

NEW MEXICO HORSE RACING COMMISSION
MINUTES OF THE REGULAR MEETING

Date: October 20, 2022, at 9:00 a.m.

Place: NMRC Boardroom; 4900 Alameda Blvd., NE, Albuquerque, NM and Zoom Video Conference – Meeting ID: 851 9467 0359

Members Present: Chairman Sam Bregman (via Zoom), 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: Assistant Attorney General Sally Malave.

<i>AGENDA ITEM</i>	<i>RECORDING #</i>	<i>DISCUSSIONS/CONCLUSIONS/ RECOMMENDATIONS</i>	<i>ACTION TAKEN</i>
Public Session 1: 1. Call to Order and Roll Call	0:06 – 0:27	Meeting called to order at 9:04 a.m. by Chairman Bregman. Roll call was taken by Denise Chavez. Executive Director Ismael Trejo, In-House Counsel Richard Bustamante, Assistant Attorney General, Sally Malave and NMRC Law Clerk, Denise Chavez were also present.	No Action Taken.
2. Pledge of Allegiance	0:30 – 0:45		Pledge of Allegiance was recited.
3. Approval of Agenda	0:50 – 2:45	Chairman Bregman asked Executive Trejo if there were any changes to the Agenda today, Executive Trejo asked to remove Items 8.(F) and 9.(A) and table 7.(H)(1) from today’s Agenda.	Motion to approve the Agenda as amended made by Commissioner Smith. Commissioner Buffington second the motion. Motion passed unanimously.

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4. Approval of Minutes: September 22, 2022	2:46 – 3:25	Chairman Bregman asked if the minutes for the September 22, 2022, meeting were reviewed and if there were any changes. There were none.	Motion to approve the minutes from the Regular Commission Meeting on September 22, 2022, made by Commissioner Smith; Second by Commissioner Buffington. Motion passed unanimously.
5. Chairman's Reports	3:27 – 6:15	<ul style="list-style-type: none"> Chairman Bregman thanked the NMRC staff for all their hard work and dedication. He recognized that the staff is small and resources are limited. However, the agency is committed to requesting more funding from the legislature to increase staff for the agency. Chairman Bregman stated that the meet is now ended at the Downs at Albuquerque/NM State Fair. It was a successful meet and ended with a big day, as far as purse money. He congratulated everyone who participated in that meet for all their hard work. Chairman Bregman stated that the horseracing industry continues to adjust, not only in this state, but also nationally. He thanked everyone involved in horseracing for continuing to work, 	No Action Taken.

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		<p>individually and collectively, so hard to keep this industry running.</p> <ul style="list-style-type: none"> Chairman Bregman ended by thanking his fellow Commissioners. He pointed out that all the Commissioners have the horseracing industry at heart. They all take this job serious and work very hard at making the best decisions for the industry. 	
<p>6. Agency Director Reports: A. NMRC Report</p>	<p>:25 – 7:03</p>	<ul style="list-style-type: none"> Executive Director Trejo welcomed 3 new NMRC staff members: Hector Lopez, NMRC Purchasing Agent; Lynette Garcia, Licensing Tech; and David Lupo, NMRC State Steward. October 17, 2022 was the roll-out date for HISA’s Anti-Doping Assessment for all the tracks. Executive Director Trejo reported he was made aware of the cost breakdown for each track in NM, NM horseracing as a whole and the starter fees. The state’s racing industry will have to pay a little over \$1.7 million in total for the initial assessment for HISA’s anti-doping component of regulation. Executive Director Trejo reported the Commission also received a draft Voluntary Implementation Agreement from HIWU, the entity HISA contracted with for its anti-doping regulatory component. This Agreement will be on the next agenda for the Commissioners to 	<p>No Action Taken.</p>

