NEW MEXICO HORSE RACING COMMISSION MINUTES OF THE REGULAR MEETING

Date: February 22, 2024, at 9:00 a.m.

Place: NMRC Boardroom; 4900 Alameda Blvd., NE, Albuquerque, NM and Zoom Video Conference – Meeting ID: 835 0537 2749

Members Present: Vice-Chairman David "Hossie" Sanchez, Commissioner John Buffington, Commissioner Billy Smith, Commissioner Margaret Branch and Commissioner Bob Pitre.

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

Also Present: Assistant Attorney General Daniel Rubin (via Zoom)

	AGENDA ITEM	RECORDING#	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
Public S	Session 1:			
I.	Call to Order and Roll Call	0:03 - 0:30	Meeting called to order at 9:00 a.m. by Vice-Chairman Sanchez. Roll call was taken by Denise Chavez. A quorum was present. Executive Director Ismael Trejo, In-House Counsel Richard Bustamante, Law Clerk Denise Chavez, and Assistant Attorney General Dan	No Action Taken.
			Rubin were also present.	
II.	Pledge of Allegiance	0:36 - 0:49		Pledge of Allegiance was recited.
III.	Approval of Agenda	0:57 – 1:15	Vice-Chairman Sanchez asked if there were any changes to the agenda today. There were none.	Motion to approve the agenda made by Commissioner Smith. Commissioner Buffington second the motion. Motion passed unanimously.

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
IV. Approval of Minutes: January 25, 2024 – Regular Commission Meeting	1:17 – 1:30	Vice-Chairman Sanchez asked if the minutes for the January 25, 2024, regular meeting were reviewed and if there were any changes. There were no changes.	Motion to approve the minutes from January 25, 2024 meeting made by Commissioner Smith; Second by Commissioner Buffington. Motion passed unanimously.
V. Commissioners' Reports	1:31 – 1:34	No comments.	No Action Taken.
VI. Agency Director Reports: A. NMRC Report	1:36 - 0:06:00	 Executive Director Trejo began by reporting just under 16,000 race fans were present for the 2024 Sunland Derby. Despite the short fields, pari-mutuel handle eclipsed the \$3.1 million mark for the card. Over \$1.0 million was bet on the Sunland Derby itself. Executive Director Trejo gave a shout out to the Sunland Park management and the staff of Corralitos. He gave special recognition to the track superintendent George Moncrief for doing a great job maintaining the track surface throughout the 2024 race meet. Executive Director Trejo said there was a lot of discussions at Sunland Park about the recent events that have taken place in the industry like the simulcast issue, etc. 	No Action Taken.

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
B. NMHBA Report	0:06:20 - 0:08:55	• Executive Director Trejo also complimented the NMRC's Vets at Sunland Park, Dr. O'Sullivan and Dr. Stephen Day. They reported to Executive Director Trejo they have pre-examined 100% of the horses entered to race at Sunland Park. Vice-Chairman Sanchez added this was great news as this is part of the mandate from the Governor to the NMRC to do better taking care of the equine athletes. Executive Director Trejo agreed and reported that the pre-examination of horses is also part of the agency's performance measures as well. Mary Barber presented the Race-A-Day Report for Sunland Park through Sunday, February 11, 2024, stating it ran 87 NM Bred Races in 23 days. In	No Action Taken.
		overnight races, the NMHBA contributed \$847,000.00 which was \$37,000.00 less than in 2023. It averaged 3.79 NM Bred per day, +18 for three a day.	
VII. Executive Session: entered at 9:09 AM A) D-202-CV-2020-06564 (S-1-SC-39693); D-202-CV-2021-03236 (A-1-CA-40911) and (A-1-CA-40915); and D-202-2022-03779 (Pending Litigation)	0:09:02 — end	Vice-Chairman Sanchez called for a motion to enter into executive session. Commissioner Buffington moved for the Commission 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	Executive Session made by Commissioner Buffington. Commissioner Smith seconded the motion.

