

Colorado Racing Commission
April 10, 2024
Meeting Minutes

Call to Order

The regular scheduled meeting of the Colorado Racing Commission (“Commission”) was held on Wednesday, April 10, 2024 via video conference provided by Zoom. The meeting was called to order at 9:30 AM.

Members Present

Tina Estes, Chair
Tameka Sampson, Vice Chair
Dr. David “Lynn” Hoffman, Member
Jeffrey Ruebel , Member

Members Absent

Kjersten Davis, Member

Racing Staff Present

Donia Amick, Director of the Division of Racing Events
Janina Rivera, Executive Assistant to Division Director
Sarah Killeen, Assistant Attorney General

Director Amick introduced Jeffrey Ruebel as the new Commissioner. Replacing Sandy Bowen

1. Approval of February 14, 2024 Minutes

The minutes for the 2/14/2024 Commission meeting were approved unanimously with one correction. The word “replacing,” in paragraph 9, was misspelled.

DISCUSSION ITEMS

2. Update on greyhound wagering in Colorado, House Bill 23-1041 - Donia Amick, Director

Director Amick reminded the Commission that House Bill 23-1041 goes into effect on October 1, 2024. After that date, Arapahoe Park will no longer be able to accept the simulcast signal for any greyhound racing.

3. Update on FOW wagering in Colorado - Donia Amick, Director and Sanela Simic, Auditor

Director Amick reported that the Division is looking at the fixed odds wagering (FOW) data versus the simulcast wagering data to find out if there are any effects from FOW on the Pari Mutuel wagering. The

Division asked the current operator bet365 and content provider SIS for a list of information which was provided to the Commissioners in the meeting packet.

4. Update on HISA/HIWU - Donia Amick, Director

Director Amick updated the Commission that the Division has reached out to both HISA and HIWU regarding the Division's efforts to hire a full time veterinarian as well as a seasonal veterinarian. HISA and HIWU were very cooperative and willing to help **with providing veterinarian services if needed**. The Division reached out to HIWU and HISA about contracting with those agencies to use their veterinarian services if the Division cannot find either full-time or part-time veterinarians to directly hire. If the Division were to contract with HISA and HIWU for veterinarian services, it will likely result in an increased expense. They may also contract with the State to complete testing for quarter horses as well. The Division also provided a letter from HISA on the significant reduction in assessments in the Commission packet.

5. Use of track facilities outside of racing season notification - Donia Amick, Director

Director Amick stated that the track has requested that the grandstands open on May 1, 2024, for an event as well as start training.

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park mentioned the correct date is May 4, 2024 which is Kentucky Derby Day and stated he wanted to open for training and to allow patrons to visit the track to observe the Derby.

6. Consideration of approval of RMOHA guidelines regarding hair testing for 2024 season - Kelly Haralson - Agent in Charge

AIC Haralson explained to the Commission that the draft guidelines provided by RMOHA for quarter horse hair testing is 50 days along with retesting and fees associated. The guidelines were given to the Commission in full in the Commission packet.

DECISION ITEMS:

7. Consideration of distribution of monies to Greyhound adoption agencies - Sanela Simic, Auditor

Auditor Simic presented two applications the Division received. The applications were from Friends of Retired Greyhounds and Colorado Greyhound Adoption. Currently, there is approximately \$25,522.03 in the greyhound adoption fund and \$25,000.00 will be distributed to the two applicants. Applications are as follows:

| Organization | # of Dogs | Amount |
|-------------------------------|-----------|-------------|
| Friends of Retired Greyhounds | 32 | \$10,000.00 |
| Colorado Greyhound Adoption | 48 | \$15,000.00 |

| | | |
|------------------|----|-------------|
| \$312.50/per dog | 80 | \$25,000.00 |
|------------------|----|-------------|

Motion made by Commissioner Hoffman to approve the release of funds for the Greyhound adoption agencies. A second was made by Commissioner Sampson.

Motion passes unanimously.

8. Consideration of dispose of evidence from Case #18-0331 - Kelly Haralson, Agent in Charge

AIC Haralson requested the approval of the disposal of evidence gathered from the investigation of a medication violation that occurred in June of 2018.