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		<p>decide whether to sign. In response to new regulations being implemented by HISA, the NMRC is going to have to consider hiring more staff to execute the enforcement of those new regulations.</p> <ul style="list-style-type: none"> • NMRC was in Santa Fe yesterday before a legislative subcommittee. This meeting went well. • The other item the NMRC will have to consider today and perhaps act upon is formally requesting from HISA an exemption from its furosemide ban. • Commissioner Smith asked Executive Director Trejo if he had any idea what the dollar amount of the starter fee was going to be for assessment by the tracks as the financial mechanism for paying HISA assessments given the apparent inability of the NMRC to use gaming monies for that purpose. Executive Director Trejo explained for Ruidoso there is going to be a \$20 starter fee assessed but that is prior to the rolling out of the anti-doping regulations in 2023. At that point, the starter fee will go up to approximately \$200 per starter (TBs only). • Chairman Bregman asked Executive Director Trejo if any of the amounts being assessed by HISA is included in the FY24 budget (which is being approved today) or if that is something else for the legislature 	

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B. NMHBA Report	7:13 – 10:06	<p>to take into consideration. Executive Director Trejo replied those amounts are, in fact, included in this budget. However, what is being approved today is for FY24 and has already been appropriated. The NMRC is looking for money going into FY25. If more staff is going to be needed to remain in compliance with HISA, then the NMRC will have to request a supplement for those additional employees. Those discussions are already taking place with the Legislature.</p> <ul style="list-style-type: none"> • Commissioner Buffington pointed out “this is NOT the New Mexico Racing Commission’s idea. It is something that is mandated at the Federal level.” <p>NMHBA’s Mary Barber presented the Race-A-Day Report for The Downs at Albuquerque through Saturday, October 1, 2022, stating it ran 139 NM Bred Races in 38 days. In overnight races, the NMHBA contributed \$1,004,500.00, which was \$184,500.00 more than in 2021. It averaged 3.66 NM Bred per day, +25 for three a day.</p> <p>Mary Barber congratulated Todd Fincher and all the connections of NM Bred Filly Smash. She also reminded everyone the NM Cup Weekend will be at the end of the month on October 29 and 30th at Zia Park.</p>	No Action Taken.

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7. Unfinished/New Business and/or Action Items A. Approval of FY24 NMRC Budget B. Discussion & Decision to Request an Exemption from HISA's Banning of the Use of Furosemide in Covered Horseraces Other than Two-Year Old Covered Horses and Stakes Races C. Approvals for Ruidoso Downs 1. Ratification of Approval of Variances on August 26, 27 and 28, 2022	 10:11 – 12:40 12:43 – 15:47 15:55 – 18:05	 NMRC CFO, Amber Trujillo, reported there was a \$100.00 difference from the budget presented in August. The number presented today were the final numbers for FY24, on which she requested final approval. Executive Director Trejo requested approval and authority to submit to HISA a request for an exemption from 15 USC § 3055(d) limitations on use of furosemide in covered horseraces other than two-year old, covered horses and stakes races, the exemption beginning January 1, 2023, for 3 years. Commissioner Smith clarified QHs will continue business as usual. Chairman Bregman asked about the Sunland Derby. Executive Director Trejo confirmed last year the Sunland Derby ran Lasix free and will continue the same. Ethan Linder requested ratification of the approval of Variances on August 26, August 27, and August 28, 2022. Mr. Linder reported these variances were necessary due to lack of entries. This was between AARD's trials and finals at Ruidoso	 Motion to approve the FY24 NMRC Budget made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously. Motion to approve and authorize Executive Director Trejo to request an exemption from HISA made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously. Motion to ratify the approval to amend post times & wagering format on August 26, 27 and 28, 2022 made

