

Colorado Racing Commission  
June 12, 2024  
Meeting Minutes

Call to Order

The regular scheduled meeting of the Colorado Racing Commission (“Commission”) was held on Wednesday, June 12, 2024 via video conference provided by Zoom. The meeting was called to order at 9:35 AM.

Members Present

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

Approval of April 10, 2024, April 22, 2024 and May 1, 2024 minutes

Minutes approved for 4/10/2024  
Minutes approved for 4/22/2024  
Minutes approved for 5/1/2024

**DECISION ITEMS**

1. Consideration of acceptance of withdrawal of 2024 envelope of dates from Bally’s Arapahoe Park -- Donia Amick, Director of Racing Events, Shannon Rushton, Executive Director, Ballys at Arapahoe Park

Shannon Rushton, Executive Director of Operations/Director of Racing & General Manager at Bally’s Arapahoe Park requested that the Commission accept his withdrawal of 2024 envelope dates of 9/2/2024 through 11/4/2024.

Chair Estes stated that the Commission has accepted Mr. Rushton’s withdrawal of 2024 dates.

Sarah Killeen, Assistant Attorney General stated no motion is necessary and the Commission can accept his request.

**DECISION ITEMS:**

2. Consideration of amended 2024 Conditional Meet application and new envelope of dates for the 2024 Racing Season — Director Donia Amick and Shannon Rushton, Executive Director, Ballys at Arapahoe Park

Shannon Rushton requested that the Commission accept his new 2024 envelope dates of 8/31/2024 through 11/3/2024. Running Saturday, Sunday and Monday of the opening weekend only and ending 11/3/2024 running Fridays, Saturdays and Sundays for the following nine weekends. For a total of 30 days over a course of 10 weeks.

Chair Estes asked Mr. Rushton what improvements have been made based on the conditional order the Commissioner granted previously.

Tom Downey, Attorney for Bally's Arapahoe Park stated that they reached out to the county attorney and a meeting was scheduled. Mr. Downey stated that an agreement was reached between Bally's Arapahoe Park and Arapahoe county to operate a safe environment for racing this year. Mr. Downey stated the agreement included the following:

- Turn the power off to the barns
- Generators to run the needed equipment
- Confirm that this is ok with South Metro Fire Department
- Structural engineer review that states the barns are safe

Shannon Rushton commented that the structural engineer from IMEG did a complete walk through of the backside on 6/11/2024.

Commissioner Davis expressed her concern with no power on the backside.

Chair Estes asked about the test barn issues if the power is turned off.

Shannon Rushton stated that the test barn would only be used as a collection site.

Kim Oliver, President of the Colorado Horseman's Association commented that they are committed to helping Mr. Rushton get through this meet. Ms. Oliver stated that if this meet doesn't happen it is the death of Colorado racing and if they don't move forward it is the end.

Heather Freyer, Off Track Betting operator stated that if the track doesn't run a meet by 9/11/2024 her facility will close as well as all the others in the state. Ms. Freyer stated that the facilities are all supporting the track as the track is fully supporting them.

Commissioner Davis asked Mr. Rushton what are Bally's plans for assuring a better meet next year. Shannon Rushton stated that the plan is to repair three to five barns a year to keep the cost at a minimum.

Chair Estes asked what other conditions have been met of the conditional order that was previously granted. Besides the county approval. Chair Estes asked for documentation from South Metro Fire Department or the structural engineer.

Shannon Rushton stated that some reports have been provided to the Division.

Commissioner Davis asked if South Metro has approved the use of the generators.

Shannon Rushton stated that he has not yet spoken to them about generators.

Chair Estes asked about the health and sanitation report.

Shannon Rushton stated that Arapahoe county has come out and looked at the grandstands and wants to come back out when the track is open and running.

Dr. Joni Smith, veterinarian stated that it will be tricky with no power but it can possibly be done.

