

Colorado Racing Commission
February 9, 2021
Meeting Minutes

Call to Order

The regularly scheduled meeting of the Colorado Racing Commission (“Commission”) was held on Tuesday, February 9, 2021 via video conference provided by Zoom. The meeting was called to order at 9:32 AM.

Members Present

Pam Inmann, Chairwoman
David Lynn Hoffman, Vice Chair
Tina Estes, Member
Sandra Bowen, Member
Lori Scott DVM, Member

Staff Present

Donia Amick, Director of the Division of Racing Events
Ed Kulp, Agent in Charge
Zach Ceriani, Legal Assistant
Bradford Jones, Senior Assistant Attorney General representing the Division of Racing Events/ General Counsel to the Commission
Keenan Lorenz, Senior Assistant Attorney General representing the Commission as Conflicts Counsel
Sue Kim, Senior Assistant Attorney General representing the Commission as Conflicts Counsel
Suzanne Karrer, Communications Manager for the Specialized Business Group
Janina Rivera, Executive Assistant to Division Director

1. Approval of Minutes of October, 2020

Minutes approved for October 13, 2020.

2. Approval of Minutes of November, 2020

Minutes approved for November 10, 2020.

3. Approval of Minutes of November, 2020

Minutes approved for November 18, 2020.

DECISION ITEMS:

4. Presentation and Approval of Commission Ruling 20-05 in the Matter of David Palafox

Proposed order presented for approval by conflicts counsel, Keenan Lorenz, Senior AAG.

Motion made by Commissioner Hoffman with a second made by Commissioner Scott to approve the decision in order.

Motion passed unanimously.

5. Consideration and approval of release of Owners/Breeders Awards Funds

Director Amick presented the total amount for dispersal was \$548,738.42

Motion made by Commissioner Bowen to distribute the funds. A second was made by Commissioner Estes.

Motion passed unanimously.

6. Consideration of request by Licensee Kerry Kemper to submit audio recording in lieu of transcript for appeal hearing

Conflicts counsel, Sue Kim, Senior AAG, discussed the request to accept the audio recording in lieu of the transcript for purposes of an appeals hearing, which will be held before the Commission at a later date. The licensees argued a financial hardship. She recommended the Commission go into executive session for any legal questions.

Ms. Kim recommended that the Commission table this matter until the Commission determined whether to go into executive session for a similar case on the Commission's agenda - Miguel Pena.

Consideration of request by Licensee Kerry Kemper to submit audio recording in lieu of transcript for appeal hearing was tabled by Chairwoman Inmann.

7. Consideration of request by Licensee Miguel Pena to submit audio recording in lieu of transcript for appeal hearing

Conflicts counsel, Sue Kim, Senior AAG discussed the request to accept the audio recording in lieu of the transcript for purposes of an appeals hearing, which will be held before the Commission at a later date. The licensees argued a financial hardship. She recommended the Commission go into executive session for any legal questions.

Conflicts counsel, Sue Kim, Senior AAG, asked if the Commission would like to enter into Executive session to discuss both matters (this matter and the Kerry Kemper matter) presented on agenda by Conflicts counsel.

Consideration of request by Licensee Miguel Pena to submit audio recording in lieu of transcript for appeal hearing was tabled by Chairwoman Inmann.

A motion made by Commissioner Hoffman with a second made by Commissioner Scott to enter into Executive session.

Motion to enter into executive session passed unanimously.

EXECUTIVE SESSION ENTERED AT 9:56 A.M.

RETURNED FROM EXECUTIVE SESSION AT 10:18 A.M.

OPEN SESSION

Motion made by Commissioner Estes with a second made by Commissioner Bowen to deny the request by licensee Kerry Kemper to submit audio recording in lieu of a written transcript for purposes of an appeal to the Commission of an initial decision..

Chairwoman Inmann discussed her concern about being the only agency to go to audio and that she was not ready to consider that at this time.

Motion to keep transcripts in written form passed unanimously.

A motion made by Commissioner Hoffman with a second made by Commissioner Estes to delegate authority to Director Amick to sign an order on behalf of the Commission regarding this matter.

Motion passed unanimously.

Motion made by Commissioner Estes with a second made by Commissioner Hoffman to deny the request by licensee Miguel Pena to submit audio recording in lieu of a written transcript for purposes of an appeal to the Commission of an initial decision and also to delegate authority to Director Amick to sign an order on behalf of the Commission regarding this matter.

Motion passed unanimously.

8. **Consideration of Stipulation Agreement for in the Matter of Licensee John Muckey**

Motion made by Commissioner Hoffman with a second made by Commissioner Bowen to accept the stipulation agreement in the matter of licensee John Muckey which states the following:

The Division and the Licensee agree to the following penalties for the violations:

a. A fine of ONE THOUSAND DOLLARS (\$1,000.00) for the presence of altrenogest which, pursuant to CRCR 5.441, is the minimum allowable fine absent mitigating circumstances, due within twenty (20) days of this Settlement Stipulation being approved by the Colorado Racing Commission or the Board of Stewards at Arapahoe Park.

b. The ARCI Multiple Medication Violation penalty for a Class C substance is ONE HALF POINT for a Controlled Therapeutic Substance. ONE HALF POINT for this Class C substance will be assessed on the record of the Trainer licensee and reported to ARCI. Class C violation points will stay on the ARCI record of such Trainer for 1 year. The ARCI points can be combined over time to cause a suspension in all ARCI member jurisdictions. This ARCI suspension policy runs consecutively (in addition to) any penalties and/or suspension in the jurisdiction of Colorado for subsequent violations.

c. Pursuant to CRCR 5.441 and CRCR 5.612, based upon the positive sample confirmed by ILC, MASTERPIECE DAY shall be placed on the Veterinarian's list for 30 DAYS, starting from the date ILC confirmed the sample (July 9, 2020). MASTERPIECE DAY shall be required to pass a Commission-approved examination prior to being removed from the Veterinarian's List. MASTERPIECE DAY was eligible to come off of the Veterinarian's list on August 9, 2020.

d. Disqualification of MASTERPIECE DAY from the 6th race on June 24, 2020 at Arapahoe Park. The horse shall be declared disqualified and unplaced for every purpose except for the purpose of pari-mutuel wagering.

e. Loss of purse.

Motion passed unanimously.

9. Consideration of Commission Ruling 20-06 in the Matter of Licensee John Muckey

Motion made by Commissioner Hoffman with a second made by Commissioner Estes to accept the Commission Ruling 20-06 in the matter of licensee John Muckey which states the following:

DECISION AND ORDER

The Commission orders that the resolution agreed upon by Licensee and the Division take effect. Licensee has engaged in a violation of Colorado Racing Commission Rules 5.301 and 5.304 by administering or causing to be administered an unauthorized medication for which Licensee is responsible pursuant to CRCR 5.500 and 5.502.

THE COMMISSION ORDERS as follows:

1. Licensee JOHN MUCKEY shall be fined the amount of ONE THOUSAND DOLLARS (\$1,000.00),

the minimum allowable for a first offense per the sentencing guidelines contained in CRCR 5.441. The fine is due and payable in 20 DAYS (on or before March 1, 2021).

2. The ARCI Multiple Medication Violation penalty for a Class C substance is ONE HALF POINT for a Controlled Therapeutic Substance. ONE HALF POINT for this Class C substance will be assessed on the record of the Trainer licensee and reported to ARCI. Class C violation points will stay on the ARCI record of such Trainer for 1 year. The ARCI points can be combined over time to cause a suspension in all ARCI member jurisdictions. This ARCI suspension policy runs consecutively (in addition to) any penalties and/or suspension in the jurisdiction of Colorado for subsequent violations.

3. The horse MASTERPIECE DAY is declared disqualified and unplaced for the 6th race on June 24, 2020 for every purpose, except for pari-mutuel wagering. The new order of finish is as follows:

1st - #3 Smokin B
2nd - #7 Full Sun
3rd - #2 Johnnie B
4th - #1 Call Me Mr Te
5th - #4 Talk Big Money
6th - #5 Law Breaker
DQ - #6 Masterpiece Day (Unplaced)

4. Loss of purse for the race. The purse is also ordered to be redistributed according to the new order of finish listed above.

