

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 of 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*

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Janina Rivera, Executive Assistant to the Director

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