



---

# MEMORANDUM

---

Date: December 21, 2015

To: The Honorable Chair and Members  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator

A handwritten signature in black ink, appearing to read "CHH", is written over the printed name "C.H. Huckelberry".

Re: **Horseracing at Rillito Park**

Given the Board of Supervisors action to continue any agreement with the Rillito Park Foundation regarding horseracing until February 2, 2016, it is unlikely there will be horseracing in Calendar Year 2016, as horseracing dates need to be reserved and approved by the Arizona Department of Racing.

We previously cautioned the Rillito Park Foundation regarding their tardiness in providing the County with audited financial statements, which were just received on December 9, 2015. This allowed the County to forward what was then a general negotiated lease with terms and conditions associated with horseracing at Rillito. Many of the terms and conditions were added by County staff to ensure there was clarity regarding Rillito Park Foundation's use of the property and such use would not be construed as exclusive or unlimited. They were designed to avoid many of the same issues we are now having with soccer organizations that interpret priority soccer use as exclusive use. I have continued to have discussions with soccer enthusiasts regarding the meaning of the word priority versus exclusive. Priority does not mean exclusive; it means soccer enthusiasts must share the Rillito Park public assets with other park users.

An analysis of field utilization conducted last fall by our Natural Resources, Parks and Recreation Department showed that soccer or field sports used the four fields inside the racetrack (Fields 1 through 4) 307 days of the 365 days. Live horseracing prevented activity on those fields for 23 days, or 6 percent of the time. Special events prevented sports use of the fields for 35 days, or 10 percent of the time. Since this analysis, the County has completed three additional sports fields at this site.

To continue multiple use of Rillito Park, including horseracing, we have suggested on a number of occasions that the Foundation extend their existing agreement with the County, which was allowed for two additional years. The Foundation insisted they needed a longer time period in order to attract capital and/or capital donations. I agreed and indicated we should examine a five-year extension option, since the Bond Advisory Committee rejected full funding to convert Rillito Park to a regional exclusive soccer complex and did not provide bond funding for such a conversion. Hence, the County will continue to be burdened with the existing horseracing facilities for 10 years or more.

The Honorable Chair and Members, Pima County Board of Supervisors  
**Re: Horseracing at Rillito Park**  
December 21, 2015  
Page 2

It now appears horseracing infrastructure will remain on the property without any agreement. I had originally rejected the multiple five-year extension. However, the Foundation has insisted they required a longer time period and multiple options.

Including the schedule of improvements was an attempt by County staff to tie the Foundation to certain improvements, not to obligate the County to make any improvements. A clear reading of the agreement would indicate such, even though the graphic attached to the agreement would appear to indicate otherwise.

Legal counsel for the Foundation has contacted the County Attorney and offered their opinion that the original agreement remains in effect and they may exercise their one-year option. The County Attorney indicates otherwise (see Attachment 1). Hence, attempting to revive the past agreement that we suggested on numerous occasions should be extended is not a viable option for the Foundation. However, in a December 17, 2015 letter to the Board (from Rillito Racing, Inc. President Jaye Wells; Attachment 2), the loss of the 2016 racing season is of greater concern. Therefore, to allow additional time to work through the concerns on the proposed longer-term lease, the Foundation is requesting the Board allow the prior three-year lease agreement to continue into Year Two. Without the extension, it appears unlikely there will be horseracing at Rillito Park in 2016.

Concern has also been raised by The University of Arizona Race Track Industry Program (RTIP) (see Attachment 3). The program is well-known internationally, and regularly hosts hundreds of industry executives from around the world. The Rillito Race Track has been a working classroom for these students. The racing season provides a significant, "hands-on" opportunity for students, which makes it one of the most popular programs in the country. The loss of the racing season would severely impact the RTIP.

I do agree that what should first be addressed is a policy decision as to whether Rillito is a park exclusively used for soccer or whether it is to be a multiple-use facility, including horseracing and other large-scale events for the foreseeable future; meaning until there are capital funds appropriated to completely convert the property to a soccer facility (10 years or longer). The last time the Board considered this item was in August 2006, and the Board voted unanimously to accept the recommendations of the Rillito Regional Park Advisory Committee, primary of which was the continuation of horseracing at Rillito until a suitable alternative site was identified. (See Attachment 4.)

Under the terms of the proposed agreement, horseracing could occur no more than 18 days, inclusive of the days requested in October. The primary reason for separating the days was that there would be more public use of the facility by splitting the season and shortening the Winter/Spring season with limited racing in the fall. This option was included in the

The Honorable Chair and Members, Pima County Board of Supervisors  
**Re: Horseracing at Rillito Park**  
December 21, 2015  
Page 3

agreement after we confirmed soccer tournaments and other major activities could be accommodated at the Kino Sports Complex; hence, accommodating a very limited fall racing season would not adversely impact soccer.

While there is a great deal of discussion as to how to proceed, I believe it would be productive to first decide the policy issue of whether soccer should be an exclusive use at Rillito Park or whether the park should be used for multiple uses, including limited horseracing.

CHH/anc

#### Attachments

c: John Bernal, Deputy County Administrator for Public Works  
Nanette Slusser, Assistant County Administrator for Public Works  
Tom Moulton, Director, Economic Development and Tourism  
Chris Cawein, Director, Natural Resources, Parks and Recreation

# ATTACHMENT 1



OFFICE OF THE  
**Pima County Attorney**  
**Civil Division**  
32 NORTH STONE AVENUE  
SUITE 2100  
**Tucson, Arizona 85701-1412**  
(520) 740-5750  
FAX (520) 620-6556

**Barbara LaWall**  
PIMA COUNTY ATTORNEY

December 18, 2015

T. Patrick Griffin  
Haralson, Miller, Pitt, Feldman, & McAnally, P.L.C  
One South Church Street, Suite 900  
Tucson, AZ 85701-1620

Re: Rillito Park Operating Agreement

Dear Pat:

This will respond to your letter of December 17, 2015. I respectfully disagree with your position that the expired contract between Rillito Racing, Inc. and Pima County was implicitly renewed or remains in effect.