5. MASTERPIECE DAY was placed on the Veterinarian's list for 30 DAYS, starting from the date ILC confirmed the sample (July 9, 2020). MASTERPIECE DAY was required to pass a Commission-approved examination prior to being removed from the Veterinarian's List. MASTERPIECE DAY was eligible to come off of the Veterinarian's list on August 9, 2020.

Motion passed unanimously.

10. Arapahoe Park Letter re: 2021 Live Race Season

Director Amick discussed a letter that was received by the Division from Mile High Racing & Entertainment. The letter requested the Commission consider a delay to the racing season from this year and to 2022.

Director Amick recommended an executive session for legal advice.

Bradford Jones, Senior AAG, also recommended an executive session to advise the Commission on any legal matters.

Bruce Seymore, Director of Mile High Racing & Entertainment, stated his goal is not to race in 2021 and to ask for the protection of all his operation licenses to continue his OTB operations. He said he would lose \$1.4 million dollars this year if he had to put on a race meet. Mr. Seymore said COVID was an “Act of God” and referenced a newspaper article from Wednesday 1/27/2021 Denver Post titled “Maintaining Precautions Can Save Lives”.

Chairwoman Inmann asked how Arapahoe Park would get the horseman back next year if there was no meet this year.

Mr. Seymore responded that he would generate purse money from 2021 for his current operations and put 50% of MHRE profits into the purse fund to encourage the horsemen to come back in 2022.

Shannon Rushton, Colorado Horseman Association Executive Director (CHA), asked what Racing dates had been submitted.

Mr. Seymore gave the following dates:

Barn Area Open – May 3, 2021

Closing Day – June 18, 2021

Mr. Ruston expressed his concern on not having a meet this year and losing the horseman in 2022.

Kent Bamford, CHA Chairman, expressed his concern about the viability of the horse racing business in Colorado. He said if they did not race this year there was a high probability that a number of breeders within Colorado will cease to be in the business. He mentioned that Nebraska has approved Casino wagering which would attract more horsemen to Nebraska and possibly away from Colorado.

Motion made by Commissioner Hoffman with a second made by Commissioner Scott to enter into Executive session.

Motion to enter into executive session passed unanimously.

EXECUTIVE SESSION ENTERED AT 11:35 A.M.

RETURNED FROM EXECUTIVE SESSION AT 2:01 P.M.

OPEN SESSION

Commissioner Estes posed a question to the CHA and to the Rocky Mountain Quarter Horse Association (RMQHR) about their concerns regarding the letter.

Shannon Rushton, CHA Executive Director, stated the main concern was that the track would close down permanently.

Jodi Witt, RMQHR member, stated they would like to have the option for the RMQHR associations to have an emergency meeting with the board of directors to address the proposed dates.

Howie Chavers, Vice President of the RMQHR, expressed his concerns that the horseman would not be able to take a year off without any wages and would not want to come back in 2022.

Mark McGregor, President of the Colorado Thoroughbred Breeders Association, asked Mr. Seymore questions, including: if he could apply for an employed protection plan with the new stimulus package; would legislation help; and whether the track could liquidate some of the track assets to help with this season? He also expressed concerns with having a meet for six weeks five days a week.

Commissioner Hoffman requested from counsel more clarification on C.R.S. § 44-32-603(1), in reference to “acts of God”. He said he would like to know if any jurisdiction references COVID-19 as “acts of God” and C.R.S. § 44-32-505(7), in reference to “unforeseeable emergency”. He asked if what we are facing now is an unforeseeable emergency and how?

He also mentioned C.R.S. § 44-32-602(4)(b)(II), which states a requirement for thirty live race days for OTBs to receive simulcast signal.

Chairwoman Inmann emphasized the past collaboration between the track, the horseman and the Commission to resolve issues and hoped these groups would work together.

Motion made by Commissioner Hoffman with a second made by Commissioner Estes to table agenda item #10 Arapahoe Park Letter re: 2021 Live Race Season until the next commission meeting on March 9, 2021.

Discussion Item

11. Director’s Report

Director Amick welcomed criminal investigator Anthony Milne to the Racing team. She stated all staff are still remote. She gave an update on HISA developments. She said there were currently five OTBs that are still closed.

12. Public Comment

Bruce Seymore, Director of Mile High Racing & Entertainment, thanked everyone for their time.

Pam Inmann, Chairwoman, called to end the meeting.

Adjourned

Adjournment

The February 9, 2021 meeting of the Colorado Racing Commission was adjourned at 2:59 p.m.

Minutes Approved by the Commission

Janina Rivera

Janina Rivera, Executive Assistant to the Director

I certify these minutes were approved by the Commission on the 13th day of April, 2021

Colorado Racing Commission
March 9, 2021
Meeting Minutes

Call to Order

The regularly scheduled meeting of the Colorado Racing Commission (“Commission”) was held on Tuesday, March 9, 2021 via video conference provided by Zoom. The meeting was called to order at 9:35 AM.

Members Present

Pam Inmann, Chair

David Lynn Hoffman, Vice Chair

Tina Estes, Member

Sandra Bowen, Member

Lori Scott DVM, Member

Staff Present

Donia Amick, Director of the Division of Racing Events

Ed Kulp, Agent in Charge

Zach Ceriani, Legal Assistant

Bradford Jones, Senior Assistant Attorney General representing the Division of Racing Events and the Commission as General Counsel

Suzanne Karrer, Communications Manager for Enforcement Division

Janina Rivera, Executive Assistant to Division Director

1. Approval of Minutes for February 9, 2020

Minutes requested to be tabled until the next Commission meeting held on April 13, 2021.

RULEMAKING HEARING

2. Scheduled Rulemaking Hearing – In the matter of various proposed new, amended rules for the Colorado Racing Commission Rules, 1 CCR 208-1

Motion made by Commissioner Hoffman with a second made by Commissioner Estes to open Rulemaking and close regular open session.

Motion passed unanimously.

RULEMAKING HEARING OPENED AT 9:39 a.m.

Zach Ceriani, legal assistant, presented current rule 5.312 – Non-Steroidal Anti-Inflammatory Drugs (NSAIDS) - and presented the proposed changes to the rule, including an explanation for the changes.

No public comments were made to the Commission.

Motion made by Commissioner Hoffman with a second made by Commissioner Scott to move rule 5.312 to the adoption group.

Motion passed unanimously.

Zach Ceriani, legal assistant, presented current rule 5.412 – Random or extra testing may be required by the Division designee, Stewards, or the Commission at any time on any horse entered or eligible to race in Colorado - and presented the proposed changes to the rule, including an explanation for the changes.

No public comments were made to the Commission.

Motion made by Commissioner Hoffman with a second made by Commissioner Scott to move rule 5.412 to the adoption group.

Motion passed unanimously.

Zach Ceriani, legal assistant, presented current rule 7.710 – A jockey shall not willfully or carelessly strike or touch any other jockey or another jockey's horse or equipment - and presented the proposed changes to the rule, including an explanation for the changes.

No public comments were made to the Commission.

Motion made by Commissioner Hoffman with a second made by Commissioner Estes to move rule 7.710 to the adoption group.

Motion passed unanimously.

Zach Ceriani, legal assistant, presented current rule 7.740 – The Riding crop shall not be applied by anyone in an abusive manner at any time - and presented the proposed changes to the rule, including an explanation for the changes

No public comments were made to the Commission.

Motion made by Commissioner Hoffman with a second made by Commissioner Bowen to move rule 7.740 to the adoption group.

Motion passed unanimously.

Zach Ceriani, legal assistant, presented current rule 7.744 – All riders should comply with the following when using a riding crop - and presented the proposed changes to the rule, including an explanation for the changes

No public comments were made to the Commission.

Motion made by Commissioner Hoffman with a second made by Commissioner Estes to move rule 7.744 to the adoption group.

Motion passed unanimously.