Motion made by Commissioner Sampson to approve the request of disposal of evidence regarding Case #18-0331. A second was made by Commissioner Hoffman.

Motion passed unanimously.

9. Consideration of 2024 meet application for Bally’s Arapahoe Park - Donia Amick, Director

Director Amick thanked Shannon Ruston for all the work he has currently done at the track and for the cooperation and responsiveness he has shown.

Director Amick read a memo addressed to the Commission dated April 1, 2024, summarizing the Class B Meet License Renewal Application Racing Associates of Colorado, Ltd. Arapahoe Park 2024 Live Race Meet. Director Amick mentioned that the Division has received some of the required documents, some will still need to be submitted and some are scheduled for inspection and therefore incomplete.

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally’s Arapahoe Park responded that he has made significant improvements to the track and plans to make more. He states he has also made numerous staffing changes to improve the facility. He stated the past lawsuits against the Division and CHA have both been dropped. He said he is currently working with the Off Track Betting locations to improve their situation as well. Shannon said he met with Arapahoe County in February regarding the tack rooms and grooms living in them. Mr. Rushton said he had a memorandum from Paul L. Zertuche P.E. who is a Colorado licensed professional engineer regarding a walkthrough of the facility on April 6, 2024. Shannon read from the memorandum which said, “It is my opinion the existing structures are stable for future use and will only require maintenance to remain so”. Mr. Ruston also read a second letter from Top Rank Plumbing LLC that listed the repairs needed of the barn area restrooms. Mr. Rushton stated he has not received a report back from South Metro Fire Department on any pending issues. Mr. Ruston said they are continuing improvements that will be scheduled closer to opening day.

Commissioner Hoffman asked Mr. Ruston in his opinion, “Is the backside safe?”

Shannon Rushton responded, “If it wasn’t safe I wouldn’t allow my family to go back there.

Chair Estes asked Mr. Rushton if any permits have been issued regarding the plumbing and electrical updates?

Shannon Rushton responded that per the plumber he stated he did not need a permit to replace toilet seats. Regarding the electrical wires Mr. Rushton stated that any low hanging wires have been zip tied secured. Mr. Rushton also stated that he did not need a permit for this type of work.

Kim Oliver, President of the Colorado Horseman Association (CHA) commented that time is important and everyone needs to know the dates today. She mentioned that she is currently in Arizona at Turf Paradise and everyone is starting to apply for future stall applications.

Heidi Humphreys, Executive Director of the Department of Revenue commented that the main issue is employee safety of the Division employees and staff. She stated that without clearance from Arapahoe County Division staff cannot be allowed to work at the track facility and will not do so until the proper permits, work and inspections have occurred.

James McClain, Arapahoe County inspector commented that on 9/15/2023 they went out to the track and found numerous "life safety" code violations. All violations were provided to Shannon Rushton and/or staff of Bally's at Arapahoe Park. Mr. McClain said as of today, 4/10/24, no permits have been applied for by Bally's at Arapahoe Park

Michael Phibbs, Senior Director, Specialist Business Group stated that with the current do not occupy order he cannot allow the staff to occupy or operate on the backside of the track.

Motion made by Commissioner Hoffman to grant conditional approval of the 2024 meet application for Bally's Arapahoe Park. A second was made by Commissioner Sampson.

Chair Estes opposed the motion.

Motion passed.

10. Consideration of approval to changes in the stewards' guidelines for 2024 – Kelly Haralson, Agent in Charge

Kelly Haralson, Agent in charge presented the changes to the guidelines which include:

GENERAL RULES, REGULATIONS and GUIDELINES

CRC Rule #11.541 – The Division shall adopt policies and guidelines for the conduct of licensees while in restricted and secure areas of the racetrack, simulcast facilities, and stable areas. These policies and guidelines governing conduct of licensees should include but are not limited to smoking, drinking, eating, and use of cell phone and pagers while in certain areas of the paddock, test barn, sample collection areas, lock out kennels and on the track surface during post parades.

1. The use of cell phones is not permitted and **SHALL BE TURNED OFF** before entering the saddling paddock **and while working on the racetrack** during the races.
2. The use of cell phones is not permitted and **SHALL BE TURNED OFF** before entering the Test Barn during sample collection on race days.