Director Amick stated that the Division still has concerns regarding the 2024 live race meet at Bally's Arapahoe Park. They include the following:

- \* 1. Provide certification from Arapahoe County that all requirements of Arapahoe County code requirements and permit applications are satisfied; The Division is aware of electrical and structural issues in the backside at all the barns including the test barn. The licensing office near the grandstands will also require inspection and proper permitting before Division staff will move into the facility. If Bally's at Arapahoe Park has additional requirements not disclosed to the Division the Division requires disclosure prior to opening.
- 2. Provide to the Commission an outline and timeline of the efforts to comply with Arapahoe County and the Division recommendations; and
- 3. Comply with the following recommendations outlined by the Division of Racing Events in its Memorandum dated April 1, 2024, on pages 11-12, summarized below:
  - a. A licensed veterinarian be present any time racing is conducted (this is in addition to the Regulatory Veterinarian);
  - b. Any conflicts with racing official positions be resolved;
  - c. Complete pre-meet inspection of facility with Division staff and fulfillment of any outstanding recommendations in the 2023 End of Meet Report;
  - d. Notify the Division of any changes among Racing Officials in writing;
  - e. Ensure the association veterinarian is licensed;
  - f. Maintain public liability insurance and provide copies of the renewal notices to the Division;
  - g. Provide copies of all intrastate simulcast contracts to the Division within five days prior to the beginning of the simulcast signal;
  - h. Provide copies of health and sanitation reports for Arapahoe Park and any other in-state facilities by April 19, 2024;
  - i. Provide copies of any new service contracts to the Division; and

j. Provide updated fire inspection reports by April 19, 2024.

An official license to operate the racing season will be approved and issued once official documentation is provided verifying all conditions have been met. This license must be issued prior to commencing with any operations at the track. The conditional approval is for the May 1st start date indicated on the application. Any changes to that time frame will necessitate a new application with a start date which must be approved by the Commission.

ORDERED this 15th day of April, 2024. BY ORDER OF THE COLORADO RACING COMMISSION

During recent communications with Arapahoe Park staff, the Division has been informed the Association, Bally's Arapahoe Park, intends to move forward with the 2024 live race meet by having the electricity on the backside of the track turned off by the utilities company. This is an effort to forgo the rewiring of the barns on the backside. The electricity will not be able to be turned back on until Arapahoe County has permitted and inspected the corrections to the current wiring and allows the utility company to turn the electricity on. This means that once the electricity is turned off by the utility company, it cannot be turned on by the business. It has also been disclosed that Arapahoe County is requiring an inspection of the structures on the backside. This must be completed by a certified building engineer and the information must be provided to Arapahoe County. During a meeting with Arapahoe Park staff on June 5, 2024, Mr. Rushton stated he has hired a structural engineer, but the engineer had not been to the track yet. Mr. Rushton expected the inspection to be completed and submitted to the county before June 12, 2024. Although the county may receive the building engineer's inspection as well as allow the business to operate the backside without electricity, Colorado Revised Statute and Colorado Racing Commission Rules both require electricity on the backside in order to operate legally.

The lack of electricity on the backside creates numerous safety and operational problems which include, but are not limited to, unsafe conditions for both horses and humans, inability to operate the test barn, inability to collect and store samples, inability to properly inspect barns, insufficient fire alarms systems, inability to illuminate stalls, tack rooms and shed rows, inability to light bathrooms, failure to provide hot water, inability to light walkways and barn areas, failure of the public announcement system to operate in emergency weather conditions or other emergency situations, and unacceptable working conditions for employees, owners, trainers, grooms, and other staff.

Below are Colorado Revised Statutes and Code of Colorado regulations for horse racing applicable to the failure to provide electricity and the other missing requirements in the Commission's notice listed above:

General:

Section 44-32-1011 C.R.S.