Zach Ceriani, legal assistant, presented the new rule 7.746 – When deciding whether or not to review a jockey's use of the riding crop under Rule 7.724, the Stewards will consider how the jockey has used the riding crop during the course of the entire race, with particular attention to its use in the closing state, and relevant factors such as:

- (1) The manner in which the riding crop was used;
- (2) The purpose for which the riding crop was used;
- (3) The distance over which the riding crop was used and whether the number of times it was used was reasonable and necessary;
- (4) Whether the horse was continuing to respond;
- (5) Whether a post-race inspection by a veterinarian finds cuts, welts or bruises in the skin;
- (6) The degree to which the jockey complied with the factors set forth in Rule 7.746.

No public comments were made to the Commission.

Motion made by Commissioner Hoffman with a second made by Commissioner Bowen to move rule 7.746 to the adoption group.

Motion passed unanimously.

Zach Ceriani, legal assistant, presented the new rule 7.748 – In the event there is a review of a jockey's use of the riding crop, use of the riding crop may be deemed appropriate in the following circumstances:

- (1) To keep a horse in contention or to maintain a challenging position prior to what would be considered the closing stages of a race;
- (2) To maintain a horse's focus and concentration,
- (3) To correct a horse that is noticeably hanging;
- (4) To assure the horse maintains a straight course; or,
- (5) Where there is only light contact with the horse.

No public comments were made to the Commission.

Motion made by Commissioner Hoffman with a second made by Commissioner Estes to move rule 7.748 to the adoption group.

Motion passed unanimously.

Motion made by Commissioner Hoffman with a second made by Commissioner Estes to formally adopt all seven rules that were previously moved to the adoption group as proposed

Motion passed unanimously.

Motion made by Commissioner Hoffman with a second made by Commissioner Estes to close the Rulemaking Hearing session.

Motion passed unanimously.

RULEMAKING HEARING SESSION CLOSED AT 10:10 A.M.

OPEN SESSION

DECISION ITEMS

3. Arapahoe Park Letter re: 2021 Live Race Season

Director Amick discussed the request by Bruce Seymore, Executive Director of Racing Operations for Mile High Racing & Entertainment at Arapahoe Park, that was previously discussed and tabled by the Commission during its February 2021 meeting. Mile High Racing & Entertainment submitted another letter regarding its request for the 2021 Live Race Season on

March 3, 2021. Director Amick recommended that the Commission enter into executive session to seek legal advice from counsel.

Motion made by Commissioner Hoffman with a second made by Commissioner Estes to enter into executive session.

Motion to enter into executive session passed unanimously.

EXECUTIVE SESSION ENTERED AT 10:13 A.M.

RETURNED FROM EXECUTIVE SESSION AT 11:06 A.M.

OPEN SESSION

Bruce Seymore, Executive Director of Racing Operations for Mile High Racing & Entertainment at Arapahoe Park, discussed two goals he wanted to present to the Commission. The first goal was his request to have the Commission's approval for the 2021 racing dates to be run in 2022. The second goal was to protect all of his licenses including the OTBs. He indicated that the Commission has the authority to do what he requested.

Mr. Seymore noted that since the last meeting he had met with the Colorado Horseracing Association (CHA) and submitted amended dates for the season to the Division. Mr. Seymore said has had the well repaired and made several improvements to the test barn, including security bars. The tote board will be installed mid-April. Mr. Seymore noted that the Quarter Horse Association voted 9 to 1 to not run in 2021, but has since amended that decision after the CHA meeting.

Mr. Seymore said he has submitted a late bill legislative request, but provided no details on the bill.

Mr. Seymore gave industry updates stating that New Mexico is closing Summit Park. Arizona Downs is scheduled for a 32 day meet, Nebraska's Horsemen Park is running a two day meet and Lincoln is running a one day meet.

Howie Chavers, Vice President of the Rocky Mountain Quarter Horse Association (RMQHA), stated he would rank the options in the following order: to have a fall meet in order to give Mr. Seymore time to come up with additional purse money, to have the proposed option of a seven-week meet, and to postpone the 2021 racing season.

Jill Cook, veterinarian for Royal Vista Equine of Fort Collins, said that people are breeding Colorado bred horses to run specifically in the Colorado bred races. These individuals have

already made payments into the races and to cancel the meet will be damaging to them. Dr Cook stated it was contradictory to not have an outside live race meet when indoor simulcasting was taking place. She said if the 2021 race meet was canceled she would like guarantees for the horsemen that the track and the management of the track would help bring live racing back to Colorado. Dr Cook stated her biggest concern was that no racing this year would mean the beginning of the end for Colorado live horse racing.

Kent Bamford, Chairman of Colorado Horseracing Association (CHA), said CHA had a meeting to discuss all the options available for the upcoming year. Mr. Bamford's main concern was that if they did not have a meet this year that live racing in Colorado would go away permanently. He also added there are two current legislative bills that if passed will be detrimental to animal agriculture.

Shannon Ruston, Executive Director of CHA, was concerned there would not be enough horses to run six races a day based on the proposed shortened meet.

Director Amick received a question from RMQHA via email asking if the race was postponed and OTBs were allowed to remain open, would there be a written guarantee from Bruce and his parent company to race in 2022?

Bruce Seymore, Director of Mile High Racing & Entertainment responded that there would be a guarantee for 2022.

Kathy Stoker, RMQHA member, requested a written guarantee from the parent company as well.

Jodi Witt, RMQHA member, asked why they didn't roll some of the expenses back to the trainers and owners.

Mark McGregor, CHA member, stated that it was his understanding that the Commission did not have authority to extend the meet or override the legislation within Colorado to continue simulcasting without a live meet. Mr. McGregor thought the casinos would object to it and that the guarantee from the parent company was "just a piece of paper."

John Jennings, Counsel for Mile High Racing & Entertainment, argued the Commission does have the power to do what Mr. Seymour requested based on the statutes cited in the letter and there is also a legal emergency declared in the state of Colorado relating to the COVID-19 pandemic.

Motion made by Commissioner Hoffman with a second made by Commissioner Scott to enter into executive session.

Motion to enter into executive session passed unanimously.

EXECUTIVE SESSION ENTERED AT 1:05 P.M.

RETURNED FROM EXECUTIVE SESSION AT 2:05 P.M.

OPEN SESSION

Commissioner Hoffman stated this was a very difficult issue and sympathized with everybody on the call. He stated he is concerned if the Commission reduces the number or days to zero will the horsemen come back, and questioned if the Commission forces the track to race, what complications the industry will see from that decision.

Chair Inmann stated her concerns and that we do have the ability to give some relief to the track and authority to change the OTBs days because of unforeseen circumstances.

Commissioner Scott asked Mr. Seymore why he was against a fall meet?

Bruce Seymore, Director of Mile High Racing & Entertainment, responded to the question of a fall meet with the following concerns. The race dates overlap with other tracks, weather may be questionable, he might be unable to get enough horses, and staffing will be a challenge.

Commissioner Estes commented that unforeseen circumstances happen when dealing with horses. She also stated her concern was with running the horses in a safe manner. She said she would be disappointed if there was not a 2021 meet.

Commissioner Bowen stated she agrees with both sides and the claim did not seem like an unforeseen circumstance and would also be disappointed if a meet did not happen in 2021.

Chair Inmann made a motion to postpone the 30-day race meet from 2021 to 2022 and to make the 2022 race meet a 13-week/39-day race based on the determination that an unforeseen circumstance under C.R.S. § 44-32-603(1) and an unforeseeable emergency under C.R.S. § 44-32-505(7) make it impractical and impossible for Arapahoe Park racetrack to do a live race in 2021. Chair Inmann also stated that she believes the Commission has the authority to continue simulcasting with the track.

Commissioner Hoffman seconded, specifically noting that the Commission has authority under C.R.S. § 44-32-603(1) to move the race dates due to unforeseen circumstances and that it remains unforeseen what will happen with the pandemic. Commissioner Hoffman added that he is concerned that C.R.S. § 44-32-602(4)(b)(II) will take away a revenue source, explaining the Commission will address that as a separate issue. Commissioner Hoffman also explained that even

though he is voting in favor of the motion, he does not think it is an appropriate avenue to pursue because he is concerned it will take away Arapahoe Park's ability to receive simulcast revenues.

