion. Motion passed unanimously.

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		answer any questions on this matter in Closed Session.	
4. Chairwoman's Reports	34:42 – 39:50	Chairwoman thanked the Commissioners and staff for preparing for this meeting, however she is disappointed that the Commission has only received documentation from Zia Park and none from the NMHA. Executive Director Trejo announced that we received documentation from NMHA at the 11 th hour. The Commissioners did receive that email, however Chairwoman Bourguet is very disappointed that they received that email so late. Owners are feeling disenfranchised. Discussions between the NMHA and Zia Park have occurred, leaving out the NMHBA. Past Commissions have asked both Associations for their input and this has stopped. Zia Park went public that their share has gone up 12% as of today.	No Action Taken.

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6. NMHA	46:00 – 1:35:11	<p>Mr. Erhard also responded to Chairwoman Bourguet's comments stating that NMHBA were involved in discussions; including a Zoom meeting requested by the NMHBA. NMHA and NMHBA have been meeting and communicating.</p> <p>Mr. Erhard addressed the Chairwoman's comments about certain owners leaving the association, stating it is not an unusual occurrence. However, he notes that they come back. A letter stating that these people leaving have been suspended was never sent out nor was a one year timeline was never sent. Mr. Erhard confirmed that there were between 6-8 people who opted out.</p> <p>Mr. Erhard stated: that Monday August 24, 2020 NMHA received a non-binding proposal from Zia Park re: 2020 Race meet.</p> <p>Tuesday, August 25, 2020 NMHA Board spent the day deliberating this proposal.</p> <p>Wednesday, August 26, 2020 the decision was made to reject Zia Park's proposal. Both Zia Park and NMRC were notified of this decision.</p> <p>On Friday, August 28 and Saturday, August 29, 2020 Mr. Erhard began contacting the individual NMHA Board Members to see if there was any interest in reconsidering their position not to negotiate with</p>	No Action Taken.

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		<p>Zia Park and to forward a counter-proposal to Zia Park.</p> <p>On Sunday, August 30, the decision was made to begin preparing a counter-proposal and then on Monday, August 31 the NMHA together with members of NMHBA met in open session to first determine if the horsemen were interested in sending a counter-proposal, and if so, to develop one. A little after 5:00 p.m. a counter-proposal was sent to Zia Park and approximately 8:30 p.m. Zia Park rejected this counter-proposal.</p> <p>Mr. Erhard reported that he met with Mr. Belcher and McErlean the morning of September 1, 2020 in an attempt to come up with an agreement. It is Mr. Erhard's understanding that Zia is going to ask the Commission to consider the following: to Amend Zia Park's current calendar, reduce the amount of race days from 54 days to 36, racing 3 days a week, 10 races a day. It is also Mr. Erhard's understanding that Zia Park may be basing its financial calculations that may not include all funds to be considered.</p> <p>The NMHA requested that the Commission instead consider that Zia Park be required to run the number of days currently scheduled. However, if the Commission determines that the race dates be changed that the number of races only be reduced to 45 days instead of 36.</p>	

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		<p>Chairwoman Bourguet asked Mr. Erhard if the Commission did not make a decision today but made suggestions, would the NMHA be willing to renegotiate with Zia. Mr. Erhard said that if the Commission would allow more time, he believed, in fact that they could come up with a suitable compromise.</p> <p>Chairwoman Bourguet also asked if there has been any discussion as to where these horses are going to go after September 7th. Mr. Erhard replied, yes. He said Zia Park indicates that the horses can go to Zia Park on September 13, which is great! He noted that this was one of Zia Park's considerations. The horses will be stabled in the barns they are typically stabled in the past with a few exceptions.</p> <p>Mr. Erhard indicated that there has not been a solution or agreement as to Zia Park saying they do not anticipate having the track ready open until September 28th for exercise. This means if the horses come in on September 13, the horses will be in box-stalls and walkers for 2 weeks and will be detrimental for the race-ready horses. A solution for this matter still needs to happen. Mr. McErlean indicated to Mr. Erhard that the 28th was an "outside date" and he anticipated the track will be ready on that date but didn't feel comfortable committing to a date. A possible solution for this would be the horses stay a week longer at Ruidoso Downs. Chairwoman Bourguet asked if Mr. Erhard</p>	

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		<p>thought Zia Park would be willing to pay Ruidoso Downs for those extra 2 weeks. Mr. Erhard confirmed it would only be 1 week – not 2. Mr. Erhard said he could not speak for Mr. McErlean but it definitely was suggested to him by Mr. Erhard.</p> <p>NMHA agrees to 10 races a day, contingent on adequate entries; NMHA requests that training be conducted 6 days per week, weather permitting; Gates will be set up 5 days per week. They agree to accepting horses by September 13 and setting up barns by September 10. The training issues as discussed earlier still needs to be further discussed. The NMHA is not in agreement with a starter fee. They are in favor of continuing the retroactive purse policy and that it shall stay in effect. They ask that within 5 business days from the Commission actually setting a start date, the NMHA Zia Park Local Committee, NMHBA Committee and members of the Zia Park Management shall review previously approved stake races, derbies and futurities and consider additional adjustments/changes based on revised racing and purse schedules/projections. Given Zia Park's response, the NMHA will provide prompt written consent for the export of Zia Park simulcast signal for the entire 2020 race meet. After providing consent for the export of the simulcast signal, Zia Park shall send the simulcast signal to all 120 Penn National Gaming establishments during the entire race meet and provide free programs to its clientele at these establishments for the first two</p>	