Legislative declaration. (1) The general assembly finds, determines, and declares that:

(a) The provisions of this article 32 are enacted through the exercise of the police powers of this state for the protection of the health, peace, safety, and general welfare of the people of this state;

1 Bold added throughout statute and rule citations for emphasis only by Division staff.

(c) The purposes of this article 32 include:

...(IV) Protecting the health and safety of all participants, human and animal, involved in racing events both on and off the racetrack; and 44-32-501. Regulation of race meets and racing-related businesses - additional facilities - rules. (1) (a) The commission shall license and regulate all race meets with parimutuel wagering held in this state at which horses participate, and shall cause the places where the race meets are held to be visited and inspected at least once a year by its members or employees, and shall require all places to be constructed, maintained, and operated in accordance with the laws of this state and the rules of the commission. b) The commission shall license and regulate all kennels and stables housing racing animals both in connection with a race meet and to protect the general health and welfare of horses. The commission shall cause the stables to be visited and inspected at least once a year by its members or employees and shall require all such places to be constructed, maintained, and operated in accordance with the laws of this state and the rules of the commission.

44-32-503. Rules of commission - licensing - record check. (1) (a) The commission shall make reasonable rules for licensees to ensure:

(III) The health, safety, and welfare of persons and horses involved in a racing meet;

44-32-512. Eligibility to operate race meets - renewal or revocation. (1) (a) No person shall be eligible to operate a race meet under a license issued under the provisions of this article 32 unless the person is the owner or controls the possession of a properly constructed racetrack suitable for the conduct of racing and improved with safe and suitable grandstands; equipped with reasonably sanitary accommodations and also such accommodations, including track conditions, as the commission may require for the care and control of the animals racing at the meet; and also, such other improvements as, in the opinion of the commission, may be required for the protection of the public, human and animal participants, and others likely to be present at the race meet. Without electricity on the backside/barn area of the track, it is impossible to protect the health, peace, safety and general welfare of the people in this state as well as the participants, human and animal, involved in racing events both on and off the racetrack. The Division will be unable to run and maintain an adequate facility for testing urine and blood samples. The Division has received ideas from the Association regarding how they would like to work around the concerns, however, the Division has received no concrete plans or solutions from the Association.

CCR Colorado Racing Commission

11.100 - Associations shall comply with all federal, state and municipal laws and cooperate with law enforcement agencies in order to ensure the integrity of racing and in order to maintain all areas of racetracks and simulcast facilities in a safe and clean manner.

11.102 - As a condition of licensing, associations are expected to enforce these Rules.

11.400 - (Modified Effective date May 15, 2015) Associations shall provide adequate office space and accommodations at all live tracks and simulcast facilities so as to enable Division personnel to perform their duties.

11.542 - Associations shall take all due precaution to prevent accidents and fires, especially in the stable area and kennel compound. Associations shall appoint an employee who shall be responsible for enforcing all safety and fire rules and regulations.

11.544 - The Division shall conduct inspections of racing stables including tack rooms where racing horses are housed to ensure the proper maintenance and operation of such facility. The Division shall ensure the facility provides proper housing, adequate sanitation, fire safety, and controls for the secure and proper racing operations for the human and animal participants. The Commission by policy will establish standards of maintenance and operations and specify those areas of the racing stables to be inspected including but not limited to, tack rooms, shed rows and their immediate surrounding areas. Any failure to comply with the requirements to maintain and operate the facility will be referred to the Board of Stewards, a hearing officer, or the Commission.

:1 - All stable facilities under the jurisdiction of the Division and Commission will be subjected to pre-meet inspection to ensure that they meet the facility standards adopted by the Commission.

:2 - An owner/trainer must ensure that stable facilities, which house their horses under their care, meet the stable standards adopted by the commission. Stables requiring repairs during a race meet must complete a maintenance request form provided by the association. The association will have ten (10) days to complete the request depending on the situation.

:3 - The stable that an owner/trainer houses his/ her horses in must meet the facility standards adopted by the commission. An owner/trainer will not be issued or allowed to retain a meet validation if the facilities in which they house his/her horses fail to meet these standards.

:4 - An owner/ trainer who continues to house their horses in stable facilities that fail to meet the Commission's standards may have his/ her licenses suspended or revoked.

:5 - All stable facilities under the jurisdiction of the Division and Commission shall be subjected to inspections by representatives of the Division/ Commission. Failure to permit inspection may result in administrative license sanctions including fines, license suspension or revocation.