Before the vote on the motion was called, Commissioners discussed moving the proposed 2021 race dates to 2022 and questioned Bruce Seymore, Division staff, and the Commission's counsel regarding the race dates in 2022.

Following the discussion, Commission's counsel proposed a change to the pending motion to reflect that the Commission is granting MHRE's requests by allocating the number of race dates for a Class B track down from 30 to 0 for 2021 under C.R.S. § 44-32-603(1) and substituting, per C.R.S. § 44-32-505(7), the 2021 race dates that were proposed by Arapahoe Park for dates that will be set in 2022 (subject to 39 race days over 13 weeks with 9 races each day instead of 6), due to the unforeseeable emergency and unforeseen circumstances related to the COVID-19 pandemic and continued uncertainty with respect to the pandemic. Chair Inmann and Commissioner Hoffman, as second, agreed to the modification to the pending motion.

Prior to the vote being called, Chair Inmann and Bruce Seymore discussed the possibility of returning purse money to the horsemen and making repairs at the track, while Commissioner Hoffman again expressed concerns that Arapahoe Park is in danger of losing its OTB revenue based on the 30-day requirement and questioned the possibility of a legal challenge. The vote was called during which the Commissioners were polled and provided reasoning for their votes. Chair Inmann, Commissioner Scott, Commissioner Bowen and Commissioner Hoffman voted for the motion, while Commissioner Estes voted against the motion. The motion passed 4-1.

Motion made by Commission Hoffman with a second made by Commissioner Bowen to have Mr. Jones draft an order on the Commissioners decision.

Motion passed unanimously.

DISCUSSION ITEM

4. Customer Service Survey
5. New Online Application Process

Director Amick requested to table the two discussion items until the next commission meeting 4/13/21 due to the length of this scheduled meeting.

OTHER BUSINESS

6. Director's Report

Director Amick stated she had nothing additional to present at this time.

7. Public Comment

Terry Vondy, (RMQHA) member thanked everyone for their time. He mentioned the Commission controls 50% of the purse money and would like to receive money back to supplement the trials that will not take place.

Bruce Seymore, Director of Mile High Racing & Entertainment responded that Mr. Vong will have to request that from the CHA.

Adjourned

Adjournment

The March 9, 2021 meeting of the Colorado Racing Commission was adjourned at 3:30 p.m.

Minutes Approved by the Commission

Janina Rivera

Janina Rivera, Executive Assistant to the Director

I certify these minutes were approved by the Commission on the 11th day of May, 2021

Colorado Racing Commission
April 13, 2021
Meeting Minutes

Call to Order

The regularly scheduled meeting of the Colorado Racing Commission (“Commission”) was held on Tuesday, March 9, 2021 via video conference provided by Zoom. The meeting was called to order at 9:35 AM.

Members Present

Pam Inmann, Chair
David Lynn Hoffman, Vice Chair
Tina Estes, Member
Sandra Bowen, Member
Lori Scott DVM, Member

Staff Present

Donia Amick, Director of the Division of Racing Events
Ed Kulp, Agent in Charge
Zach Ceriani, Legal Assistant
Bradford Jones, Senior Assistant Attorney General representing the Division of Racing Events and the Commission as General Counsel
Sarah Killeen, Assistant Attorney General
Janina Rivera, Executive Assistant to Division Director

1. Approval of Minutes for February 9, 2021

Minutes approved for February 9, 2021

2. Approval of Minutes for March 9, 2021

Minutes requested to be tabled until the next Commission meeting held on May 11, 2021.

DECISION ITEMS

3. Consideration of 2021 renewal application for Arapahoe Park

Ed Kulp, AIC discussed the renewal application which included the following:

- Barn area to open on July 27th 2021
- Racing will commence racing on August 11th 2021 and ending October 2nd 2021
- Arapahoe Park will be sending its live signal to ten in-state facilities

- The out of state live signal contracts are being negotiated at this time.
- Out of state Simulcast will be seven (7) days a week during both live and non-live race days
- Proposed Wagering Format includes win, place, show, exacta, quinella, trifecta, superfecta, and daily double wagers.
 - The proposed takeout rate for WPS is as follows with a \$2.00 minimum on all wagers: 2021 - 19% WPS
 - The proposed takeout rates are as follows with a \$1.00 minimum on all wagers:
 - 2021 - 24% Daily Double, Exacta, Quinella, 25% Trifecta, Superfecta and 25% Pick 3, 4, and 5.
- Corporate structure
 - Mile High USA, Inc. was organized as a corporation under the laws of the State of Delaware. The company is a wholly owned subsidiary of Bally's Corporation.

Mile High USA, Inc. owns 100% of Racing Associates of Colorado, d.b.a. Arapahoe Park Racetrack in Aurora, Colorado. Racing Associates of Colorado was organized as a limited partnership under the laws of the state of Colorado on March 8, 1991.

- 2021 Racing Officials
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Executive Director of Racing Operations CO	Bruce Seymore*	Key	Submitted application 04/07/2021
Plant Superintendent	Billy Byers*	Registration	Currently Expired need to apply
Racing Secretary	Shannon Rushton*	Key	Needs to Validate
Asst. Racing Secretary	Kathy Passy*		Needs to Apply has no license
Mutuel Manager	Gil Romero*	Support	Needs to Validate
Association Steward	Hank Demoney*	Key	Needs to Validate
Placing Judge	Brandie Flanders*	Support	Needs to Validate
Security	Jim Weimer*	Support	Needs to Validate
Paddock Judge/Identifier	Paula Rodgers*	Support	Needs to Renew
Starter	Shawn Demoney*	Support	Needs to Validate
Clerk of Scales	David Vobach*	Support	Needs to Validate

Outrider	Jane Schvaneveldt*	Support	Needs to Validate
Horsemen's Bookkeeper	Kristen Quiroz*	Support	Needs to Validate
Photographer	Mark Flanders*	Support	Needs to Renew
Announcer	Jonathan Horowitz*	Registration	Currently Expired need to apply
Money Room Manager	George Chittivej*	Support	Needs to Renew

- Financial Statements
 - The Division has received the consolidated financial statements for Mile High USA, Inc., d.b.a. Racing Associates of Colorado Ltd. for Arapahoe Park's 2021 renewal license application.
- Other Required Exhibits
 - An insurance binder for the on-track accident coverage for jockeys has been submitted.
 - A current copy of proof of adequate public liability insurance to protect the public was provided with the application packet.
 - A current certified fire inspection report for Arapahoe Park was submitted. No significant issues were reported. Any subsequent fire inspection reports must be submitted to the Division when issued.
 - A current certified health and sanitation report for Arapahoe Park and all in-state simulcast facilities has been received, and any changes shall be submitted as requested.
 - The Division will release purse funds from the Escrow Account, as requested by the MHRE and approved by the Colorado Horsemen's Association, throughout the race meet to satisfy purse money owed.
 - Copies of the most recent contracts between the Association and their service providers of the video patrol, photo finish and totalisator services, products, and materials have been provided for the conducting of its 2021 race meet.
 - A copy of the Horsemen's Contract with the Colorado Horse Racing Association and Arapahoe Park was provided with the application. The contract is effective as of April 21, 2019, and shall remain effective through and including April 20, 2025.
- Follow up on the CRC End of Meet Recommendations from 2020 Race meet
 - Stables
 - Conduct preventative maintenance on electrical outlets and overhead light fixtures in all barns.
 - Repair the intercom system throughout the backside.
 - Provide maintenance in barn area restrooms.

- The track should engage a maintenance person to address all maintenance issues during the offseason.
- Racetrack
 - The tote board should be repaired.
 - The water well needs to be repaired before the 2021 meet.
- Test Barn
 - Upgrade the water misters throughout the test barn area.
 - Additional dirt work is needed in some stalls.
 - Increase security of test barn windows, doors and cameras
- The Racing Office
 - The Racing Office will ensure that only authorized persons are allowed behind the counter during entries. All access to the racing office restricted areas will be equipped with locking 5 devices during entries. The Racing Secretary will ensure that all visitors to the office will be escorted.
 - The Racing Secretary will continue to train and supervise the racing office staff in the proofing of the entries. The application lists Shannon Rushton as a Racing Facilitator, however, he will be responsible for all duties as a Racing Secretary and licensed as such.
- The Security Department
 - Continue to close the gates to the backside at 10:00 P.M. Provide more efficient and tighter gate security to the backside, including entry and exit logs.
 - Ensure logs are maintained in a secure manner.
 - Continue to have the Arapahoe Sheriff's Office and security conduct random patrols of the backside during evenings/nights.
 - Increased test barn security (also mentioned above).

