

NEW MEXICO HORSE RACING COMMISSION
MINUTES OF THE REGULAR MEETING

Date: June 16, 2022, at 9:00 a.m.

Place: NMRC Boardroom; 4900 Alameda Blvd., NE, Albuquerque, NM and Teams Video Conference

Members Present: Chairman Sam Bregman, Vice-Chairman David “Hossie” Sanchez, Commissioner John Buffington, and Commissioner Billy Smith.

NMRC Staff Participating: Executive Director Ismael Trejo, In-House Counsel Richard Bustamante and Law Clerk Denise Chavez.

Also present by video: Assistant Attorney General Delilah Tenorio.

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Public Session 1: 1. Call to Order and Roll Call	2:26 – 3:00	Meeting called to order at 9:07 a.m. by Chairman Bregman. Roll call was taken by Denise Chavez. Commissioner Branch was absent. However, the Chairman noted a quorum of Commissioners was present despite her absence. Executive Director Ismael Trejo, In-House Counsel Richard Bustamante, and NMRC Law Clerk, Denise Chavez were also present. Assistant Attorney General, Delilah Tenorio was present by video.	No Action Taken.
2. Pledge of Allegiance	3:04 – 3:21		Pledge of Allegiance was recited.
3. Approval of Agenda	6:32 – 7:47	Chairman Bregman asked if there were any changes to the Agenda. No changes made to Agenda.	Motion to adopt the Agenda as amended made by

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			Commissioner Smith. Commissioner Buffington seconded the motion. Motion passed unanimously.
4. Approval of Minutes: May 19, 2022	7:53 – 8:19	Chairman Bregman asked if the minutes for the May 19, 2022, meeting were reviewed and if there were any changes. There were none.	Motion to approve the minutes from the Regular Commission Meeting on May 19, 2022, made by Commissioner Smith; Seconded by Commissioner Buffington. Motion passed unanimously.
5. Chairman's Report	8:25 – 11:48	<ul style="list-style-type: none"> Chairman Bregman recognized and thanked the NMRC staff and all their hard work. Chairman Bregman reminded everyone that if you are a "covered" person you need to register with HISA before July 1, 2022. If you are not registered, you will not be able to race. This is not a NMRC rule, it is a HISA rule. Chairman Bregman thanked the NMHBA for working with HISA regarding the upcoming deadlines. Chairman Bregman thanked his fellow Commissioners for working so hard for 	No Action Taken.

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		horseracing in New Mexico despite all the Commissioners having a life outside of the New Mexico Racing Commission.	
6. Agency Director Reports: A. NMRC Report	11:51 – 14:07	<ul style="list-style-type: none"> • Executive Director Trejo welcomed everyone who attended the meeting in person. • Executive Director Trejo also thanked the Commissioners for their hard work. • Executive Director Trejo recognized Mr. Baugh and Mr. Linder at Ruidoso Downs for a great opening weekend. Pari-mutuel handle is up slightly over 2021 but up significantly over pre-pandemic numbers in 2019. Executive Director Trejo believes it is up 86% off track, showing how strong the export signal can be when it is approved. • Executive Director Trejo reported HISA won the lawsuit in Kentucky. The NMRC plans to continue to move forward as if HISA will be in effect on July 1. • Executive Director Trejo reported ARCI is having a meeting at Delmar at the end of July and the NMRC will be represented there. 	No Action Taken.
B. NMHBA	14:15 – 17:10	NMHBA's Mary Barber presented the Race-A-Day Report for SunRay Park through Sunday, May 29, 2022, stating it ran 63 NM Bred Races in 18	

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		days. In overnight races, the NMHBA contributed \$558,000.00, which was \$110,000.00 more than in 2021. It averaged 3.50 NM Bred per day, +9 for three a day.	No Action Taken.
7. Public Comments:	17:15 – 24:10	<p>Chairman Bregman reported 2 people signed up to make public comments on the sign-up sheet (Ms. Leslie Fincher and Mr. Warren Frost) and asked if there was anyone that did not sign up to make a public comment.</p> <p>Mr. Frost, on behalf of Coronado Park, addressed the NMRC regarding its application for a sixth license. He said they are always available to answer any questions the Commissioners may have regarding its application.</p> <p>Ms. Fincher expressed her opinions to the Commission about how she believes it regulates horseracing in New Mexico.</p> <p>Chairman Bregman checked again if there was anybody virtually who would like to make a public comment. There were none.</p>	No Action Taken.
8. Unfinished/New Business and/or Action Items			
A. Approval of 2022 State Stewards at The Downs at Albuquerque/NM State Fair	24:11 – 25:50	Executive Director Trejo requested approval of the 2022 State Stewards at The Downs at Albuquerque/NM State Fair. Due to a “late	Motion to approve 2022 State Stewards at the DAA/NMSF made

