

Colorado Racing Commission
August 14, 2024
Meeting Minutes

Call to Order

The regular scheduled meeting of the Colorado Racing Commission (“Commission”) was held on Wednesday, July 24, 2024, via video conference provided by Zoom. The meeting was called to order at 9:03 AM.

Members Present

Tameka Sampson, Chair
Kjersten Davis, Vice Chair
Jeff Ruebel, Member
Jonathan Horowitz, Member
John Hammes, Member

Members Absent

None

Racing Staff Present

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

1. Approval of 6.12.2024 meeting minutes

Minutes approved for the 6.12.2021 meeting minutes.

2. Approval of 7.10.2024 meeting minutes

Minutes approved for the 7.10.2024 meeting minutes.

DECISION ITEMS:

3. Receive and discuss information regarding Commission Order 240614. Decide whether information and documentation are sufficient for the 2024 Racing Season to begin as scheduled on 8/31/24 - Donia Amick, Director, Colorado Division of Racing and Shannon Rushton, Bally’s Arapahoe Park

Director Amick stated that Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally’s Arapahoe Park has submitted permits to Arapahoe County via email/online.

The Division is currently waiting for Arapahoe County to review and approve the permits that were submitted. Director Amick mentioned that the test barn and other structures are still currently red tagged with a condemned notice. Director Amick stated that the Division and Bally's Arapahoe Park have worked on a test barn plan and that the Division cannot move into the test barn until the condemned notices come down.

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park stated that they have submitted thirty-two (32) structural engineer documents to Arapahoe County as well as to Division Director Amick to forward them to the Commissioners.

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park stated that they have submitted a demo permit for barn six (6) in an attempt to have Arapahoe County approve one (1) and then Bally's Arapahoe Park would submit the rest of the thirty-two (32) permits the exact same way.

Chair Sampson stated that it was her understanding from the last Commissioners meeting that the focus was on dates and a live racing meet for 2025 not 2024.

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park responded that due to the Commission tabling this agenda item at the last Commission meeting he did not want to rest on not having a live race meet in 2024 and felt that he needed to continue to resolve the situation. Mr. Rushton stated that communication happened between Arapahoe County Commissioners and Arapahoe County staff that resulted in them wanting a 2024 live race meet, wanting the track to open and presenting info on how the track can make this happen.

Chair Sampson stated in order to have a 2024 live race meet there were four things that needed to be addressed. Which were:

- Veterinarian getting licensed
- Plan for the test barn
- Consultation with South Metro Fire Department
- Agreement between Arapahoe County and Bally's Arapahoe Park on the backside issues

Chair Sampson addressed the issue with the current status of the test barn and what is the go forward plan with Arapahoe County.

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park responded that they have to resubmit the documents via a county portal.

Director Amick read verbatim the email received from Mitch Maulik, Deputy Building Official, M.E. Plans Examiner Manager with Arapahoe County. That read:

Shannon and Tom,

As we have discussed on numerous occasions, a permit for each building must be applied for separately before we will begin any reviews. This has been stated to Arapahoe Park staff multiple times since August of 2023. All documents for each barn must be submitted through the permit portal for each barn.

All documents are legal documents and we cannot accept any documents through email. We require every applicant to upload all documents to their permit portal and for permanent legal record. Our staff does not upload documents to permit portals on behalf of applicants.

We had previously requested that permits be submitted as the documents became available so that we did not suddenly have all the permits applied for at the same time and overload our staff. We explained that we will do our best to work the permits in as soon as possible, once everything is submitted properly, and are typically addressed in the order in which they are received.

Currently plans examiners each have at least 150 permits in their task queue. As a consequence, and as previously communicated, time is of the essence with regard to the responsibility of any applicant to apply for permit(s) when ready.

I hope this again makes our position clear.

As of 8:19 AM today, only one permit, a demo permit for barn #6, is the only permit that has been applied for.

Best regards,

Commissioner Horwitz stated that the Division might be best to interpret the email received from Arapahoe County.

Director Amick stated that the communication is between Arapahoe County and Bally's Arapahoe Park and the Division will not interpret the email. Director Amick read verbatim from the email again.

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park commented that they have currently submitted each permit with documents for the thirty-two (32) barns.

Director Amick stated that per Arapahoe County the permits that Bally's Arapahoe Park have submitted will be placed in the que that has about 150 permits waiting.

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park stated that according to Arapahoe County Commissioners once all permits have been received these will receive priority. Mr. Rushton stated that he received this information from Commissioner Carrie Warren and Commissioner Jeff Baker.

Commissioner Horowitz stated that the Commission can approve the license knowing that there are areas that still need to be worked out between the track and Arapahoe County and the track with the Division.