Motion made by Commissioner Hoffman to renew the business application for Arapahoe Park with a second made by Commissioner Estes.

The motion passed unanimously.

4. Consideration of request for early distribution of portion of Owners/Breeders Awards Fund and Supplemental Purse Fund Monies

Debbie Allen, discussed the request for an early distribution of a portion of the Owners/Breeders Awards Fund and Supplemental Purse Fund Monies to the Colorado Thoroughbred Breeders Association in the amount of \$60,000.00 to be released.

Motion made by Commissioner Estes with a second made by Commissioner Hoffman to approve the early distribution of \$60,000.00 from the fund to the Colorado Thoroughbred Breeders Association.

Motion passed unanimously.

5. Consideration of approval of 2021/2021 simulcast schedule for Arapahoe Park

Director Amick, asked for approval of the simulcast schedule which include the dates of April 21, 2021 through April 20, 2022.

Motion made by Commissioner Hoffman with a second made by Commissioner Bowen to approve the 2021/2022 simulcast schedule for Arapahoe Park.

Motion passed unanimously.

6. Approval of Commission Order Granting Arapahoe Park Request to Delay 2021 Race Meet to 2022

In accordance with the Commission's directive during the March 9, 2021, meeting that counsel for the Commission prepare a written order memorializing its verbal order regarding MHRE's request to postpone the 2021 live racing season at Arapahoe Park, Bradford Jones, AAG, presented drafted written orders for the Commission's consideration. Based on the Commission's approval of MHRE's Class B meet license renewal application earlier in the meeting and Arapahoe Park's indication it will hold a fall race meet, Mr. Jones recommended that the Commission enter into executive session to seek legal advice from counsel on the draft orders.

Motion made by Commissioner Scott with a second made by Commissioner Hoffman to enter into executive session.

Motion to enter into executive session passed unanimously.

EXECUTIVE SESSION ENTERED AT 10:14 A.M.

RETURNED FROM EXECUTIVE SESSION AT 10:38 A.M.

OPEN SESSION

Commissioner Scott expressed her concerns toward Bruce Seymore, Director of Mile High Entertainment, regarding a fall meet and the safety issues on the track based on his previous statements during the Commission's March 2021 public meeting. She asked what efforts Mr. Seymore had done to ensure safety issues would be addressed.

Bruce Seymore, Director of Mile High Entertainment, responded that all of the horses should be running somewhere else before getting to Arapahoe Park and should have a performance record that he can review to see how they have done.

Chair Inmann, expressed the commission's frustration with Mr. Seymore regarding not having a fall meet and, in the end, deciding to have one.

Bruce Seymore, apologized to the commission for the time they spent on deciding whether to postpone the 2021 live racing season.

Jodi Witt, (RMQHA) clarified on behalf of the Quarter Horse Association that it would help cover some costs such as a pass through on a per horse fee or head fee. The trainers expressed an interest in being able to help absorb some costs to help the track, not the association.

A motion was made by Commissioner Hoffman with a second made by Commissioner Estes to rescind its previous verbal order issued during its March 9, 2021, meeting regarding MHRE's request to postpone the 2021 live racing season at Arapahoe Park and to approve the drafted Order 21-01. In support of his motion, Commissioner Hoffman referenced multiple findings, as detailed in Commission Order 21-01, including the finding that the Commission's previous verbal order issued during its March 9, 2021 meeting regarding MHRE's request to postpone the 2021 live racing season at Arapahoe Park was moot based on the Commission's approval of MHRE's Class B meet license renewal application.

The Motion rescind the Commission's previous verbal order issued during its March 9, 2021, meeting regarding MHRE's request to postpone the 2021 live racing season at Arapahoe Park and to approve the Order 21-01 passed unanimously.

DISCUSSION ITEMS

7. Director's Report

Director Amick discussed that the Greyhound Welfare funds will be presented at next month's commission meeting on May 11, 2021. The staff is still remote and looking to return to the office after July. Director Amick mentioned the Division's move towards digital and on-line applications. She also talked about the new customer surveys and asked all customers and licensees to complete them when possible.

8. Public Comment

Kent Bamford, President of Colorado Horsemen Association (CHA) thanked the commission for their time and decision on the upcoming race season.

Adjourned

Adjournment

The April 13, 2021 meeting of the Colorado Racing Commission was adjourned at 11:01 a.m.

Minutes Approved by the Commission

Janina Rivera

Janina Rivera, Executive Assistant to the Director

I certify these minutes were approved by the Commission on the 11th day of May, 2021

Colorado Racing Commission
May 11, 2021
Meeting Minutes

Call to Order

The regularly scheduled meeting of the Colorado Racing Commission (“Commission”) was held on Tuesday, May 11, 2021 via video conference provided by Zoom. The meeting was called to order at 9:31 AM.

Members Present

Pam Inmann, Chair
David Lynn Hoffman, Vice Chair
Tina Estes, Member
Sandra Bowen, Member
Lori Scott DVM, Member

Staff Present

Donia Amick, Director of the Division of Racing Events
Ed Kulp, Agent in Charge
Zach Ceriani, Legal Assistant
Bradford Jones, Senior Assistant Attorney General representing the Division of Racing Events and the Commission as General Counsel
Sarah Killeen, Assistant Attorney General
Janina Rivera, Executive Assistant to Division Director

1. Approval of Minutes for March 9, 2021

Minutes approved for March 9, 2021

2. Approval of Minutes for April 13, 2021

Minutes approved for April 13, 2021

DECISION ITEMS

3. Consideration of approval of Release of Greyhound Welfare and Adoption Fund

Director Amick presented the three applications received by the Division and the amounts requested:

- Friends of Retired Greyhounds \$3,714.29
- Colorado Greyhound Adoption \$12,142.86
- Greyhound Connection \$4,142.86
 \$20,000.00

Motion made by Commissioner Scott to approve the release of Greyhound Welfare and Adoption Fund per the applications and requested amounts, with a second made by Commissioner Estes.

The motion passed unanimously.

DISCUSSION ITEMS

4. Director's Report

Director Amick said that Horseracing Integrity And Safety Authority (HISA) has nominated their board of directors. She noted the letter Bruce Seymore, Director of Mile High Racing & Entertainment sent thanking the Commission for their time in the last two commission meetings. She also mentioned a letter the Division received by a licensee thanking them for giving him the opportunity to race last season. Lastly, she said the Division will be working through a summer of transition regarding working remote and/or in the office.

Chair Inmann mentioned the concern regarding the lack of representation of the west on the HISA board.

Zach Ceriani, Legal Assistant, discussed the article that came out in the Paulick Report regarding HISA.

Shannon Ruston, Executive Director of CHA, said there is a lawsuit from the National HBPA (Horsemen's Benevolent and Protective Association) in Texas regarding the validity of HISA.

Director Amick said there are also lawsuits from West Virginia and Oklahoma opposing the HISA implementation.

5. Public Comment

No public comments

Bradford Jones, AAG mentioned Sarah Killeen will now be the Commission's general counsel.

The Commission thanked Mr. Jones for his time and service.

Adjourned

Adjournment

The May 11, 2021 meeting of the Colorado Racing Commission was adjourned at 9:50 a.m.

Minutes Approved by the Commission

Janina Rivera

Janina Rivera, Executive Assistant to the Director

I certify these minutes were approved by the Commission on the 8th day of June, 2021

Colorado Racing Commission
June 8, 2021
Meeting Minutes

Call to Order

The regularly scheduled meeting of the Colorado Racing Commission (“Commission”) was held on Tuesday, June 8, 2021 via video conference provided by Zoom. The meeting was called to order at 9:33 AM.

