

## RECORD OF PROCEEDINGS

The regularly scheduled meeting of the Colorado Racing Commission was held on Friday, March 16, 2012 in the Enforcement Conference Room 110 at 1881 Pierce Street, Lakewood, Colorado. Commission Chairman Jack Pretti called the meeting to order at 9:45 a.m.

### Members Present

Jack Pretti, Chairman  
Mary Sharon Wells, Vice-Chair  
Daniel J. Kester, Member  
Sean Beirne, Member

Commissioner Charles Vail, DVM, arrived subsequent to the commencement of the meeting.

### Staff Present

Dan Hartman, Director, Division of Racing Events  
Pam Kilgore, Division Auditor  
Susan Cariveau, Division Licensing Supervisor  
Ashley Leary, Division Investigator  
Y. E. Scott, Senior Assistant Attorney General representing the Division of Racing Events  
Sherry Gunnell, Assistant to the Division Director

### Also Present

An attendance sheet is attached hereto and made a part of these minutes.

All items addressed at this meeting were stenographically recorded by Court Reporter, Janna Fuentes.

### Approval of Minutes of February 14, 2012

A motion was thereupon made by Commissioner Wells, seconded by Commissioner Kester and unanimously carried to approve the minutes of February 14, 2012 as amended.

### Recommendation for Establishment of Standing Order Concerning Corrections to Minutes

Based upon the recommendation of Ms. Y.E. Scott, Senior Assistant Attorney General for the Division of Racing Events, a motion was made by Commissioner Wells, seconded by Commissioner Kester and unanimously carried to establish a standing order that authorizes the staff of the Division of Racing Events to make corrections of typographical errors to any forthcoming set of Commission meeting minutes.

### Scheduling of 2013 Race Dates Hearing – Dan Hartman

Mr. Dan Hartman, Director of the Division of Racing Events, recommended that the Commission continue its practice of conducting the annual Race Dates Hearing at its July meeting.

A motion was thereupon made by Commissioner Beirne, seconded by Commissioner Kester and unanimously carried to schedule the 2013 Race Dates Hearing on Tuesday, July 10, 2012 in conjunction with the Commission's regular July meeting. The probable location of both of these sessions will be Arapahoe Park, 26000 East Quincy Avenue, Aurora, Colorado.

Consideration of Conditional Approval of Arapahoe Park's Proposed 2012/13 Simulcast Schedule – Dan Hartman

Mr. Dan Hartman, Division of the Division of Racing Events, reported on Arapahoe Park's proposed 2012/13 simulcast schedule. Mr. William Powers, Arapahoe Park's Property Facility Manager/Director of Racing and Simulcasting, appeared on behalf of the Racing Association.

Mr. Hartman stated that it would be appropriate and allowable for the Commission to consider granting conditional approval of Arapahoe Park's 2012/2013 proposed simulcast schedule for the period of April 21, 2012 through April 20, 2013 because Arapahoe Park has complied with the requirement that its renewal application to conduct a live race meet in 2012 be received by the Division of Racing Events sixty days prior to the planned opening of the meet. Mr. Hartman advised that, on February 14, 2012, the Division of Racing Events had received a signed and notarized renewal application from Racing Associates of Colorado d.b.a. Arapahoe Park to commence live racing on May 26, 2012 through August 19, 2012 for a total of thirty-nine (39) race days.

The Commission took notice that Arapahoe Park is requesting permission to: 1) conduct thirty-nine (39) days of live and simulcast racing as well as greyhound and horse simulcasting throughout the entire year; and 2) that, in conjunction with its live meet, Arapahoe Park will provide horse simulcasting on its non-live days.