3. No person will be allowed behind the gates “to tail a horse,” unless assigned by the Starter.
4. Only licensed persons **PARTICIPATING IN THE RACE** will be allowed in the saddling paddock (except for their invited guests). The licensee participating in the race will escort and supervise **their** invited guests while in the saddling paddock.
5. **CRC Rule 3.420** states: “All visitors must obtain a **visitor identification badge** from a Division or Association representative prior to entering a restricted or secure area of the racetrack...” In addition, the Division authorizes owners, trainers, and racing officials to sign for visitors in a restricted or secure area, who shall be escorted at all times.
6. **NO LIVING IN THE TACKROOMS IN THE RESTRICTED OR SECURED STABLE AREA.**
7. The use of **ALCOHOL AND/OR MARIJUANA** is **not** permitted in any restricted area of the racetrack grounds. Detection of either in a random or for cause drug test pursuant to the rules is a violation.

CRC Rule #3.435– No licensee while on grounds under the jurisdiction of the Colorado Racing Commission shall:

- a) Engage in the illegal sale or distribution of alcohol or a controlled substance.
- b) Possess, without a valid prescription, a controlled substance, or the means of introducing said substance into the body; or,
- c) Possess or consume any alcoholic beverages in a secured or restricted area.

Licensees found in violation of this rule shall be subject to administrative action including fines and suspension.

8. Information Regarding the Use of **MARIJUANA**

- **CRC Rule #3.435** provides that there is zero tolerance for any licensee in a restricted or secured area, (1) having possession of a controlled substance or the means of introducing said substance into the body without a valid prescription or (2) having any controlled substance present in their body.

Restricted or secured areas shall include, but not be limited to: paddock, track area, totalizator room, mutuels area, money room, stewards’ stand and roof, stable area, jockeys’ room, and test barn. As a condition of licensure, all licensees are subject to the random testing provisions of Rule #3.437.

- Colorado law defines a “controlled substance” as “a drug, substance, or immediate precursor . . . including cocaine, marijuana, marijuana concentrate...” *See* 18-18-102(5), C.R.S. Additionally, marijuana remains a Schedule I controlled substance under applicable federal statute. *See* 21 U.S.C. § 812(c).
- While Colorado Racing Commission Rules #3.435 and 3.437 makes some allowance for possession by a licensee in a restricted or secured area of a controlled substance or the means of introducing said substance into the body if they have a valid prescription, medical use of marijuana by a person holding a registry card under amendment XVIII, section 14 of the Colorado Constitution **is not** pursuant to a prescription. *See* Colo. Const. art. XVIII, § 14(2)(c)(II); *Beinor v. Industrial Claim Appeals Office, et al.*, 262 P.3d 970, 973 (Colo.Ct.App. 2011) (“a physician’s inability to prescribe marijuana under Colorado law is reflected in the very

physician certification which specifies that “[t]his assessment is not a prescription for the use of marijuana”).

- The personal safety of participants in the industry of horse racing to include particularly, but not exclusively, the licensees who feed, water, ride and provide all kinds of other services for the care and well-being of the horses they work with which bring them into direct, close and continued contact with the horses, is a concern. Racehorses are generally of significant stature and weight, and licensees have to be careful and alert when working around them to be safe and remain out of harm’s way. Slower reflexes and any impairment to the level of care and alertness necessary for a person to remain safe in such an environment which may be caused by the use of drugs increases the concern for the personal safety of licensees.
- A physician’s certification or recommendation for the use of medical marijuana by a licensee who holds a patient registry card pursuant to amendment XVIII, section 14 of the Colorado Constitution does not constitute a valid prescription under Rule #3.435. Accordingly, any licensee who tests positive for marijuana in their system or has marijuana or marijuana paraphernalia in their possession while in a restricted or secured area regardless of whether they hold a valid medical marijuana patient registry card will be deemed in violation of Rule #3.437 and subject to the penalties and restrictions set forth in the rule.

SAFETY

CRC Rule #3.601 – All jockeys who intend to ride at a recognized race meet shall be required to show written documentation of a complete **physical examination** by a licensed physician affirming fitness to participate as a jockey and must include a baseline **concussion test**. This examination must have taken place within a **thirty (30) day** period prior to the start of the meet at which the rider intends to participate. The board may waive the thirty (30) day requirement for riders that can provide written proof of a physical and baseline concussion test within one year that meets the requirements of this rule.