Members Present

Pam Inmann, Chair
David Lynn Hoffman, Vice Chair
Tina Estes, Member
Sandra Bowen, Member
Lori Scott DVM, Member

Staff Present

Donia Amick, Director of the Division of Racing Events
Ed Kulp, Agent in Charge
Zach Ceriani, Legal Assistant
Bradford Jones, Senior Assistant Attorney General representing the Division of Racing Events and the Commission as General Counsel
Sarah Killeen, Assistant Attorney General
Janina Rivera, Executive Assistant to Division Director

1. Approval of Minutes for May 11, 2021

Minutes approved for May 11, 2021

HEARINGS:

2. Appeal Hearing in the Matter of Licensee Kerry Lee Kemper

Chris Matz, counsel for licensee Kerry Lee Kemper argued the respondents license was summarily suspended without a full investigation by the Division. He was therefore denied due process when the Division did not comply with their own rules and procedures. Mr. Matz noted the respondent was denied a split sample which would have released him of any responsibility.

Mr. Matz ended the argument stating that the Division did not follow their own rules and asked the Commission to overturn the decision.

Sarah Killen, AAG argued that the case was a straightforward medication violation matter and there were no factual disputes and no arguments regarding the findings of fact. Ms. Killen mentioned that the issuance of the summary suspension by the Board followed the rules setup by the Commission, Colorado law and case law by the Supreme Court.

Mr. Matz rebuttal that it was not Mr. Kemper's responsibility to develop evidence for the investigator but the investigator's responsibility. He also said the Division offering Mr. Kemper an alternative to the split sample, was not the same thing and not supported by the rule.

Ms. Killen's rebuttal by Colorado law, case law and Commission rule, all that was needed for a summary suspension was a positive test result. In correspondence to the split sample the samples that were at the laboratory were in conjunction with the samples that were taken post race.

EXECUTIVE SESSION ENTERED AT 10:12 A.M.

RETURNED FROM EXECUTIVE SESSION AT 10:45 A.M.

OPEN SESSION

Motion made by Commissioner Hoffman to accept the findings of fact with a second made by Commissioner Scott.

Motion passed unanimously.

Motion made by Commissioner Hoffman to accept the principle of law and the analysis from the hearings officer which concluded that the owner/trainer Mr. Kemper was responsible for the violation with a second made by Commissioner Estes.

Motion passed unanimously.

Motion made by Commissioner Hoffman to double the fine from \$2,500 to \$5,000 with a second made by Commissioner Estes.

Motion passed unanimously.

3. Appeal Hearing in the Matter of Licensee Miguel Pena

Chris Matz, counsel for licensee Miguel Pena argued the Division did not follow their own rules and that the hearings officer ignored the facts. Mr. Matz continued saying there was no full investigation before the issuance of the Summary Suspension. He said the Division claimed that there was a full investigation and all that was needed was a preliminary positive test.

Mr. Matz ended the argument stating that the hearings officer did not give reasonable consideration to the facts which they believed were clear and therefore the hearings officer's ruling should not be upheld and should be overturned.

Sarah Killen, AAG. argued this case was a straightforward medication violation matter. Ms. Killen mentioned the split sample was destroyed due to the test barn being broken into, at which point the Division did offer Mr. Pena a sample that did correspond to the primary sample that was still available at the state's laboratory. Mr. Pena declined to use the primary samples that were available. The Division did not deny Mr. Pena a split sample.

Mr. Matz's rebuttal stated that the Division did violate their own rules by not offering Mr. Pena a split sample and that the hearings officer did not give reasonable consideration to the full investigation. Mr. Matz stated the split sample that was offered to Mr. Pena did not correspond to the primary sample and that the chain of command had been broken. He stated the sample was leaking and dripping and Mr. Pena was only offered a blood sample. He also said he nor Mr. Pena had never been provided a police report of the alleged break in.

Ms. Killen's rebuttal was that the medication violation was known prior to the summary suspension. She also stated the investigation had testimony from Agent in Charge, Ed Kulp, of a potential burglary. Ms. Killen stated the Division did follow all processes regarding the medication violation and there was no deviation. She concluded by stating the Division complied with all rules and regulations.

A motion was made by Commissioner Hoffman to accept the findings of fact with a second motion made by Commissioner Scott.

The motion passed unanimously.

A motion was made by Commissioner Hoffman to accept the conclusions and analysis with a second motion made by Chair Inmann.

The motion passed unanimously.

A motion made by Commissioner Hoffman to double the fine from \$2,500 to \$5,000 with a second motion made by Commissioner Estes.

Motion passed unanimously.

PRESENTATION

4. Colorado State University Presentation

Director Amick informed the commission the presentation would be delayed until further notice.

DISCUSSION ITEMS

5. Director's Report

Director Amick had nothing further to report.

6. Public Comment

No public comment.

Adjourned

Adjournment

The June 8, 2021 meeting of the Colorado Racing Commission was adjourned at 12:13 p.m.

Minutes Approved by the Commission

Janina Rivera

Janina Rivera, Executive Assistant to the Director

I certify these minutes were approved by the Commission on the 10th day of August,

2021

Colorado Racing Commission
July 23, 2021
SPECIAL Meeting Minutes

Call to Order

The SPECIAL meeting of the Colorado Racing Commission (“Commission”) was held on Friday, July 23, 2021, via video conference provided by Zoom. The meeting was called to order at 1:07 p.m.

Members Present

David Lynn Hoffman, Vice Chair
Tina Estes, Member
Sandra Bowen, Member
Lori Scott, DVM, Member
Tameka Sampson, Member

Staff Present

Donia Amick, Director of the Division of Racing Events
Ed Kulp, Agent in Charge
Sue Kim, Adjudicatory Counsel
Sarah Killeen, Assistant Attorney General
Janina Rivera, Executive Assistant to Division Director

DECISION ITEMS

1. Matter of Licensee Kerry Lee Kemper, Case Number 20R002

Sue Kim, Adjudicatory Counsel, provided an update to the Commission concerning the final order, effective July 20, 2021, including the suspension penalty.

A motion was made, seconded, and carried to ratify the final order as issued, to correct the final order in an amended order to comport with the Commission’s oral ruling on June 8, 2021, and to continue delegation to Dr. Hoffman to sign the amended order on behalf of the Commission.

Motion passed unanimously.

2. Matter of Licensee Migual Pena, Case Number 20R003

Sue Kim, Adjudicatory Counsel, provided an update to the Commission concerning the final order, effective July 20, 2021, including the suspension penalty.

A motion was made, seconded, and carried to ratify the final order as issued, to correct the final order in an amended order to comport with the Commission's oral ruling on June 8, 2021, and to continue delegation to Dr. Hoffman to sign the amended order on behalf of the Commission.

Motion passed unanimously.

3. Change of Meet Dates

Director Amick discussed the letter received from Bruce Seymore, Executive Director for Mile High Racing & Entertainment. The letter requested a change in the schedule. Live racing would occur on Wednesday, Thursday and Fridays, with no racing on Saturdays and extended the meet through October 15, 2021.

Bruce Seymore, Executive Director for Mile High Racing & Entertainment stated he has 300 horses on site with a promise of 200 more for a total of 500 horses. He mentioned this is not enough product to race four days a week and with extending the date to October 15, he will meet the statutory requirements.

Motion made by Commissioner Estes to approve the change of meet dates with a second motion made by Commissioner Sampson.

Motion passed unanimously

Adjourned

Adjournment

The July 23, 2021 meeting of the Colorado Racing Commission was adjourned at 1:21 p.m.

Minutes Approved by the Commission

Janina Rivera

Janina Rivera, Executive Assistant to the Director

I certify these minutes were approved by the Commission on the 10th day of August,

2021

Colorado Racing Commission
August 10, 2021
Meeting Minutes

Call to Order

The regularly scheduled meeting of the Colorado Racing Commission (“Commission”) was held on Tuesday, August 10, 2021 via video conference provided by Zoom and in person at Bally’s Arapahoe Park. The meeting was called to order at 9:30 AM.