Mr. Hartman observed that Arapahoe Park's request for approval of its simulcast schedule includes an open letter asking for blanket approval to send and receive interstate wagers and simulcasts from the following sources subject to contract and Division approval, excluding specific listing of racecourses and simulcast dates:

- All racetracks representing the United States and Canada;
- All racetracks in the International Jurisdiction;
- All affiliated off-track wagering venues; and
- Nevada pari-mutuel books

Further, he stated that the Division recommends that the Commission grant conditional approval for the range of dates and for the simulcasting proposal submitted by Arapahoe Park. The Commission acknowledged that the Division had received copies of two approval letters from the Colorado Horse-Racing Association, the organization representing a majority of the horse racing community at Arapahoe Park, signed by President Mark McGregor on July 30, 2009, one supporting the sending out of the live signal from Arapahoe Park and the second supporting the simulcast calendar and schedule for the period of April 21, 2010 through April 20, 2013, including the simulcasting of Arapahoe Park's live signal during the 2012 live race meet.

Mr. Hartman noted that a Simulcast Calendar indicating the simulcast race days, including live racing days, has yet to be submitted to the Division of Racing Events, but will be provided to the Division in the near future.

Additionally, the Commission took notice that unforeseen circumstances might necessitate that modifications be made to prospective simulcast dates and/or racing schedules and, therefore, the Division Director or his designee has been delegated authority to approve such changes. Mr. Hartman assured the Commission that final approval for simulcasting from any racecourse would not be given unless the Division had received both a racing schedule and a simulcast contract. He noted that the Division would apprise the Commission of the racing dates and schedules as they are made available.

Following its review and after acknowledging that the Division of Racing Events has recommended conditional acceptance of Arapahoe Park's proposed simulcast wagering schedule as presented, a motion was made by Commissioner Wells, seconded by Commissioner Beirne and unanimously carried to approve Arapahoe Park's request on

a conditional basis to commence simulcast wagering on April 21, 2012 and to continue simulcast wagering through April 20, 2013 subject to the following terms and conditions:

- 1) That Arapahoe Park will submit its proposed Simulcast Calendar reflecting the simulcast race days, including the live racing days, to the Division of Racing Events as soon as possible;
- 2) That Arapahoe Park will inform the Division at least ten (10) days prior to adding a new track to its schedule. This will be followed by all required contracts;
- 3) That fully executed signed contracts and agreements for each racetrack from which broadcasts are to be received are provided to the Division no later than forty-eight (48) hours prior to the commencement of simulcasting from that site;
- 4) That adequate advance notice of the actual dates and simulcasting schedules for any and all venues to be made part of Arapahoe Park's 2012/2013 roster be provided to the Division of Racing Events prior to the start of racing from that site;
- 5) That the Division of Racing Events may, in its discretion, 1) require any totalisator link that has not been tested to be tested prior to the date of operation; and 2) approve the telephone lines to be used;
- 6) That Arapahoe Park comply with all terms and conditions contained in the Interstate Horse Racing Act with regard to receipt of simulcast signals, presentation of approved simulcasts and broadcasting of its races to out-of-state venues; and
- 7) That the Commission delegate authority to the Director or his designee to approve schedules for pre-approved tracks when a specified envelope is determined and to approve any adjustments or amendments to the simulcast schedules as needed.

The Commission directed that the Division monitor compliance with these requirements and ensure receipt of all necessary contracts prior to commencement of simulcasting from any racetrack.

Consideration of Proposed Change to Application Protocol for Greyhound Purse, Welfare, Adoption and Promotion Fund

Mr. Dan Hartman, Director of the Division of Racing Events, requested that the Commission consider requiring each of the adoption agencies/organizations to record and retain the following information in their files as part of their application process for release of monies from the Greyhound Purse, Welfare, Adoption and Promotion Fund: a listing of the name of each greyhound that has passed through the organization, the ear tattoo number (if identifiable) for each greyhound, the date that a greyhound arrived and departed and whether a greyhound was spayed or neutered. He recommended that, in the event that the Commission endorses this suggestion, the agencies/organizations in question would become accountable for recording and maintaining this information as of a specified date, such as April 1, 2012, after which it would be the organization's responsibility to have the required information available for inspection upon request of the Division of Racing Events.