#### 11.544 STABLE STANDARDS

:3 - The association must provide stable housing facilities: at a minimum the facilities must include the following, unless otherwise approved in advance by the commission:

a) Locks to protect against illegal entry into tack rooms including those for medicine cabinets and grain storage areas.

b) Lighting to adequately illuminate all areas of the inside of the stable building and shed rows to

permit routine inspection and cleaning of the facilities.

1. Electrical outlets with cover plates, electrical wiring and lights shall be recessed into the walls or surrounding structures or otherwise to protect against damage by or to the horses.

2. Electrical devices in use shall be connected directly to an electrical outlet and/ or one device connected to an extension cord placed in a safe location. Based on the above Colorado Revised Statutes, the safety requirements necessary for the protection of the public, participants, and animals will not be met.

#### Test Barn

Commission Meeting Minutes January 8, 1991: "...the association must provide adequate office space and accommodations to ensure the Commission personnel will be able to perform their duties, including adequate facilities in the Stewards' Stand. There shall also be mandatory renovations to the test barn, to include an office for the State Veterinarian, hot and cold running water, electricity and a security fence surrounding the testing area." This quote is given to the Commission as to demonstrate this is not a new requirement and certain standards are and have always been required at Colorado race tracks. As mentioned in the general section above, 11.400 - (Modified Effective date May 15, 2015) Associations shall provide adequate office space and accommodations at all live tracks and simulcast facilities so as to enable Division personnel to perform their duties. Again, the Division has received several ideas from the track as to where the Division personnel might be able to work, however, Bally's at Arapahoe Park has no firm plans for the facilities.

11.430 - Associations shall provide for a receiving area with sufficient facilities to enable urine or other samples to be collected from animals designated to be tested.

The additional requirements are listed below:

#### 11.544 Stable Standards:

e) All stable buildings must have adequate stall space with available solid doors.

1. Minimum stall dimensions shall be ten (10) feet by ten (10) feet and five (5) feet by nine (9) feet respectively.

2. Stall door dimensions should be approximately four (4) feet wide.

3. Each stall shall have solid walls a minimum of five (5) feet high with open guard rails spaced at least four (4) inches apart to aid in ventilation.

4. Minimum ceiling height should be at least ten (10) feet high.

5. Hayracks should be at least four (4) feet above the stall floor.

6. Each stable building must have at least two (2) fire extinguishers or one for every ten (10) stalls, which are in working order.

5.423 – Split samples obtained in accordance with rule #5.420 above shall be secured and made

available for further testing in accordance with the following procedures:

1. A split sample shall be secured in the test barn under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. Split samples shall then be transferred to a freezer or refrigerator at a secure location approved by the Commission. The test barn is a requirement of any live horse racing meet. The failure to provide electricity will make it impossible to facilitate the test barn. Not only the basic requirements of a test barn are lost, but also computers, Wi-Fi, centrifuge, printers, etc. There is a LARGE amount of record keeping, data collection and data entry that is necessary throughout the day at the test barn. It must be entered as collected in order to maintain appropriate local and industry wide records.

### **PA System**

4.718 - After the entry box has closed, the racing secretary shall examine the entries for completeness, accuracy and eligibility, shall make preparations for the draw and shall make a public announcement of the draw in order that interested persons may be present. After the draw is conducted, the racing secretary shall post on a bulletin board in the racing office the names of all entries and their final disposition.

11.465 – The association shall develop a hazardous weather and lightning protocol to be approved by the Commission which shall include the use of an early warning detection system. The association shall designate a person responsible for monitoring the system who shall notify the Stewards if conditions exist that warrant delay and/or cancellation of a performance and/or the notification to the public of such threatening weather conditions. The Stewards shall commence a race delay and/or cancellation when lightning is detected within an 8 mile radius of the racetrack which shall remain in effect until a minimum of 30 minutes has passed since the last strike is observed within an 8 mile radius. The failure to provide electricity will result in the lack of a public announcement system on the backside. This is required by rule for notifications throughout the day to horsemen, but most importantly would be used to notify staff, participants, guests and the public when an emergency exists and to provide specific safety instructions for that specific emergency situation. The Division understands that the current PA system is in poor working condition and, as a result, many of the horsemen use their cell phones, however the public safety announcements would not be broadcast on a cell phone.