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
B) D-202-CV-202200712 (Pending Litigation)		license; deliberations on adjudicatory proceedings and pending or threatened litigation.	unanimously by roll call vote.
C) D-1226-CV-202400015 (Pending Litigation)	2 nd Open Session Recording: 0:01:00 – 0:01:25	In-House Counsel, Richard Bustamante affirmed the Commission only discussed in Executive Session those matters listed under Items 7. A-C which were licensing matters as identified under Item VII of the meeting Agenda, in accordance with NMSA 1978, Sections 10-15-1(H)(1), (3) and (7) of the Open Meetings Act.	No action taken on Agenda Items VII (A - C).
VIII. Unfinished/New Business and/or Action Items: A. Update on SB 336 Corrective Language	0:01:30 - 0:27:20	NMRC's CFO, Amber Trujillo, began the discussion with SB 336 that passed in April 2023. This bill was signed on an "emergency basis" to assist the racing industry with the payments of HISA and Jockey & Exercise Rider Insurance. However, there were issues with this bill: first, SB 336 did not address the usual items that are necessary in order to create a fund for that particular purpose; and the bill did not establish whether it was reverting or non-revolving. Commissioner Buffington asked CFO Trujillo to please explain the difference between reverting and revolving. Reverting means as of the end of the fiscal year (June 30) the money will be reverted back to Santa Fe to the general fund in	No Action Taken.

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
		order to repurpose it the next fiscal year. Non-revolving means that fund does not go back to the general fund and can again be used the next fiscal year. The Agency was asked to fix SB 336 in FY24 in the current legislative session that just ended. The Agency had a fund balance of a little over \$500k for FY23. The Agency provided revisions to SB 336 as asked. The highlighted language were the corrections requested by the DFA and LFC to fix SB 336. The agreement was the Agency would budget the money in FY24 as long as the Commission fixed the highlighted language which would establish this money being non-reverting/revolving. That would mean the money collected in FY23 could be used in FY24. The Commission also requested the language be added to the bill to establish the fund (i.e. separate account, interest bearing, etc.). The agency was also requested to have the ability to use the fund balance. The Commission wanted to ensure the Agency has proper authority not only to collect the revenue and place it into the established fund but also to spend the revenue. Vice-Chair Sanchez clarified with CFO Trujillo that this fund is totally different than the Agency's operating budget. "We are just caretakers of this money." CFO Trujillo confirmed this was true. She continued to point	No Action Taken.

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
		out that as of today, the Agency does not have the authority to collect and spend this money. She was granted temporary authority until the Agency can get this language fixed. CFO Trujillo pointed out the Agency submitted the language as requested, however, is unsure what happened to the language fixing the bill. However, the language did not make it into SB 336. Following that explanation, CFO Trujillo reported the Agency has enough money to pay Jockey & Exercise Rider Insurance for Sunland Park. Ultimately, what all this means is: 1) who will be in charge of taking care of this money? At this point this Agency does not have authority to collect the money, it has merely been tasked oversight of the money. 2) How do the tracks set up the fund? The Agency has been told by Santa Fe that the Agency is in a bit of a "pickle" – after the conclusion of Sunland Park's meet,	No Action Taken.
B. Discussion of Zia Park's 2023 Race Meet's Untimely Payment of Purses	0:27:50 - 0:45:50	the conclusion of Sunland Park's meet, everything is up in the air, especially for the remaining tracks' insurance policies. Commissioner Smith asked CFO Trujillo what is the fix. CFO Trujillo added that there is language in HB2 that some think will fix the problems with SB336. However, that is not a fix-all bill either because the appropriate language was never added to SB336 to clarify that this fund is non-reverting and it is revolving. Chris McErlean was present to explain what occurred at the end of the 2023 race meet. Mr.	No Action Taken.