Discussion ensued during which representatives of the Colorado Greyhound Breeder's Association and various greyhound adoption organizations presented views and opinions regarding this proposed change in the application process. Questions and concerns were voiced during this discussion period. In response to a question regarding the form in which the information would need to be kept, Mr. Hartman replied that he and the Commission would be receptive to looking at methods of handling and retaining

records in the future and would consider electronic maintenance to be a reasonable approach.

The Commission took notice that certain comments made by Mr. Melvin Johnson, President of the Colorado Greyhound Breeder's Association, were not applicable to the subject under consideration. Therefore, the Commission directed that any comments that were not a reflection of the matters being addressed should not be made part of the minutes of the meeting.

Mr. Hartman affirmed that the current application process for release of monies from the Greyhound Purse, Welfare, Adoption and Promotion Fund would remain in effect, but that the adoption agencies/organizations would need to begin collecting the aforementioned information on April 1, 2012. He stated that it would not be necessary for any of the accumulated information to be submitted to the Commission or Division as part of the application protocol.

Following consideration of Mr. Hartman's proposal and after acknowledging that the representatives of each affected greyhound adoption agency/organization endorsed the proposal as presented, a motion was made by Commissioner Beirne, seconded by Commissioner Kester and unanimously carried to accept the change to the application protocol as presented by Division Director Hartman.

#### Closure of Regular Business Meeting/Convening of Rule-Making Hearing

At 10:15 a.m., Chairman Pretti closed the regular business meeting for the purpose of conducting the scheduled Rule-Making Hearing. A motion was thereupon made by Commissioner Beirne, seconded by Commissioner Vail and unanimously carried to convene the scheduled Rule-Making Hearing.

#### Scheduled Rule-Making Hearing

Pursuant to the published Notice of Rule-Making Hearing, Chairman Pretti convened the scheduled Rule-Making Hearing at 10:15 a.m.

Mr. Dan Hartman, Director of the Division of Racing Events, informed the Commission and attendees that the Division of Racing Events had complied with all preliminary rule-filing requirements, including submission of all rule proposals to the Office of the Secretary of State and the Department of Regulatory Agencies and publication of the Notice of Rule-Making Hearing in the Colorado Registry, whereupon he presented the packet of rules for Commission review. Mr. Hartman apprised attendees that copies of the rules have been made available both in written form and on the Division's website. He stated that two rule review workshops open to all interested parties had been conducted to allow industry participation in the initial phase of the rule consideration process and that rule proposals had been solicited and accepted from industry representatives for presentation during this Hearing.

Mr. Hartman stated that he had met separately with representatives of the Colorado Greyhound Breeder's Association in order to discuss their rule proposals with them. He advised that he had informed them that the rules that they wished to have promulgated exceeded the scope of the Commission's statutory authority and, therefore, could not, in their existing form, be made part of the packet of published rules. Mr. Hartman observed that he had explained to the Colorado Greyhound Breeder's Association representatives that, should they desire to bring their rule proposals before the Commission at some future time, they would need to revise them and bring them into conformity with and adherence to the Racing Statute.

Additionally, Mr. Hartman advised the Commission that a representative(s) of the Jockey's Guild would be participating in a portion of the Rule-Making Hearing via a teleconference call.

At this time, acknowledgment was made by both the Commission and the Division that an annual review of its entire rulebook is undertaken in order to: 1) ensure that its existing rules meet all statutory requirements; 2) determine whether the rules presently in effect accord with current industry practices; 3) correct any errors or

deficiencies in the rules; and 4) consider new rule proposals and proposals to amend or repeal certain rules. Mr. Hartman explained that any published rule proposal brought forward for consideration may be modified during this Rule-Making Hearing.

During the course of this Rule-Making Hearing, the Commission entertained views and opinions from industry representatives and other interested parties. All attendees were afforded an opportunity to present arguments for and against adoption of each rule under consideration.

As a preliminary matter, Mr. Bruce Seymore, Executive Director of Colorado Operations for Mile High Racing and Entertainment-Arapahoe Park, informed the Commission that he and the membership of the Colorado Horse-Racing Association, the organization that represents the majority of the horsepersons participating in Arapahoe Park's race meet(s), are in unanimous support of all of the rule proposals relating to horse-racing that are to be addressed during this Rule-Making Hearing, except proposed modified Rule #5.320. He noted that this is the only rule about which there is any disagreement between the racing association and members of the horse-racing community.