### **Pre-meet Inspection**

As listed in the general section of this memorandum, a pre-meet inspection conducted by the Division is required by both CRS 44-32-501(1)(a) and 44-32-501(1)(b) and CCR:11.544(1). This statutory and rule requirement cannot be completed satisfactorily without the availability of electricity. The result of such inspection, even if it was conducted without electricity, would result in a violation of the statutes and rules regulating Colorado Horse Racing.

### **Race Official Conflict Resolution Incomplete**

4.116 - No racing official shall serve in more than one official capacity simultaneously during a race meet



unless prior approval from the Commission or the Director has been obtained. In no event shall a racing official serve in more than one official capacity where there is a potential conflict of interest.

The Association currently has several employees that serve in more than one official capacity simultaneously during the upcoming race meet. These positions have a high potential for conflict of interest, based on the matrix used by the Division of Racing since at least 2015.

### **Ensure Licensing of Association Veterinarian**

As of June 12, 2024, the Association has failed to ensure the licensing of the Association Veterinarian, which was listed in the Commission's requirements dated April 15, 2024. The Division understands the meet was delayed, however, the licensing is required at least 48 hours prior to the opening of the meet.

Copies of health and sanitation reports for Arapahoe Park and any other in-state facilities 44-32-501. Regulation of race meets and racing-related businesses - additional facilities - rules.

(3) The commission shall license and regulate all in-state simulcast facilities conducting pari-mutuel wagering and shall require all such in-state simulcast facilities to be maintained and operated in accordance with the laws of this state and rules of the commission.

### **OTB/ARP health and fire that have not been submitted (or are expired)**

- Bally's Arapahoe Park Health Inspection will need to be updated once violations are fixed
- Bally's Arapahoe Park Fire Inspection will need to be completed and submitted
- In the Zone: Fire Inspection documents are dated 4/26/23 (over 1 year)
- Havana Park: Fire Inspection documents are dated 3/20/23 (over 1 year)
- Bally's North: Health Inspection documents are dated 4/12/23 (over 1 year)
- Celtic: No Health Inspection documents submitted
- Odds On: No Health Inspection documents submitted (let it be noted there is email communication stating Odds On has been in contact with their county authority to schedule a health inspection)
- Finish Line: Health Inspection document. A receipt was submitted; however, the actual inspection document is still outstanding. No Fire Inspection documents submitted.

### **Updated Fire Inspection Report/Fire Alarm System**

As listed in other sections of this memorandum CRS 44-32-101, CCR 11.542, CCR 11.544 apply to the fire safety issues that must be clarified via an inspection completed by South Metro Fire.

The Association has not yet submitted an updated Fire Inspection Report from South Metro Fire. The fire alarm inspection completed in April of 2024 by Fire Alarm Systems Inc. provided a list of deficiencies to the Association. The Association reported in our meeting on June 5, 2024, that South Metro Fire will require the deficiencies to be corrected prior to conducting a fire safety inspection. The deficiencies listed by Fire Alarm Systems Inc. include:

### **Fire Alarm Inspection**

1. The following Fire alarm pull stations do not report to the main fire panel, needs to be Investigated:

-Barn #1 South

-Track kitchen building rear exit by 201

2. The panel batteries located in the maintenance shop failed load testing due to age and/or low amp hour readings (2)12V 7AH (unknown)

Fire Extinguisher Inspection:

1. There are (7) extinguishers that are due for 6-year maintenance, refer to the inspection report for exact locations (1 2.5lb ABC, 4 5lb ABC, 2 10 lb. ABC).

2. There are six (6) extinguishers that are due for a 12-year hydro test, refer to the inspection report for exact locations (4 10lb ABC, 2 6-liter K-CLASS).

3. The extinguisher located on the 2nd level outside general offices on column needs to be recharged (1 10 lb. ABC).

The Association has indicated they have a fire suppression and alarm system that does not require electricity on the backside. The Association reported the system is wired to the grandstand area where the main panel for the fire alarm system is located. The Division has not received confirmation of these statements and will require written notice from South Metro Fire.