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		<p>weeks only of the Zia Park race meet. In the event the live race meet is suspended or canceled due to any factor beyond the control of the parties, and all facilities available to horsemen including stabling and use of the main track for training remain open through the end date of stabling/training under this agreement, then a fee of \$5/day, per horse, shall be assessed to the trainer or owner's account for the duration of time the horse is stabled on the grounds of Zia Park, billed weekly. Billing shall start one week following the date live racing is suspended or canceled until the horse leaves the Zia Park stable area and continue for two weeks. NMHA agrees to enter into an agreement substantially similar to 2019 Horsemen's Agreement with Zia Park, including incorporating the amended, agreed upon elements of the proposal Term Sheet provided to the NMHA on August 24, as one time-non-precedential amendment to that agreement. In addition, all individuals on the grounds of Zia Park shall follow any COVID-19 requirements as put in place by Zia Park that, at a minimum, conform with those identified in the COVID safe practices developed and implemented by the NMDOH. Upon agreement of these terms, the resulting document shall be made public.</p> <p>Commissioner Smith asked Mr. Erhard how many days are the parties apart right now? Mr. Erhard said Zia is requesting to reduce to 36 days, initially the horsemen said 46 days, they are now asking for</p>	

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		<p>45 days which is a split of 9 days. No preference as to 3 or 4 days a week – whatever works with the number of days of the race meet.</p> <p>Chairwoman Bourguet confirmed with Mr. Erhard that a meeting will take place to discuss reductions of stakes, etc. and asked if the NMHA and NMHBA have reviewed Condition Book #1 and if it will be reassessed and have the Associations' Boards discussed. Mr. Erhard reported that that was the reason for this meeting. The condition book will have to be readdressed.</p> <p>Commissioner Buffington addressed the purse money mentioned by Mr. Erhard that there is no casino money factored in. Mr. Erhard confirmed that no casino money is factored into those numbers, being hopeful that that changes very quickly. He also asked if the \$40k – \$80k simulcast money was based on historical. Mr. Erhard confirmed that it was an estimate based on historical information he received.</p> <p>Co-Chair Sanchez asked where the jockeys' insurance fits into all these money figures. This reduces the amount of money for purses. We need a net amount so this can work. Mr. Erhard agrees.</p> <p>Commissioner Smith is hopeful that an agreement will not only benefit the trainers in the industry but the owners as well. Mr. Erhard reported that he has</p>	

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		<p>reached out to Owners and have invited them to these meeting so they are also aware of what they are going up against.</p> <p>Chairwoman Bourguet asked what is the typical casino revenue and the purse distribution that we can project as possible money coming back to the NMHA and have you considered when the casinos open what the purses will be following the opening of the casinos? Mr. Erhard said he does not have that information and because of the uncertainty of when and if the casinos will be opening up soon, he has not done those calculations in terms of what would happen in October if the casinos opened in November. Chairwoman asked if he could go back 2-3 years and present that information to the Commission. Mr. Erhard agrees that is a great suggestion. Co-Chair Sanchez reminds Mr. Erhard to take the consideration that the casinos still won't be open to full capacity. Commissioners Smith, Buffington and Corazza pointed out that these numbers are not really helpful at this point.</p>	
6. Public Comment	1:37:07 – 1:50:20	Denise Chavez read 4 public comments received by email. Ms. Chavez reported that there were 2 other emails received: one that did not meet the maximum 250 word limit (535 words). The author of this email was given the opportunity to revise email to meet requirements to be read. No revised email was received. The second email was after the cut-off time. The two emails were not read into the	No Action Taken.

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		record, however, were sent to the Commissioners for consideration.	
7. Executive Session	1:50:21 – end	The Commissioners entered into executive session at 2:33 p.m.	Commissioner Corazza moved to go into Executive Session. The motion was seconded by Commissioner Smith. The motion passed unanimously.

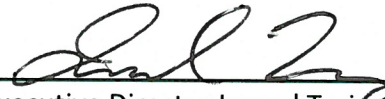
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Open Session 2 called back into session at 5:23 p.m.	39:45 – 40:10		
7. Licensing/Pending Litigation/Appeals/Hearing officer Reports/Employment Contracts: A. Zia Park (Licensing)	40:11 – 43:58	AAG Tenorio stated that the Commission would like to entertain a motion to approve Zia Park's request to amend the race meet as follows: 1) September 10, 2020 Zia Park will begin the set up of barns. 2) On September 13, 2020 Zia Park will allow horses to move into the barns. 3) Zia Park will move forward to opening the race track as soon possible. 4) If the casinos are open by November 1, 2020 Zia Park will add to their last 4 weeks of racing, one day per week for a total of 40 race days. 5) If casinos are not allowed to open by November 1, 2020, Zia Park will stick to the 36 race days as outlined in their proposal dated August 31, 2020. 6) Zia Park will run a minimum of 9 races per day. However, if it is in the best interest of Zia Park and the NMHA to run 10 races, Zia Park will be allowed to do so. 7) This race meet is conditioned upon the NMHA providing consent for the simulcast export within 48 hours of the Commission's decision.	Motion to approve the Zia Park's proposal by Commissioner Buffington. Commissioner Corazza second motion. Motion passed unanimously.
B. In the Matters of Javier Rodriguez and Joel Valeriano (D-202-CV-202002481)	44:05 -44:23	AAG Tenorio states that in the Matters of Javier Rodriguez and Joel Valeriano was an updated provided to Commissioners.	No Action Taken.
9. Adjournment at 5:28 p.m.	44:25 - end		



09/24/20

Chairwoman Beverly Bourguet

Date



9-24-2020

Executive Director Ismael Trejo

Date