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
		McErlean first provided background. He explained he was made aware there were some issues with the issuance of purse accounts checks at the conclusion of the 2023 meet. He reported the accusations on social media and on the backside were incorrect and wanted to provide correct information to the Commission. Mr. McErlean reported first and foremost, the Zia Park purse account was fully funded the entire meet. The average balances in the horseman's bookkeeper's account was over \$3 million dollars during the entire meet. There was no issue that the account did not have funding. Secondly, the funds for gaming purse funds, which are separate and get transferred in to fund the purse account, were also adequately funded and all the funding was done in the required timeframe. Use of the funds was done pursuant to statute and regulatory mandates. Pursuant to Commission rules, funds were requested within 48 hours of the conclusion of the meet. The transfer into the winning horseman's account was requested and completed within 48 hours after the race. Mr. McErlean clarified this does not mean the money is physically in the account. The horseman can then request a withdrawal of the money. Zia Park was compliant with this rule.	No Action Taken.

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
		Mr. McErlean reported he believed that some of the issues were with the issuance of checks. Part of the issues, admitted by Zia Park, were operational issues which caused delays and confusion from getting those checks out on a timely basis. There were also several issues outside of Zia Park's control which unfortunately reflected negatively on it. During the 2023 race meet, Zia Park issued over 2100 checks to horsemen. Approximately 50% of those checks were issued by the closing day of the meet (December 20). Another 250 were issued by the end of December. Another 600 were issued by the end of January. As of today, there are approximately 43 accounts that have not been issued checks. Roughly half of these are on hold because of disqualifications or pending drug positives on the other half, Zia Park is awaiting for paperwork from the individuals of these accounts.	No Action Taken.
		Mr. McErlean explained one major hold up for issuance of checks was past policy was that everyone needed an updated/new W-9 filled out and turned in every year. If the account did not have an updated W-9 on file, the purse account was not released. The second issue, Mr. McErlean reports was staffing issues. COVID took out 6 members of Zia Park's accounting office between the end of the meet and mid-	

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
		January. Zia Park was also made aware of several issues with banks where they were not accepting Zia Park's checks, placing requirements for individuals to open accounts to cash those checks or placing limits on those checks that could be cashed or limiting mobile deposits. These issues were rectified immediately. Several items that Zia Park will be putting in place for next year to improve this process in the future are: better accessibility and communication with the horsemen's bookkeeper, increasing office hours for the bookkeeper. On the W-9 issue, a new form will not be required on an annual basis anymore, as long as it is current (the past 3 years). Utilization of Incompass for W-9s	No Action Taken.
		to help with this issue as well. Finally, Zia Park will look into utilizing direct deposit.	
	0:46:00 - 0:48:20	In-house Counsel Bustamante reminded the Commission that the Agenda has "possible disciplinary action regarding Zia Park's 2023 Race Meet's Untimely Payments of Purses. The Commission agreed no disciplinary action will be taken. No further discussion.	
C. Discussion Regarding Simulcasting	0:48:21 – end	Don Cook of The Downs at Albuquerque began the discussion by stating he is very disappointed in a couple of ways. He stated The Downs at Albuquerque started the simulcast program by	5

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
		square 1 in the mid-80s by taking the last 3 races from Hollywood Parx after the Downs of Santa Fe closed. Since then, The Downs at Albuquerque has taken every available signal it can take.	
		Mr. Cook reminded the Commission that The Downs at Albuquerque has been a business partner with the horsemen, where all profits are split 50-50. He said seeing someone/group/association attempting to harm their product is very disappointing. Mr. Cook said he now has to explain to the racing fans what is going on and ultimately the fans are the ones hurt by these recent moves. This is also very disappointing.	
		Vice-Chairman Sanchez asked Mr. Cook if he has had any conversations with anyone about who is behind these signals being pulled from New Mexico. Mr. Cook said he had a conversation with a person from a board that he has never seen or heard of before. This separate unknown committee was not formed by the Downs at Albuquerque and reported that most of those members listed on the horsemen's website have out of state phone numbers. Mr. Cook reported that one of those members is Sean Alfortish and that is whom Mr. Cook had a conversation with regarding simulcasting in New Mexico. Mr. Cook said Mr. Alfortish was upfront with him	No Action Taken.