Thereupon, Mr. Hartman presented the each of the following rules for individual consideration and Commission action:

- Consideration of Proposed New Definitions "Greyhound Adoption" and "Greyhound Rescue": Mr. Hartman reviewed the text of the proposed new definitions, "Greyhound Adoption" and "Greyhound Rescue". Mr. Melvin Johnson, President of the Colorado Greyhound Breeder's Association, the organization responsible for the promulgation of the subject definitions, requested that the Commission expand its adoption of these definitions to include a document identified as "Greyhound Disposition Form". Mr. Hartman advised the Commission that the Division of Racing Events does not intend to require the greyhound adoption agencies/organizations to fill out such a form, but only to record and retain the previously specified information on the greyhounds that they tend. Discussion ensued during which views and opinions were presented by interested representatives of the greyhound community. It was suggested by a representative of the greyhound adoption community that the Colorado Greyhound Breeder's Association members be required to maintain records comparable to those being required of the greyhound adoption agencies/organizations, but the Commission explained that it did not have the statutory authority to mandate this in its rules.

Following discussion and after entertaining various comments and position statements, a motion was made by Commissioner Beirne to hold in abeyance the adoption of the subject definitions until the Commission's April 3, 2012 meeting and request that, in the interim, Ms. Y.E. Scott, Senior Assistant Attorney General for the Division of Racing Events, verify that there is no conflict between these proposed definitions and those in effect in the Department of Agriculture. Ms. Scott assured the Commission that she does not believe that further clarification would be necessary and is confident that no conflict exists between the two sets of rules. After ascertaining that there were no objections to formal action being taken at this time, Commissioner Beirne amended his motion as follows: to adopt new definitions "Greyhound Adoption" and "Greyhound Rescue" on a permanent basis and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rules. The motion was seconded by Commissioner Vail and unanimously carried. Copies of the subject definitions are attached hereto and made a part of these minutes.

- Consideration of Proposed Modified Rules 5.317 and 5.319: Mr. Hartman explained that, based upon conversations with racing association management representatives and practicing veterinarians relating to the administration of Lasix to two year-old horses, Arapahoe Park's management had determined that it would not pursue the prohibition of the administration of Lasix to two year-old horses for its 2012 live race meet. Mr. Hartman recommended that the Commission consider adopting proposed alternative versions of Rules 5.317 and

5.319, both of which remove references to two year-old horses. He stated that, as the industry evolves with respect to the use of Lasix, he would encourage the Commission to reconsider these rules and entertain possible changes to them. Mr. Hartman stated that he would anticipate that conversations regarding Lasix usage would continue to be conducted on an industry-wide basis and he assured the Commission that he would provide updated information on this subject as it becomes available. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to adopt the proposed alternative versions of modified rules 5.317 and 5.319 as presented to all of the Commissioners in their agenda packets and as discussed at today's meeting and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rules. Copies of the subject rules are attached hereto and made a part of these minutes.