The Division will require an updated Fire Inspection Report from South Metro Fire 48 hours prior to the 2024 Meet opening.

The Division must ensure the entire track facility, located at 26000 E. Quincy Ave. Aurora, CO, is safe for the public, employees, staff, and animals to occupy during a live race meet. Based on the above information, the Division does NOT recommend the approval of the 2024 Meet application submitted by the Association, Bally's Arapahoe Park, because it does not meet the safety standards required by State Statute or Regulatory rule. The Division is concerned the approval of a meet application will violate statute and rule as well as life and safety of the participants and equine athletes.

Commissioner Hoffman made a motion to accept and approve Bally's Arapahoe Park. He submitted the following note to the Commission Secretary " ... June 6, 2024 letter from Mr. Shannon Rushton, Executive Director of Operations and Racing requesting an amended application to hold a race meet on its course at 26000 E. Quincy Blvd Aurora Colorado starting on Saturday the 31<sup>st</sup> of August 2024 and ending on November 3, 2024. The Colorado Racing Commission approves this amended application outlined in this June 6, 2024 letter for a live race meet without any further conditional requirements to be placed on Bally's Arapahoe Park. The only exceptions are that Arapahoe Park receive approval and guidance from S. Metro Fire on the use of generators, the Division and Arapahoe Park receive notification that the association's veterinarian is properly licensed, that Arapaho fulfill all the terms of its agreement with Arapahoe county including providing the IMEG report, and the test barn and

collection processing, sample storage, security, and chain of custody are adequate. The plan for the test barn must be completed before July 22, 2024 and the approval from S. Metro before July 22, 2024. None of the Division's lists meet the need for a conditional approval. These are issues that do not rise to the level requiring a conditional approval. In my second 8 year term there are always after the meet and pre meet issues. The meet will go forward as outlined in the June 6 letter and the Division and Arapahoe Park will need to work on these if possible. If the Divisions' list is not resolved the meet will still occur as outlined in the June 6, 2024 letter."

Chair Estes stated that the motion is left open ended and strikes the Divisions concerns which is a mistake and there are still conditions that have not been met by Bally's Arapahoe Park.

Commissioner Hoffman stated that in his eight year term the Division and Bally's Arapahoe Park have always had issues and will need to work them out.

Director Amick commented that as the Divisions representative none of the Division's lists meet the requirements for a conditional approval.

Commissioner Hoffman stated that he disagreed with Director Amick.

Chair Estes asked the Commissioners if legal advice is needed.

Commissioner Sampson stated she was fine with going into executive session for legal advice on the motion made by Commissioner Hoffman. A second was made by Commissioner Davis.

Tom Downey, Attorney for Arapahoe Park commented that this does not meet the reasoning to enter into executive session and why this legal advice would need to be done in private.

Chair Estes asked Commissioner Sampson to recall her motion to enter into executive session.

Commissioner Sampon stated that she did not motion to enter into executive session but rather she was fine with it.

Commissioner Davis stated that she also did not second a motion to enter into executive session but instead to second Commissioner Hoffman's motion.

Chair Estes stated that there is a motion and a second on the floor for the motion that Commissioner Hoffman has written.

Chair Estes asked for calls with the following ayes from Commissioner Davis, Commissioner Sampson, Commissioner Hoffman and Commissioner Ruebel.

Motion passed.

**OTHER:**

3. Thank you and appreciation to Commission Chair Tina Estes and Commissioner Lynn Hoffman for eight years of service to the Colorado Racing Commission.

Director Amick thanked Chair Estes and Commissioner Hoffman for their time and work serving on the Racing Commission for the past 8 years.

4. Director's Report

Director Amick stated that the Division has looked into the ADW funding which she will go over at the July's meeting. And that they have been able to return \$270,000 to the ADW's to put into the purse fund.

Shannon Rushton thanked Chair Estes and Commissioner Hoffman.

Adjournment

The June 12, 2024 meeting of the Colorado Racing Commission was adjourned at 11:34 a.m.

Minutes Approved by the Commission

  
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Janina Rivera, Executive Assistant to the Director

I certify these minutes were approved by the Commission on the 14th day of August,  
2024.