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<p>D. Approvals for The Downs at Albuquerque/NM State Fair</p> <p>1. Ratification of Approval to Run 10 Races on September 28 and September 30, 2022</p> <p>2. Ratification of Approval to Amend 2022 Racing Officials</p>	<p>18:10 – End 1:55 - 3:01</p> <p>3:04 – 3:52</p>	<p>Downs. Chairman Bregman asked Mr. Linder what attributed to the lack of entries. Mr. Linder reported a lot of the TBs had already transitioned to DAA, DAA's purses were a bit higher, and there was not a lot of opportunity for QHs at that time because they had just run the week before. It was just bad timing. Chairman Bregman asked Mr. Linder what they are doing to not have this happen next year. Mr. Linder pointed out there is no overlap with DAA in 2023, which will hopefully allow Ruidoso to keep more TBs there.</p> <p>Don Cook requested ratification of approval to run 10 races on September 28 and September 30, 2022. Technical difficulties occurred at the time of voting but were resolved. Commissioner Buffington thanked the DAA and Mr. Cook for adding races based on horses that were available to run.</p> <p>Don Cook requested ratification of approval to amend 2022 Racing Officials. These amendments were: Louis Figueroa as Clerk of Scales to replace Doug Stout; and Doug Stout replacing Sara Lopez as Placing Judge.</p>	<p>by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to ratify the approval to run 10 races on September 28 and 30, 2022 made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to ratify the approval to amend 2022 Racing Officials made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p>

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E. Approvals for Zia Park			
1. Request for Approval to Amend 2022 Racing Officials	4:09 – 5:13	Chris McErlean requested approval to amend Zia Park's 2022 Racing Officials; primarily it is Assistant Starters and Assistant Racing Secretary who started last week.	Motion to approve to amend 2022 racing officials made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.
2. Request for Approval of Payment of Purses	5:16 – 6:15	Christopher McErlean requested approval of payment of purses pursuant to 15.2.3.8(D)(4)(a) NMAC for the 2022 race meet.	Motion to approve the payment of purses made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.
F. Approvals for Sunland Park			
1. Request for Approval to Amend 2022/23 Stakes Schedule	6:23 – 9:08	Dustin Dix requested approval to amend 2022/23 Stakes Schedule. The only amendments include the "Lasix not permitted per HISA Rule 4212(d)" language.	Motion to approve to amend 2022/23 Stakes Schedule made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.
2. Request for Approval of 2022/23 Condition Book (Book #1)	9:10 – 10:35	Dustin Dix requested approval of 2022/23 Condition Book (Book #1) as submitted. All QHs	Motion to approve 2022/23 Sunland

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<p>G. Approvals for SunRay Park</p> <p>1. Introduction & Approval of Steve Fedunak as Director of Racing</p> <p>2. Request for Approval to Amend 2023 Primary Application</p>	<p>11:00 – 15:09</p> <p>15:23 – 29:58</p>	<p>on Fridays and Saturdays and all TBs on Sunday and Tuesday. This plan could change depending on horse population. Commissioner Smith said he hopes this plan works because it is a good one!</p> <p>Lonnie Barber introduced Steve Fedunak as the new Director of Racing for SunRay Park. Commissioner Buffington said he got to know Steve a little bit from simulcasting, and he believes he will do a great job. Executive Director Trejo also welcomed Steve and also believes he will do a great job.</p> <p>Mr. Moreland and Mr. Kendrick requested the Commissioners consider reducing the amount of race days from 21 to 18 days for its 2023 meet based on the presentation last month.</p>	<p>Park's first Condition Book made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to approve Steve Fedunak as the Director of Racing for SunRay Park pending his background check made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p> <p>Motion to deny the request to amend SunRay Park's 2022 Primary Application made by Commissioner Buffington. Motion seconded by Commissioner Sanchez. Motion passed unanimously.</p>