CRC Rule #3.402 – **Any person mounted on a horse or stable pony on association grounds, must wear a properly secured safety helmet.** Additionally, all members of the starting gate crew and Association Valets must adhere to this regulation at all times while performing their duties or handling a horse. For the purpose of this regulation, a member of the starting gate crew means any person licensed as an assistant starter or any person who handles a horse at the starting gate.

Any person mounted on a horse or stable pony on the association grounds must wear a safety vest at all times. Additionally, all members of the starting gate crew and Association Valets must also adhere to this regulation at all times while performing their duties or handling a horse. For the purpose of this regulation, a member of the starting gate crew means any person licensed as an assistant starter or any person who handles a horse at the starting gate.

All jockeys shall wear a safety vest of the type approved by the Commission, when they are performing their duties on a horse racetrack.

ADDITIONAL GUIDELINES

1. Each licensee shall report fires, accidents, or other emergencies to the Stable Superintendent and/or security.
2. Electric hot walker wiring must meet or exceed OSHA standards.

3. Galloping the wrong way or on the rail is not permitted. The rail is reserved for working horses only. The Outriders have been given the authority to control traffic on the racetrack and enforce the rules thereon.

Outriders will document all infractions and notify the Division/Board of Stewards

4. **No dogs are allowed in the stable area at any time.**
5. Children in the stable area who are under the age of fourteen (14) years must be under the supervision of an adult **AT ALL TIMES**.
6. Unlicensed persons are not permitted to ride a horse on racetrack premises.

FIRE PREVENTION

1. Smoking is prohibited in horse stalls, feed rooms, and under shed rows.
2. Stalls occupied by horses and all unassigned tack rooms shall not be locked.
3. No open fires will be allowed anywhere in the stable area.
4. No oil or gas-burning lanterns, lamps or candles will be allowed in the stable area.
5. No flammable materials, such as cleaning fluid or solvents, will be used or stored in the stable area.
6. No cooking appliances (i.e., Hot Plates, Crock Pots, Skillets, Gas or Charcoal Grills, etc...) will be allowed in the stable area.
7. All electrical appliances used in the stable area must be in a safe working condition, shall not be left unattended, and, when in use, shall be kept at a safe distance from walls, beds, and other furnishings. Heating elements must not be left unattended or used in flammable containers.
8. No electrical or building alterations by horsemen will be permitted unless approved by the Stable Superintendent. Non-code or frayed cords will not be used.
9. Only extension cords approved by the Stable Superintendent will be permitted in the stable area. These cords must be OSHA-approved, 3-prong, 12-gauge, one outlet and shall not be over 25 feet in length.
10. Heaters, whenever in use, must be plugged directly into a permanent outlet.
11. Fans may be used with an approved extension cord.
12. Shedrows, tack rooms, feed rooms and runways are to be kept clean and free of debris. Shedrows are to be kept open at all times to allow access in case of fire.
13. Fire hoses and fire extinguishers shall not be removed from their racks except in case of fire.
14. All horses that are located in stalls must be haltered or there must be a halter for each horse hanging on or near the stall door.

TRAFFIC

1. Entrance to the Stable Gate will be closed to vehicle traffic:

- **Everyday 00:00 PM through 0:00 AM**

2. Vehicles and golf carts in the stable area must be in a safe working condition and shall not be driven in a careless or reckless manner and **shall give the right of way to horses at all times.**
3. Vehicle speed limit in the stable area shall be **ten (10) miles per hour.**
4. Vehicles shall not park in the posted "No Parking" or restricted areas and shall not block fire lanes, access lanes or driveways.
5. Horse trailers will be parked in designated areas only. The Stable Superintendent will assign exact locations.
6. The use of campers or trailers as living accommodations in the stable area is permitted only with prior approval by the Stable Superintendent. Such vehicles may be towed away at the owner’s expense.
7. Motorcycles are not permitted in the stable area.

Motion made by Commissioner Sampson to approve the changes to the stewards’ guidelines for 2024. A second was made by Commissioner Hoffman.