Vice Chair Davis commented that she does not want the Commission to be the obstacle for not having a meet in 2024.

Chair Sampson stated that she agrees with Vice Chair Davis's comment and had a concern regarding the 8/31/2024 live race date submitted by Bally's Arapahoe Park. Chair Sampson asked how flexible this date is and how difficult would it be to change it.

Director Amick stated that the Division does not want to be block in this matter. However, there are things that the Division has to do to get the meet going. Some are being able to enter the barns for a preliminary inspection, the test barn in order to use as a collection site and get staff on board.

Director Amick stated that the Division was out at the track on Tuesday, 8.13.2024 and is willing to do whatever they can but the Division has to follow the statute and rules as well as regulations. Director Amick stated which are for safety purposes, to protect the betting public and to make sure it's a good product for everybody involved and in this highly regulated industry that the Division is following those regulations.

Commissioner Horowitz made a motion to approve the license.

Chair Sampson asked if the motion on the floor is to approve the race meet, does it include a deadline and does it include any conditions.

Sarah Killeen, AAG stated that there is currently already an approved conditional meet license with four (4) conditions which at the last Commission meeting whether to decide if the conditions have been met or not were tabled.

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park commented that the hard stop date is 9.11.2024.

Vice Chair Davis commented that she does not want the Commission to be an obstacle in the meet going forward and would be in favor of granting a conditional license that addresses the life safety issues.

Commissioner Horowitz made a motion to continue with order 20240614, approve it and amend the 7.22.2024 date.

Sarah Killeen, AAG asked if the Commission wants to add a deadline in lieu of the July date and if any language to be added regarding the red tagged currently in place.

Commissioner Horowitz asked the Division how long does the Division need to have everything it needs to prepare for the live meet.

Director Amick responded that the Division is currently working on getting people hired and working with OIT for access but without a date the Division can't hire someone. Director Amick mentioned that the Division does have hiring restrictions that need to be followed.

Commissioner Horowitz made a motion to continue with order 20240614 - Second Amended Notice of Insurance of Meet License with Conditions for 2024 to Racing Associates of Colorado, LTD D/B/A Bally's Arapahoe Park with the amendment to remove the 7.22.2024 date.

Michael Phibbs, Senior Director of the Specialist Business Group stated that the mentioned date of 8.31.2024 which is an unrealistic expectation. Mr. Phibbs stated by laws, hiring rules, OIT protocol is

completely impractical. He goes on to say even if the red tags were removed today the Division still could not meet the 8.31.2024 date.

Chair Sampson asked if the red tags were removed today how long would the Division need.

Michael Phibbs, Senior Director of the Specialist Business Group responded with the help of other state departments three (3) weeks realistically five (5) weeks.

Commissioner Horowitz raised the question why did the Division decide that there was not going to be a live race meet in 2024 when there has been live racing since 1992.

Michael Phibbs, Senior Director of the Specialist Business Group responded that the Division has been prepared for every order the Commission granted. The Division has advertised the jobs, started the selection process, hired a veterinarian, been out to the track, working with track management and to say the Division is not doing its part when in fact the Division has gone as far as it possibly can. Senior Director Phibbs stated that normally there is a ninety (90) day window for the Division to know when the races are going to be, to review the application and to prepare for the race season.

Michael Phibbs, Senior Director of the Specialist Business Group stated that at the last Commission meeting he asked for clarity regarding whether the focus is on the 2024 live race meet or is it on the stakeholder meetings and helping the horsemen. Senior Director Phibbs stated that the Commission's response was to focus on the stakeholder meetings, helping the horsemen and 2025 race meet.

Commissioner Horowitz made a motion to approve the conditional application and amend the date to one (1) week prior to the start of horse racing. A second was made by Commissioner Ruebel.

Motion passed unanimously

Tom Downey, Attorney for Bally's Arapahoe Park commented that he would like to note in the minutes that he was denied access to this Commission meeting and when he attempted to use the chat function Division Director Amick denied it. Mr. Downey asked the Commission to grant him full access to all Commission meetings.

Chair Sampson responded that the chat function in the meetings was disabled a few meetings ago due to inappropriate comments being made. Chair Sampson noted that Director Amick did notify the Commission that Mr. Downey was attempting to join the meeting.

4. Bally's Arapahoe Park requests to waive the 30 (thirty) day race requirement per Section 44-32-603 C.R.S.--Bally's Arapahoe Park Staff

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park recommended that the Commission keep this item tabled in case the 2024 race meet does not happen.

Commissioner Hammes commented that zero (0) racing is zero (0) simulcasting.

Vice Chair Davis commented that she would like to table it and does not feel comfortable withdrawing it.