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H. Hearing Officer's Reports			
1. IMO: S. Trey Wood	30:05 – 30:15	This matter was tabled at the beginning of the meeting (see Approval of Agenda, above).	No action taken.
Executive Session: entered at 10:15 AM	30:16 – 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 Sanchez moved to enter into Executive Session. Commissioner Smith seconded the motion. Motion passed unanimously by roll call vote.
Back into Open Session: 11:30 AM	1:55 – 2:25	Chairman Bregman affirmed the Commission discussed only those matters specified in the motion to close the meeting in accordance with Section 10-15-1(J).	
8. Licensing/Pending Litigation/Appeals/Hearing Officer's Reports/Employment Contracts			
A. NMHA (Pending Litigation)	2:32 – 2:52	In-House Counsel, Richard Bustamante reported that Agenda Items 8.(A) - (D) and (H) were all litigation status updates. No action was taken on any of these items.	No Action Taken.
B. Pierre Amestoy (Pending Litigation)			
C. Vanessa Alexander (Pending Litigation)			
D. Brad Bolen (Pending Litigation)			
E. Coronado Partners (Pending Litigation)			
F. John Bobroff (Licensing)			
		See Action taken Below.	

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<p>G. Adolfo Varela-Burciaga (Licensing)</p> <p>H. Ruidoso Downs (Licensing)</p> <p>I. Ismael “Izzy” Trejo (Personnel)</p>		<p>This Item was removed from the Agenda at the beginning of the meeting (Approval of Agenda).</p> <p>See Action taken Below.</p> <p>This Item was a discussion. No action taken.</p> <p>See Action Taken Below.</p>	No Action Taken.
<p>9. Unfinished/New Business and/or Action Items</p> <p>A. Coronado Partners 6th Racetrack Application</p>	3:01 – 12:42	<p>Chairman Bregman reminded everyone this matter is being handled today pursuant to a district court order that a decision be made on or before November 2, 2022. The Commission reviewed the record in its entirety in making its decision.</p> <p>Chairman Bregman asked In-House Counsel, Richard Bustamante to list everything that was part of Coronado Partner’s record to review prior to this meeting and deliberated. In-House Counsel, Richard Bustamante, also read the applicable authority the NMRC relied on to make its decision. Legal Counsel for Coronado Partners, Warren Frost interrupted the process stating Coronado Partners objects to the NMRC not taking into consideration the most recent information provided to it by Coronado Partners over the course of the previous year. Chairman Bregman stated, in his opinion, that it is not in the best interest or the health of the industry at this time to approve Coronado Partners’ Application for the sixth racing license. The application does</p>	<p>Motion to deny Coronado Partners’ Application for a Sixth Racing License made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p>

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<p>B. Adolfo Varela-Burciaga (Licensing)</p>	<p>13:16 – 14:55</p>	<p>not take into consideration the very important factor of a decline in horse flesh and the decline in numbers which are entered into races. Nothing in the application supported the conclusion the industry at that time was healthy enough to support a sixth racetrack. Additionally, the horseracing landscape has changed recently with declines in breeding and inability to fill all races either continuing or increasing since 2018. Additionally, the federal regulation of TB racing via HISA is another factor going against a sixth license. Commissioner Buffington shared Chairman Bregman's thoughts regarding Coronado Partners' Application. Chairman Bregman asked In-House Counsel Bustamante to phrase a suggested motion based on these thoughts. Chairman Bregman asked In-House counsel to prepare findings of fact and conclusions of law.</p> <p>Chairman Bregman addressed Mr. Varela-Burciaga stating he did not provide the Commission with enough information to be able to allow him to be relicensed as a groom at this time. Chairman Bregman pointed out Mr. Varela-Burciaga just entered into this plea agreement in September of this year and invited him to come back at a later date when he has completed all those requirements ordered by the court and reapply for a license then.</p>	<p>Motion to deny Mr. Varela-Burciaga's Application for a license made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.</p>

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C. Ismael “Izzy” Trejo (Personnel)	14:59 - END	Chairman Bregman advised he would entertain a motion to have Executive Director Trejo file the necessary paperwork for a 15% pay increase.	Motion to approve a 15% raise for Mr. Trejo made by Commissioner Smith. Motion seconded by Commissioner Buffington. Motion passed unanimously.
10. Adjournment at 11:43 AM			



Chairman Sam Bregman

11/17/22

Date



Executive Director Ismael Trejo

12-1-22

Date