- Consideration of Proposed Modified Rule 5.320: Mr. Hartman reviewed the text of proposed modified rule 5.320 and the alternative version of the rule proposal. He advised the Commission that both the racing association and the membership of the Colorado Horse-Racing Association had endorsed the alternative version of Rule 5.320. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation, a motion was made by Commissioner Wells, seconded by Commissioner Vail and unanimously carried to adopt the proposed alternative version of modified rule 5.320 as presented to all of the Commissioners in their agenda packets and as discussed at today's meeting and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rules. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Modified Rule 5.330: Mr. Hartman reviewed the text of proposed modified rule 5.330. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation for adoption, a motion was made by Commissioner Kester, seconded by Commissioner Wells and unanimously carried to adopt modified rule 5.330 as proposed and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rules. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Modified Rule 7.608: Mr. Hartman reviewed the text of proposed modified rule 7.608. He explained that the proposed modified version of rule 7.608 is intended to disallow the use of types of traction devices on racehorses that have not been tested or approved on an industry-wide basis and that may result in horses being injured during training or racing. After ascertaining that there were no objections to formal action being taken at this time and acknowledging the Division's recommendation for adoption, a motion was made by Commissioner Wells, seconded by Commissioner Kester and unanimously carried to adopt modified rule 7.608 as proposed and, as part of the motion to adopt, the Commission incorporated the Statement of Statutory Authority, Basis and Purpose into the rules. A copy of the subject rule is attached hereto and made a part of these minutes.
- Consideration of Proposed Modified Rule 7.218: As a preliminary matter, Mr. Shannon Rushton, Executive Director of the Colorado Horse-Racing Association, informed the Commission that he had been unaware that the Jockey's Guild intends to propose an alternative version of Rule 7.218, which was not brought forward during the rule review workshops and has not been provided to the members of his organization. Based upon the lack of prior notice regarding the alternative rule proposal and his inability to review it before now, Mr. Rushton requested that the Commission defer action until the members of the Colorado Horse-Racing Association have had sufficient time to review the content of the

rule to be presented by the Jockey's Guild. After considering Mr. Rushton's comments and noting Mr. Hartman's observation that the Jockey Guild's version of rule 7.218 has been adopted as a Model Rule by the Association of Racing Commissioners International, the Commission elected to proceed with discussion of both the published text and the alternative version of the subject rule.

- Discussion ensued regarding the subject rule proposals during which Mr. Terence Meyocks, National Manager of the Jockey's Guild, and Ms. Mindy Coleman, In-House Counsel for the Jockey's Guild, participated via teleconference call. Additionally, certain association and industry representatives expressed views and opinions for and against adoption of each version of proposed modified rule 7.218.

Mr. Hartman requested that the Commission allow him to attempt to mediate a compromise between the Jockey's Guild and the Colorado Horse-Racing Association representatives regarding the subject rule via a teleconference discussion to be held prior to the April 3, 2012 Commission meeting. The Commission endorsed Mr. Hartman's suggestion. A motion was thereupon made by Commissioner Beirne, seconded by Commissioner Vail and unanimously carried to table further consideration of proposed modified rule 7.218 until the April 3, 2012 Commission meeting in order to afford Mr. Hartman, the horse-racing community and the Jockey's Guild an opportunity to conduct a discussion of the different rule proposals in an effort to resolve their conflicting positions. No further action was taken at this time.

At 12:05 p.m., a motion was made by Commissioner Beirne, seconded by Commissioner Vail and unanimously carried to continue this Rule-Making Hearing until the Commission's April 3, 2012 meeting. The continued Rule-Making Hearing is scheduled to resume at 9:30 a.m. in Conference Room 110 (Enforcement Conference Room), 1881 Pierce Street, Lakewood, Colorado.

Ms. Janna Fuentes, Court Reporter, recorded stenographically recorded the above Rule-Making Hearing. A digital recording of the proceeding is on file in the Commission's Lakewood office.

#### Re-Opening of Regular Business Meeting

At 12:05 p.m., a motion was made by Commissioner Wells, seconded by Commissioner Beirne and unanimously carried to re-open the regular business meeting.

#### Adjournment

There being no further business to consider, a motion was made by Commissioner Vail, seconded by Commissioner Kester and unanimously carried to adjourn the regular meeting of the Colorado Racing Commission at 12:05 p.m.

#### Next Regularly Scheduled Meeting

The next regularly scheduled meeting of the Colorado Racing Commission will be held on **Tuesday, April 3, 2012** in Conference Room 110 (Enforcement Conference Room), 1881 Pierce Street, Lakewood, Colorado.

The undersigned hereby approve the foregoing Minutes.

---

JACK PRETTI, CHAIRMAN

---

MARY SHARON WELLS, VICE-CHAIR

---

CHARLES VAIL, DVM, MEMBER

---

DANIEL KESTER, MEMBER

---

SEAN BEIRNE, MEMBER