Vice Chair Davis made a motion to table Bally's Arapahoe Park requests to waive the 30 (thirty) day race requirement per Section 44-32-603 C.R.S. A second was made by Commissioner Ruebel.

Commission Hammes voted opposed to the motion.

Motion passed.

5. Receive and review updated staffing plan from Bally's Arapahoe Park to allow for approval of those holding multiple positions during the racing season

Director Amick stated that the Division received a notice of staffing changes at Bally's Arapahoe Park and recommends the Commission go through the positions and approve anyone that has multiple positions.

Commissioner Hammes commented regarding Shannon Rushton positions as:

- Executive Director of Operation & Racing
- Racing Secretary

And if the horsemen are ok with this.

Commissioner Horowitz commented that he would like an explanation regarding Shawn Demoney positions as:

- Plant Superintendent
- Starter

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park responded that he did not want the Racing Secretary job. They interviewed seven (7) people who declined to take the position. Mr. Rushton stated that because of the current situation the track is in and not knowing how many horses will be racing a day he has decided to take this role upon himself.

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park responded that Shawn does have an assistant that works for him who is Shawn Von Hemel. Mr. Rushton stated that if Mr. Demoney did get called away from his position as a starter, Mr. Von Hemel would take his place as such.

Kim Oliver, President for the Colorado Horsemen Association (CHA) stated that their main concern this year is to have a live meet. Ms. Oliver stated that regarding Mr. Rushton's dual role and Race Secretary, Mr. Rushton has been very collaborative with the horseman since taking over in January. Ms. Oliver stated that she does not foresee any problems with him having the dual roles.

Director Amick stated that the Division still needs to receive and review the conditions book and schedule a horsemen's meeting.

Commissioner Horowitz motioned to approve the complete list of employees listed as having multiple positions at Bally’s Arapahoe Park for 2024 live racing. A second was made by Vice Chair Davis.

Motion passed unanimously.

6. Review and accept envelope of 2025 seasonal dates from Bally’s Arapahoe Park

Director Amick stated that the Division has received an envelope of dates for next year for May through November.

Vice Chair Davis made a motion to approve the envelope of dates received for next year. A second was made by Commissioner Ruebel.

Motion passed unanimously.

DISCUSSION ITEM:

7. Presentation from Commissioner Horowitz on letter, track visit and other live racing ideas

Commissioner Horowitz stated that he visited the track on 8.2.2024 and was blown away by the improvements that were done.

8. Presentation from the Stakeholder meeting on August 7, 2024

Director Amick stated that the meeting held on 8.7.2024 resulted in a majority of stakeholders wanting live racing to continue in Colorado and live racing in 2024.

9. Presentation on ADW funding FY 2023-2024

Sanela Simic, Division Auditor presented the ADW funding stating the following:

Deposit Location	Total Deposits
Horse Purse Trust Account (US Bank)	\$1,365,0333.35

Deposit Location	Total Deposits
CO State (Cash Fund)	\$1,677,841.82

10. Letter to HISA withdrawing from HISA for 2024 season

Director Amick stated that the Division received a letter from Bally’s Arapahoe Park addressed to HISA stating that they are withdrawing from HISA for the 2024 season.

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park stated that Bally's Arapahoe Park cannot meet the HISA requirements with power being shut off to the backside.

11. Bally's press release on merger with Standard General

Director Amick stated that the Division received a letter from Bally's Arapahoe Park counsel that there was a merger taking place and effective in January. Director Amick stated she wanted to make sure the Commission was aware of this.

OTHER:

12. Director's Report

Director Amick recommended that the Commission review the public comments the Division received that are in the Commissioners folder.

13. Public Comment

Jorge Martinez commented that he is a trainer and currently in Wyoming and wanted to know when would the horsemen be allowed to move into the backside at Bally's Arapahoe Park.

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally's Arapahoe Park responded that all the documentation has been submitted to Arapahoe County and once they review it and inform Bally's Arapahoe Park when the red tags will be removed. Mr. Ruston stated that he could not provide a specific date.

DBarron, asked what website the recordings can be found at.

Director Amick responded that it can be found on the Division of Racing Website.

Jodie Witt asked if the state can work with temporary agencies to hire the people that are needed and to expedite the three (3) week timeline needed by the Division to hire someone.

Director Amick responded that the state does use temporary agencies and that the process is about two (2) weeks to get them through the background process.

Les Lindauer, commented that he's had experience with hiring staff and disagrees with the two (2) week timeline. Mr. Lindauer also commented that he feels the roadblock is with the Division.

Adjournment

The August 14, 2024, meeting of the Colorado Racing Commission was adjourned at 11:30 am.

Minutes Approved by the Commission



Janina Rivera, Executive Assistant to the Director

I certify these minutes were approved by the Commission on the 4th day of September 2024.