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		scratch” from a Steward previously approved, Executive Director Trejo requested approval of Mr. Dave Hooper, Ms. Debra Ferguson and Mr. Larry Fontenot, Jr. as Stewards for the Downs at Albuquerque. Also requested approval of Mr. Reese “Rug” Howard, Ms. Violet Smith, and NMRC Investigators Elizabeth Garcia and Leasa Johnson as substitute Stewards. Executive Director Trejo reported this list is subject to change.	by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion passed unanimously by roll call vote.
B. Approval of FY23 Hearing Officer	25:54 – 27:00	Executive Director Trejo requested approval of Mr. Kevin Fitzwater as the FY23 Hearing Officer. Judge Fitzwater was the only applicant who bid for the position.	Motion to approve Kevin Fitzwater as the FY23 Hearing Officer made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion passed unanimously by roll call vote.
C. Approvals for Ruidoso Downs			
1. Approval of 2023 Primary Application & Simulcast License	27:05 – 34:30	Mr. Rick Baugh requested approval of Ruidoso Down’s 2023 Primary Application & Simulcast License. After review, the Commission determined the Application was deficient and directed Ruidoso Downs amend its application and request approval again.	Motion to table 2023 Primary Application & Simulcast License for Ruidoso Downs made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion

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2. Ratification of Approval to Amend Post Times & Wagering Format	34:39 – 36:05	Mr. Baugh requested ratification of approval of the amended post times & wagering format on May 27, May 28, May 30, and June 1, 2022.	passed unanimously by roll call vote. Motion to ratify the approval to amend the post times & wagering format for Ruidoso Downs made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion passed unanimously by roll call vote.
3. Ratification of Approval of Variance on May 30, 2022	36:07 – 36:42	Mr. Baugh requested ratification of approval of the variance on May 30, 2022.	Motion to ratify the approval of the variance on May 30, 2022, for Ruidoso Downs made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion passed unanimously by roll call vote.
4. Ratification of Approval to Amend 2022 Purse Schedule	36:43 – 39:08	Mr. Baugh requested ratification of the approval to amend 2022 Purse Schedule. There was a 20%	Motion to ratify the approval to amend the

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<p>D. Approvals for SunRay Park</p> <p>1. Approval of 2023 Primary Application & Simulcast License</p>	39:31 – 43:00	<p>increase across the board beginning in Ruidoso Down's second condition book. Commissioner Buffington asked Mr. Baugh the reason for such a large increase. Mr. Baugh reported, like Executive Director had pointed out earlier, the explanation was the increase in simulcast handle.</p> <p>Mr. Bradley Boehm requested approval of SunRay Park's 2023 Primary Application & Simulcast License. After review, the Commission determined the Application deficient and directed SunRay Park amend its application and request approval again.</p>	<p>2022 Purse Schedule for Ruidoso Downs made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion passed unanimously by roll call vote.</p> <p>Motion to table 2023 Primary Application & Simulcast License for SunRay Park made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion passed unanimously by roll call vote.</p>
<p>E. Approvals for The Downs at Albuquerque</p> <p>1. Approval of 2023 Primary Application & Simulcast License</p>	43:02 – 49:09	<p>Mr. Don Cook requested approval of The Downs at Albuquerque's 2023 Primary Application & Simulcast License. After review, the Commission determined the Application deficient and directed The Downs amend its application and request approval again.</p>	<p>Motion to table 2023 Primary Application & Simulcast License for The Downs at Albuquerque made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion</p>

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2. Approval of 2022 Jockey & Exercise Rider Insurance	49:10 – 50:22	Mr. Cook requested approval of the 2022 Jockey & Exercise Rider Insurance pursuant to 15.2.2.8 (B)(11) NMAC. The Downs at Albuquerque requested \$194,613.20, a 2% increase from 2021.	passed unanimously by roll call vote. Motion to approve the 2022 Jockey & Exercise Rider Insurance for the DAA made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion passed unanimously by roll call vote.
3. Approval of 2022 Post Times & Wagering Format	50:23 – 51:26	Mr. Cook requested approval of 2022 Post Times and Wagering Format as submitted. Executive Director Trejo confirmed with Mr. Cook that DAA intends to run 10 races on Saturdays and Sundays and 9 races on weekdays. The submission reflects 10 races on Wednesdays, Fridays and Saturdays. and Mr. Cook confirmed that is just in case it is able to run 10 races during the week.	Motion to approve the 2022 Post Times & Wagering Format for The Downs at Albuquerque made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion passed unanimously by roll call vote.
4. Approval of Proposed 5% Simulcast Expense Deduction	51:28 – 53:03	Mr. Cook requested approval of the proposed 5% Simulcast Expense Deduction for the DAA. Mr. Cook reported the cost of simulcasting since	Motion to approve the proposed 5% Simulcast Deduction