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
		and reported they were going to get signals pulled if the current problems with the horsemen, commission and everyone involved does not get resolved. Mr. Cook reported that Mr. Alfortish said they will pull one signal a month. Mr. Cook said Mr. Alfortish offered him and his ownership a meeting. However, Mr. Cook nor the ownership did not believe it was beneficial to meet with this group at this point. Vice-Chairman confirmed with Mr. Cook that the committee that The Downs at Albuquerque formed met criteria pursuant to the horseracing act and this unknown group referred to by Mr. Cook does not meet that criterion. Mr. Cook expressed his concern for the Kentucky Derby this year and i not able to simulcast it for the fans. Executive Director Trejo reported that pulling simulcast signals from NM also affects NM's equine test funding and said the fans are the real victims of this move. Max Moreland of SunRay Park says he is having a difficult time understanding why this is happening. He said the real victims in these moves are the fans. Mr. Moreland said that the horsemen he has spoken to in the Farmington area have no idea that the simulcasting signals are being pulled from New Mexico. They have not been informed that this was going on. He believes the group working on pulling signals	No Action Taken.

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
		from New Mexico do not represent the majority of the horsemen in New Mexico. Fred Heinrich of Sunland Park said he wonders if the real horsemen of New Mexico know and understand the ramifications of the actions of this unknown horsemen's group. He said Sunland Park will not negotiate with this group who is detrimental to the New Mexico racing. Rick Baugh and Ethan Linder of Ruidoso Downs discussed the ramification of these moves by the unknown horsemen's group to Ruidoso Downs (affecting future employees and services, etc.). In fact, they are concerned that Ruidoso Downs will not even be able to host the Kentucky Derby this year. Vice-Chairman Sanchez confirmed with Mr. Linder and Mr. Baugh that they followed the law forming the horsemen committee at Ruidoso Downs. The Commission erroneously moved to go into closed session. The Commission was advised by AAG Rubin that it should immediately go back into open session. No decisions were made in this closed session. A brief break was taken by the Commission.	No action taken.
Second Open Session pt. 2 recording:		Upon returning to open session, Vice-Chairman Sanchez called out numerous times for anyone in the public (in person and virtually) who wanted to	

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
		make a comment on this discussion to raise their hand so they may speak. Nobody raised their hand.	
D. Approvals for Sunland Park	0:02:21 - 0:05:20	Dustin Dix of Sunland Park Racetrack began by agreeing with all of the other NM Racetrack management who spoke earlier that the real victims of withholding simulcast signals are the fans.	-
		Mr. Dix reported that Sunland Derby weekend went extremely well. He reported that Sunland Park ran 10 races this year versus 11 last year and moved the date of the Sunland Derby from the end of March to February 18th. On-track handle was up a little over \$20k. Off-track handle was also up a little over \$200k. Sunland Park did a little over \$3.1 million for the day. The weather was fantastic.	
1. Request for Ratification of Approval to Amend 2024 Post Times	0:05:21 - 0:05:45	Dustin Dix requested ratification of the approval to amend 2024 Post Times. Mr. Dix reported this amendment was to shorten post times so everyone could get home to enjoy the Super Bowl.	Motion to ratify the approval to amend 2024 Post Times made by Commissioner Smith. Commissioner Buffington seconded the motion. The motion passed unanimously.