Motion passed unanimously.

11. Consideration of approval to changes in citation schedule for 2024– Kelly Haralson, Agent in Charge

Kelly Haralson, Agent in charge requested the approval of changes in citation schedule for 2024 which include a revision to a rule that was mistyped as well as updating the fine schedule. The following fines will be increased:

| AUTHORIZED CITATION SCHEDULE | LAW | 1ST | 2ND | 3RD |
|---|------------------------------------|-------------------------|-------------------------|-------------------------|
| Working without a license | CRCR 3.102 or 3.418 | 100 \$200 | 200 \$400 | Hearing |
| Failure to have license validated/current | CRCR 3.306 | 50 \$100 | 100 \$200 | 200 \$400 |
| Using abusive language towards a Commission, Division or Race Official | CRCR 3.430 | 100 \$200 | 200 \$400 | Hearing |
| Failure to have proper workouts | CRCR 7.120 7.124 | \$200 | \$400 | Hearing |

| | | | | |
|--|------------|-------------------------|-------------------------|---------|
| Failure to follow proper scratch procedure | CRCR 7.414 | 100 \$200 | 200 \$400 | Hearing |
| Failure of horse to participate in the race for which it was entered | CRCR 7.207 | \$200 | \$400 | Hearing |

Motion was made by Commissioner Ruebel to approve the changes in the citation schedule for 2024. A second was made by Commissioner Hoffman.

Motion passed unanimously.

12. Consideration of approval for simulcast schedule for Ballys at Arapahoe Park 2023-2024 - Donia Amick, Director

Director Amick mentioned that the request is for the 2024-2025 simulcast schedule. Director Amick stated that the Division did receive a request from Bally's at Arapahoe Park that included the dates of April 21, 2024 through April 20, 2025. Director Amick mentioned that Bally's has to start a meet by September 11, 2024 or the simulcast cannot continue per statute.

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park asked if the date of September 11, 2024 includes training or racing?

Director Amick responded that it includes racing.

Motion made by Commissioner Hoffman to approve the simulcast schedule for Bally's at Arapahoe Park. A second was made by Commissioner Ruebel.

Motion passed unanimously.

13. Consideration of request for modification of rule 12.210 - Shannon Rushton, Bally's Arapahoe Park

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park requested to temporarily amend the rule for the live race season. The amendment would remove the show wagering in fields of five or less.

Motion made by Commissioner Ruebel to approve the modification of the rule and to have Commissioner Hoffman sign the order on behalf of the Commission. A second was made by Commissioner Sampson.

Motion passed unanimously.

PRESENTATION:

14. Colorado State University Presentation – Dr. Lauren Smanik, Dr. Christopher Kawcak and Aimee Oke, Associate Director for Research

Dr. Lauren Smanik and Aimee Oke, Associate Director of Research Programs presented CSU's Equine Health Facilities, Services and Research. As well as the Colorado Racehorse Postmortem Evaluation Project.

OTHER:

8. Director's Report

Director Amick mentioned that the Division is still posting an opening for the Veterinarian position. Director Amick mentioned the Division's online application process.

9. Public Comment

Shannon Ruston, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park raised a concern regarding the prior Kentucky Derby approval. Mr. Ruston stated that a tote test is needed and asked if the Division would be able to perform this onsite visit?

Director Amick responded that because it is in the grandstands and not the backside the Division and track should be able to work something out and requested Mr. Ruston and Director Amick discuss this offline.

Mark McGregor, commented about Shannon's abilities. Mr. McGregor stated that all the requirements that are needed are very daunting and he is very concerned that racing will go away within the next two years due to the lack of horses. Mr. McGregor everyone needs to be willing to work together to resolve these issues.

Chair Estes thanked Mr. McGregor for his comments and mentioned that she is disappointed that the track didn't resolve these issues back in the fall of 2023, when they first learned of them.

Adjournment

The April 10, 2024, meeting of the Colorado Racing Commission was adjourned at 12:59 p.m.

Minutes Approved by the Commission



Janina Rivera, Executive Assistant to the Director

I certify these minutes were approved by the Commission on the _12th_ day of _June_ 2024.