Members Present

David Lynn Hoffman, Chair
Tina Estes, Vice Chair
Sandra Bowen, Member
Lori Scott DVM, Member
Tameka Sampson, Member

Staff Present

Donia Amick, Director of the Division of Racing Events
Ed Kulp, Agent in Charge
Zach Ceriani, Legal Assistant
Sarah Killeen, Assistant Attorney General
Janina Rivera, Executive Assistant to Division Director
Suzanne Karrer, Communications Manager for Enforcement Division

1. Approval of Minutes for June 8, 2021

Minutes approved for June 8, 2021

2. Approval of Minutes for July 23, 2021

Minutes approved for July 23, 2021

INFORMATION ITEMS:

3. CSU Presentation - Dr. Christopher Kawcak and Dr. Mark Zabel

Christopher Kawcak, DVM, PhD, Diplomate ACVS & ACVSMR, Professor of Surgery and Director, Equine Clinical Services presented the 2018 - 2020 Racetrack Post-mortem Surveillance Program.

Mark Zabal, PHD, Professor and Associate Director, Prion Research Center, presented the 2019 - 2021 Report.

4. CHA Introductions and comments - Donia Amick, Director and Jim Mullvihill, CHA Executive Director

Director Amick introduced Interim CHA Executive Director Jim Mullvihill.

Jim Mullvihill, Interim CHA Executive Director introduced himself and gave a brief overview of his background. He previously worked at Churchill Downs in Kentucky, as head of communications for the National Thoroughbred Association, and previously worked with tracks in Texas and Louisiana.

DECISION ITEMS:

5. Election of Officers - Donia Amick, Director

Sarah Killeen, Assistant Attorney General, conducted the elections for chair and vice chair of the Colorado Racing Commission for fiscal year 2021-2022.

Commissioner Estes nominated Dr. Lynn Hoffman as chair.

Motion made by Commissioner Bowen to close nominations for chair with a second made by Commissioner Scott.

Motion passed unanimously

Vote called to nominate Dr. Hoffman as chair for fiscal year 2021

Vote passed unanimously. Dr. Hoffman presented as the duly elected chair for the Colorado Racing Commission for fiscal year 2021.

Commissioner Hoffman nominated Tina Estes as vice chair.

Motion made by Commissioner Hoffman to close nominations for vice chair with a second made by Commissioner Sampson.

Motion passed unanimously

Vote called to nominate Tina Estes as vice chair for fiscal year 2021

Vote passed unanimously. Tina Estes presented as the duly elected vice chair for the Colorado Racing Commission for fiscal year 2021.

6. Approve Horseman's Information Booklet - Donia Amick, Director

Director Amick requested the Commission's approval of the 2021 Horseman's Information Booklet.

Motion made by Commissioner Sampson to approve the 2021 Horseman's Information Booklet with a second made by Commissioner Estes.

Motion passed unanimously

OTHER BUSINESS:

7. Presentation of plaque and thank you to Past Chair Pam Inmann, Donia Amick, Director

Director Amick presented a plaque to Past Chair Pam Inmann and thanked her for her service to the Colorado Racing Commission.

Public Comments:

Shannon Ruston, Executive Director of CHA thanked the Commission for their services.

Adjourned

Adjournment

The August 10, 2021 meeting of the Colorado Racing Commission was adjourned at 10:35 p.m.

Minutes Approved by the Commission

Janina Rivera

Janina Rivera, Executive Assistant to the Director

I certify these minutes were approved by the Commission on the 9th day of November, 2021

Colorado Racing Commission
November 9, 2021
Meeting Minutes

Call to Order

The regularly scheduled meeting of the Colorado Racing Commission (“Commission”) was held on Tuesday, November 9, 2021 via video conference provided by Zoom. The meeting was called to order at 9:30 AM.

Members Present

David Lynn Hoffman, Chair
Tina Estes, Vice Chair
Sandra Bowen, Member
Lori Scott DVM, Member
Tameka Sampson, Member

Staff Present

Donia Amick, Director of the Division of Racing Events
Ed Kulp, Agent in Charge
Zach Ceriani, Legal Assistant
Sarah Killeen, Assistant Attorney General
Suzanne Karrer, Communications Manager for Enforcement Division

1. Approval of Minutes for August 10, 2021

Minutes approved for August 10, 2021

DISCUSSION ITEM

Director Amick recommended that the meeting move to Decision Items next due to Commissioner Bowen’s time restrictions

DECISION ITEMS

- 7 Consideration of applications for release of monies from the Greyhound Welfare and Adoption Fund - Debbie Allen, Business Analyst

Ms. Allen presented the two applications received which were from the Colorado Greyhound Adoption and Greyhound Connection. Out of the \$38,254.34 in the fund and \$25,000 will be distributed.

Motion made from Commissioner Estes to release the monies from the Colorado Greyhound Welfare and Adoption and the Greyhound Connection applicants with a second from Commissioner Bowen.

Motion passed unanimously.

8 Approval of Settlement Agreement and Stipulation in the Matter of Licensee Jim Baumgardner - Zach Ceriani, Policy Advisor.

Mr. Ceriani presented the case which resulted in a positive blood sample for a horse that finished 1st place in the 3rd race. The Division and Licensee both agreed to the following penalties for the violation:

- Pursuant to CRCR 5.441, CRCR 5.610 and CRCR 5.612, based upon the positive sample confirmed by ILC, ZOE'S PAPA CEE shall be on the Veterinarian's list for 90 DAYS, starting from the date ILC confirmed the sample (September 4, 2020) and ending on December 4, 2020. ZOE'S PAPA CEE shall be required to pass a Commission-approved examination prior to being eligible for entry.
- Disqualification of ZOE'S PAPA CEE from the 3rd race on August 19, 2020 at Arapahoe Park. The horse shall be declared disqualified and unplaced for every purpose except for the purpose of pari-mutuel wagering.
- Loss of purse.

Motion made from Commissioner Bowen to approve the Settlement Agreement and Stipulation in the Matter of Licensee Jim Baumgardner with a second from Commissioner Estes.

Motion passed unanimously.

9 Presentation and Adoption of Commission Ruling in the Matter of Licensee Jim Baumgardner - Zach Ceriani, Policy Advisor.

Mr. Ceriani presented the Commission Ruling which states the following:

- Pursuant to CRCR 5.441, CRCR 5.610 and CRCR 5.612, based upon the positive sample confirmed by ILC, ZOE'S PAPA CEE was placed on the Veterinarian's list for 90 DAYS, starting from the date ILC confirmed the sample (September 4, 2020) and ending on December 4, 2020. If not already completed, ZOE'S PAPA CEE is required to pass a Commission-approved examination prior to being eligible for entry.
- Disqualification of ZOE'S PAPA CEE from the 3rd race on August 19, 2020 at Arapahoe Park. The horse shall be declared disqualified and unplaced for every purpose except for the purpose of pari-mutuel wagering.
- Loss of purse. The purse will be redistributed according to the new order of finish:

1st – Smokin B	4th - Call Me Mr. Te	DQ = Masterpiece Day
2nd – Full Sun	5th - Talk Big Money	
3rd – Johnnie B	6th - Law Breaker	

Motion made from Commissioner Sampson to approve the Ruling in the Matter of Licensee Jim Baumgardner with a second from Commissioner Estes.

Motion passed unanimously.

DISCUSSION ITEM

- 2 Bally's at Arapahoe Park House Rule regarding reversion of monies in horsemen accounts to Purse Fund on December 31 of every year- Donia Amick, Director

Director Amick discussed an account the Horseman have that would allow Arapahoe Park to automatically transfer money to the purse fund. At a prior Commision meeting it was decided this would be handled per Arapahoe Park house rule instead of through the Commission. Several complaints have been made which leads the Division to request a reversion of this process.

Bruce Seymore, Executive Director Bally's Arapahoe Park stated he cannot release the money without the proper documentation required by Federal and State reporting purposes.

Jim Mulvihill, Interim Director of the Colorado Horseman Association (CHA) mentioned the difficulty is trying to figure out the people that have had this money taken out and returning it to them. A request was made for a list of all the people that have had this money taken out but was informed that Arapahoe Park does not have the system software to do this.

Director Amick said the investigation was complete and Mr. Mulvihill could request a copy through CORA regarding the findings.