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
2. Request for Ratification of Approval to Amend 2024 Post Times & Wagering Format and to Run 10 Races on Sunland Derby Day	0:05:50 - 0:06:19	Dustin Dix requested ratification of approval to amend 2024 Post Times & Wagering Format and to Run 10 Races on Sunland Derby Day. Sunland Park also added some wagers popular with TB betters (pick 4s and daily doubles were added).	Motion to ratify the approval to amend 2024 post times & wagering format made by Commissioner Smith. Commissioner Buffington seconded the motion. The motion passed unanimously.
3. Request for Ratification of Approval to Amend 2024 Racing Officials E. Approvals for Ruidoso Downs	0:06:22 - 0:06:50	Dustin Dix requested ratification of approval to amend 2024 racing officials. Mr. Dix reported that this approval was for Joree Scriver as Clerk of Scales.	Motion to ratify the approval to amend 2024 racing officials made by Commissioner Smith. Commissioner Buffington seconded the motion. The motion passed unanimously.
1. Request for Approval of 2024 Condition Book (Book #1)	0:07:16 - 0:07:59	Rick Baugh requested approval of the 2024 Condition Book (Book #1).	Motion to approve the 2024 Condition Book (Book #1) made by Commissioner Smith. Commissioner Buffington seconded the motion. The

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
2. Request for Approval of 2024 Condition Book Officials	0:08:00 - 0:08:30	Rick Baugh requested approval of the 2024 Condition Book Officials.	motion passed unanimously. Motion to approve Ruidoso Downs' 2024 Condition Book Officials made by Commissioner Buffington. Commissioner Smith seconded the motion. The motion passed unanimously.
3. Request for Approval of 2025- 2026 Nomination Blanks a. 2025 All American QH Futurity & Derby b. 2025 Mountain Top NM Bred QH Futurity & Derby c. 2025 Rainbow QH Futurity & Derby d. 2025 Rio Grande Senor Futurity e. 2025 Rio Grande Senorita Futurity f. 2025 Ruidoso QH Futurity & Derby g. 2025 Ruidoso Maiden Stakes h. 2025 Zia Futurity & Derby	0:08:31 - 0:09:39	Rick Baugh requested approval of the 2025-2026 Nomination Blanks.	Motion to approve the 2025-2026 Nomination Blanks made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
i. 2025 Mountain Top NM Bred TB Futurity j. 2026 All American Triple Crown			
4. Presentation of AARD's 2024 Safety Plan	0:09:42 - 0:13:06	Rick Baugh submitted to the Commission AARD's 2024 Safety Plan Agreement. He reported Ruidoso Downs patterned this Safety Plan Agreement after Keenland's Safety Agreement. The safety agreement covers a wide variety of accountability measures placed on trainers and practicing vets. This agreement will have to be signed by the Trainer and his assigned practicing Vet verifying the horse was looked at prior to workouts and racing and is being checked for soundness. If this agreement is not signed and noted in the Incompass system, the horse will NOT be allowed to run. Vice-Chairman Sanchez said this is a great idea and encouraged all tracks to follow the same practice.	No Action Taken.
	0:13:07 - 0:14:40	Vice-Chairman asked all the tracks to provide their soil samples to Executive Director Trejo ASAP.	
	0:14:48 - 0:15:04	AAG Rubin reported for the record that the second closed session called earlier was called in error and the Commission was advised to immediately go back into open session.	

AGENDA ITEM	RECORDING #	DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS	ACTION TAKEN
F. Approvals for SunRay Park 1. Request for Approval of 2024	0:15:10 - 0:15:48	Steve Fedunak requested approval of SunRay	Motion to approve the
Racing Officials	0.13.10	Park's 2024 Racing Officials.	2024 Racing Officials made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.
2. Request for Approval to Amend 2024 Wagering Format	0:15:50 - 0:16:15	Steve Fedunak requested approval to amend SunRay Park's 2024 Wagering Format.	Motion to approve to amend 2024 Wagering Format made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.
X. Adjournment at R:10 PM	0:16:16 - end	Vice-Chairman Sanchez adjourned meeting.	

Vice-Chairman David "Horsie" Sanchez Date

Executive Director Ismael Trejo

Date