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<p>F. Approvals for NM State Fair</p> <p>1. Approval of 2023 Primary Application</p>	53:08 – 55:49	<p>2005 has increased approximately 18%. Therefore, DAA is asking approval of 5% simulcast expense deduction for simulcast expenses in 2022.</p> <p>Mr. Cook requested approval of The New Mexico State Fair's 2023 Primary Application on behalf of the NM State Fair. Because the application was received late, the Commission was not able to review the Application. The Commission directed the NM State Fair to amend its application and request approval again.</p>	<p>for the DAA made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion passed unanimously by roll call vote.</p> <p>Motion to table 2023 Primary Application for the NM State Fair made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion passed unanimously by roll call vote.</p>
<p>G. Approvals for Sunland Park</p> <p>1. Approval of 2022/23 Primary Application & Simulcast License</p>	56:00 – 57:49	<p>Mr. Dustin Dix requested to table Sunland Park's 2023 Primary Application & Simulcast License. After review, the Commission determined the Application deficient and directed Sunland Park amend its application and request approval again.</p>	<p>Motion to table 2023 Primary Application & Simulcast License for Sunland Park made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion passed unanimously by roll call vote.</p>
<p>H. Approvals for Zia Park</p>	57:54 – 1:02:37	<p>Mr. Chris McErlean requested approval of Zia Park's 2023 Primary Application & Simulcast</p>	

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1. Approval of 2023 Primary Application & Simulcast License		License. After review, the Commission determined the Application deficient and directed Zia Park amend its application and request approval again.	Motion to table 2023 Primary Application & Simulcast License for Zia Park made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion passed unanimously by roll call vote.
2. Approval of 2022 Stall Application	1:02:39 – 1:03:51	Mr. McErlean requested approval of the 2022 Stall Applications. All changes (i.e. added provisions related to HISA) and pertinent information for the horsemen were highlighted.	Motion to approve the 2022 Stall Applications for Zia Park made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion passed unanimously by roll call vote.
3. Approval of 2022 Gaming & Breakage	1:03:53 – 1:04:40	Mr. McErlean requested approval of the 2022 Gaming & Breakage as agreed and submitted by the NMHBA.	Motion to approve the 2022 Gaming & Breakage for Zia Park made by Commissioner Smith. Motion Seconded by Commissioner Buffington. Motion

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		<p>refused to wire the \$1.2 and half million to SunRay Park to pay purses at the end of the meet.</p> <p>Ms. Leslie Amestoy addressed this issue. She disagreed with “unrecognizing” the NMHA as the horsemen’s group. She stated does not want the NMHBA to be the “recognized” horsemen group.</p> <p>Ms. Fincher opined the tracks “wanted more money than was due”. She opined if the Commission went through the tracks’ records, it would find more violations.</p> <p>Mr. Gary Mitchell, attorney for NMHA, also made a public comment. He pointed out Chairman Bregman and he have a huge disagreement about this issue. He stated that “every member is licensed”. Mr. Mitchell alleged NMHA staff found a “major error” which SunRay Park allegedly made in the gaming money transfer request at issue. He continued to state to Chairman Bregman that his opinions in these matters were wrong. Finally, Mr. Mitchell asked the NMRC not follow through with this action.</p> <p>Ms. Vanessa Alexander also made a comment “hoping that the NMRC recognize the NMHBA”</p>	

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		<p>as the official horsemen's group. She applauded the NMRC for going through the tracks' applications. She said she was told the bookkeeper at SunRay Park was out on vacation and, therefore the NMHA should not be blamed for not paying purses.</p> <p>Commissioner Smith commented it is a sad day for horseracing in New Mexico. He agreed with Chairman Bregman the NMHA leadership has caused all of this. He said that unfortunately this action needs to be done for the betterment of the racing industry in NM.</p> <p>Chairman Bregman announced the Commission was not ready to announce which group will be recognized as the official horsemen's group at this time. It has, however, been established that it will no longer be the NMHA based on the entire NMRC's votes which just took place.</p>	
Executive Session: entered at 10:45 AM	1:37:45 – end	Chairman Bregman called for a motion to enter into executive session to discuss the items listed in the agenda, pursuant to Sections 10-15-1H(1), H(3) and H(7) of the Open Meetings Act authorizing closed sessions for matters related to issuance, suspensions, renewal or revocation of a license, deliberations on adjudicatory proceedings and pending or threatened litigation.	Commissioner Smith moved to enter into Executive Session. Commissioner Buffington seconded the motion. Motion passed unanimously by roll call vote.


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Back into Open Session: 11:45 AM 9. Licensing/Pending Litigation/Appeals/Hearing Officer's Reports/Employment Contracts	2nd Recording		
A. NMHA (Pending Litigation)		This matter was a status update. No action was taken.	No Action Taken.
B. Coronado Partners v. NMRC (Pending Litigation)		This matter was a status update. No action was taken.	No Action Taken.
C. Esparza & Harris v. NMRC (Pending Litigation)		This matter was a status update. No action was taken.	No Action Taken.
11. Adjournment at 11:48 AM			



 Chairman Sam Bregman

8/25/22

 Date



 Executive Director Ismael Trejo

 Date