- 3 End of Meet Report - Arapahoe Park's Live Race 2021 - Ed Kulp, AIC

Ed Kulp, Division of Racing Events AIC, presented the end of meet report for 2021. The season started on August 11, 2021 and ended on October 16, 2021. The season consisted of 30 live racing days with 220 live races with a total of 12,626 spectators. The total handle for 2021 was \$9,498,776.41 with a difference of -\$2,899,949.61 from 2020. The average live daily handles were as follows:

- On Track - \$12,420.85
- In-State - \$14,108.23
- Out-of-State - \$143,787.20

2021 Average daily handle - \$157,895.43

Total disbursements of purses by breed were as follows:

Breed	# of Races	# of Starts	% of Races	Total Purses Paid
Thoroughbred	167	1,222	76	\$2,145,309.00
Quarter Horse	44	338	20	\$678,050.00

Arabian	9	53	4	\$111,600.00
Totals	220	1,613	100	\$2,934,959.00

Division Veterinarian Staff consisted of the following:

State Veterinarians	Verlin Jones (DVM)	Joni Smith (DVM)	Autumn Sorensen (DVM)
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Veterinary Assistants	Cora Johnson	Jessica Oscroft	Reilly Medema	Nicolette Kemble	Amber Lefor
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Total Injuries to horses (Racing & Training Related) consisted of the following:

Total Starts 2021	1,613
Total Injuries	49
Career Ending injuries	1
Catastrophic	5
Live Racing	1
Training	0
Died of euthanized due to sickness or accident (non-racing related)	4

Pre-Racing Exams consisted of the following:

1,768 exams	15 horses were scratched
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Testing consisted of the following:

Post-race blood samples	386
Post-race urine samples	322
Out of competition samples	59
Hair samples	1

Medication Violations consisted of the following:

(Industrial Laboratories, the Division's contract testing lab)

Total Positive Test	1
NSAID Overages	0
Unauthorized Medications	1

Test Barn area consisted of the following:

Veterinarian's List	31 total horses placed
Pre-race issues	15
Injuries	16

- Security bars were installed on windows and doors.
- New surveillance system installed with an intrusion alarm
- Two new security freezers and refrigerators were purchased

Recommendations consisted of the following:

- Walking surfaces need to have dirt and ground rubber added
- Dirt added to the testing stalls
- Wash rack area needs to be resurfaces
- Misting system needs maintenance

Board of Stewards consisted of the following:

State Steward	Jeffrey Williams	Joseph Ortiz
Association Steward	Hank Demoney	Greg Hosch

Covid-19 Adjustments consisted of the following;

- Patrons restricted to lower level and apron area of the grandstands

Administrative Violations consisted of the following:

Administrative Hearings Held	0
Administrative Rulings related to human drug testing and jockey discipline	4

Total amount assessed from ruling and citations was \$4,700

Division Random Draw - Human Drug and Alcohol Testing consisted of the following:

- Trainers, Assist Trainer, Owner/Trainer (79)
- Jockeys/Agents (30)
- Exercise Rider, Pony Person, and Misc. (28)
- Grooms (54)
- Racing Officials (38)

Twenty-four (24) random alcohol/drug tests were conducted, resulting in one (1) refusal and one (1) positive for methamphetamine. There were a total of six (6) days that random drug tests were not conducted due to the licensees not being available.

2021 Licensing Statistics consisted of the following:

Major Business Applications	16	\$2,160.00
Key Occupational Applications	5	\$1,125.00
3 Year Support Applications	270	\$17,825.00
1 Year Registration Applications	142	\$2,130.00
Yearly Validations	125	0

Total Licensing Application - 563

Total Revenue - \$23,740.00

Stable Inspections consisted of forty-seven (47) with the following recommendations:

- Conduct preventative maintenance on electrical outlets and overhead light fixtures in all barns.
- Fix broken locks on tack rooms throughout the backside.
- Clean and provide maintenance in all barn area restrooms throughout the 2022 race season.
- Ensure hot water is available in Barns 15 and 25 if stalls are used for horses.
- Use additional dirt to level out the ground in the stalls.

Maintenance at the racetrack was completed. Horseman and patrons were pleased with the new tote board. No water well issues. The Clerk of Scales, David Vobach, ensured all first place and randomly selected horses by the Board of Stewards and/or Division Veterinarian were tagged properly to report to the Division's test barn for testing.

The Division offers its condolences and sympathies to the Demoney family. Mr. Hank Demoney passed away during the 2021 season.

The Association cleaned the racing offices and Arapahoe Park continued to use Incompass Software. Gary Riggs was in charge of security for the apron area and grandstands. Jim

Weimer was in charge of security for the stable area. In addition, an off-duty Arapahoe County Sheriff was hired to patrol the grandstands, apron area, parking lots, and backside.

Recommendations are:

- Arapahoe Park management needs to purchase software and scanner for the stable gate.
- The gates to the backside continue to close at 10:00 P.M.
- Arapahoe Park needs to provide more efficient and tighter gate security to the backside, and include entry and exit logs.
- All entry and exit logs must be maintained in a secure manner.
- Continue to have the Arapahoe Sheriff's Office and security conduct random patrols of the backside during evenings/nights.
- Enhance building security at stable gate houses to prevent unauthorized entry at all times.

Director Amick thanked AIC Kulp for his work and having a successful year at the track. Chair Hoffman also thanked AIC Kulp the horseman and the track for working together this year.

Jim Mulvihill, Interim Director of the Colorado Horseman's Association (CHA), commented that CHA was not satisfied with the race meet in terms of the handle, grandstands being closed, lack of horses and all of the concessions CHA made due to the pandemic.

4 2021-2022 Rulemaking - Donia Amick, Director

Director Amick commented that the Division does not have any rules to review at this time due to pending HISA legislation and rulemaking. If anyone has any rules they would like to present they can be discussed at the stakeholder workshop in late November or early December.

EXECUTIVE SESSION ENTERED AT 10:20 A.M.

RETURNED FROM EXECUTIVE SESSION AT 10:30 A.M.

OPEN SESSION

5 Consideration of 2022 Commission Dates - Donia Amick, Director

Director Amick discussed the next scheduled commission meeting will be in February or March. After which they will resume on the 2nd Tuesday of the month.

6 Presentation of recent media - Donia Amick, Director

Director Amick discussed the podcast and Paulick report on last year's test barn burglary. She mentioned since then security measures have been improved and additional measures are being taken such as new doors, bars on all the windows, new freezers and refrigerators and a new security system.

OTHER ITEMS:

10 Director's Report

Director Amick discussed the licensing issue which includes people not submitting applications prior to the season starting but rather one or two days prior to the season starting. She mentioned this year applications will be submitted by appointment only with a limited number of walk-in applicants. All applications can be submitted online.

She mentioned the Division received a complaint regarding daily double betting manipulation and that the Division is currently conducting an investigation.

Director Amick also mentioned that the draft HISA rules are out and that she will send them out to the stakeholders per Chair Hoffman's request.

Lastly, Director Amick mentioned per the Governors guidance all future commission meetings are to stay remote.

11 Public comments

Bruce Seymore, Executive Director of Bally's Arapahoe Park asked if CHA will be having an upcoming election and if members Pena and Kemper are voting members and how many members will be replaced?

Jim Mulvihill, Interim Director of the Colorado Horseman's Association (CHA) responded that Pena and Kemper will be voting and they have four members to replace.

Director Amick mentioned one additional item regarding the unclaimed purse monies are as follows:

2017 - \$75,000	2018 - \$70,000
2019 - \$10,000	2020 - \$32,000

Jim Mulvihill, Interim Director of the Colorado Horseman's Association (CHA) expressed his concerns as to why the withdrawn money can not just be returned to the accounts it was withdrawn from.

Commission Chair Hoffman asked Director Amick to meet with Mr. Seymour and Mr. Mulvihill to discuss the horsemen's account and find a resolution.

Adjournment

The November 9, 2021 meeting of the Colorado Racing Commission was adjourned at 11:50 a.m.

Minutes Approved by the Commission

Janina Rivera
Janina Rivera, Executive Assistant to the Director

I certify these minutes were approved by the Commission on the 2nd day of February,
2022