Section 3 of the Agreement for the Non-exclusive Operation and Management of Rillito Racetrack (the "Agreement") clearly states that the term of the Agreement ran from July 1, 2014 through June 30, 2015. That section further provides that if either party desired to renew the Agreement for an extended term, that party needed to provide written notice to the other party at least ninety days prior to the expiration of the Agreement. Section 29 of the Agreement specifies that notice under the Agreement must be in writing and served by personal delivery or certified mail upon Pima County by providing such notice to Tom Moulton, Director of Economic Development and Tourism for Pima County. Mr. Moulton received no notice of any request to renew the Agreement from Rillito Racing that meets the requirements of the Agreement either within the ninety days prior to the expiration of the Agreement on June 30, 2015 or at any other time. If you believe that such a notice exists, I would appreciate receiving a copy of it, along with proof of personal delivery or certified mail service as the Agreement requires.

Even if Pima County had received timely or effective notice of Rillito Racing's desire to renew the Agreement, renewal would not have been automatic. Rather, the decision whether or not to renew the Agreement rested solely with the Board of Supervisors. The Board of Supervisors has, of course, taken no action to renew or extend the Agreement. The Board did have the new and different operating agreement for the Rillito Racetrack that you and I had been negotiating in the past few months (with the Rillito Park Foundation, a different legal entity than

December 18, 2015  
T. Patrick Griffin, page 2

Rillito Racing) on its agenda for consideration at its December 15<sup>th</sup>, 2015 meeting. As you know, however, the Board has continued consideration of that item to a later date.

Given the time concerns that you have expressed, if Rillito Racing, Inc. wishes to ask the Board of Supervisors to consider a limited renewal or extension of the expired Agreement for an additional period of time, Rillito Racing may make such a request in writing to the Board of Supervisors through the Clerk of the Board. Any decision to consider or to act upon such a request remains within the discretion of the Board of Supervisors.

Very truly yours,



Tobin Rosen  
Deputy County Attorney

cc:

C.H. Huckelberry, County Administrator  
Nanette Slusser, Assistant County Administrator  
Tom Moulton, Director of Economic Development and Tourism  
Thomas Weaver, Chief Civil Deputy County Attorney

MILLER, PITT, FELDMAN  
& McANALLY, P.C.

**HARALSON, MILLER, PITT,**  
**FELDMAN & McANALLY P.L.C.**

STANLEY FELDMAN, P.L.C.  
RICHARD L. McANALLY  
JANICE A. WEZELMAN  
PHILIP J. HALL  
NINA J. RIVERA  
OF COUNSEL

GERALD MALTZ  
T. PATRICK GRIFFIN  
THOMAS G. COTTER  
LINDSAY BREW  
JOSÉ DE JESUS RIVERA  
PETER T. LIMPERIS  
JEFFREY A. IMIG  
NATHAN J. FIDEL  
NATHAN B. WEBB  
AARON M. HALL  
TIMOTHY P. STACKHOUSE  
HEATHER L. GOODWIN

ONE SOUTH CHURCH AVENUE, SUITE 900  
TUCSON, ARIZONA 85701-1620  
TEL. (520) 792-3836  
FAX (520) 624-5080

[www.hmpfmlaw.com](http://www.hmpfmlaw.com)

ROBERT F. MILLER  
DONALD PITT  
G. EUGENE ISAAK  
GRACE McILVAIN  
RETIRED

BARRY N. AKIN  
(1939-1988)

DALE HARALSON  
(1937-2015)

December 17, 2015

By Email

Tobin Rosen  
Civil Division  
Office of the Pima County Attorney  
32 North Stone Avenue  
Tucson, Arizona 85701

Re: Rillito Park Operating Agreement

Dear Tobin,

I am told that the Board of Supervisors continued the hearing on the approval of the new Operating Agreement for Rillito Park until January, 2016.

In accordance with Section 3 of the 2014/15 Agreement for the Non-Exclusive Operating and Management of Rillito Racetrack between Pima County and Rillito Racing, Inc. (the "Existing Operating Agreement"), notice was given by Rillito Racing of its desire to renew the Existing Operating Agreement for an Extended Term, as defined therein.

A series of written emails and memos were exchanged between Pima County and Rillito Racing in February and March of 2015 which clearly evidence the desire and intent of the parties to extend the Term.

TUCSON

PHOENIX

FLAGSTAFF

HARALSON, MILLER, PITT, FELDMAN & MCANALLY, P.L.C.

DECEMBER 17, 2015

PAGE 2

At Pima County's initiative, the parties commenced negotiations for new and different business terms, which is expressly provided for in Section 3 of the Existing Operating Agreement.

The 2016 Racing Season will commence soon. Rillito Racing must be prepared to conduct horse racing at Rillito Park under the Existing Operating Agreement if the new Operating Agreement is not approved by the Board of Supervisors prior to the start of the 2016 Racing Season or at all. In so doing, Rillito Racing is acting in good faith and attempting to mitigate loss and damage caused by delay in the Board of Supervisors' consideration of the new Operating Agreement.

If you do not concur with the substance of this letter, please contact me immediately.

Sincerely,

T. Patrick Griffin

TPG/mmw

TUCSON

PHOENIX

FLAGSTAFF

# ATTACHMENT 2



## RILLITO - P A R K

December 17<sup>th</sup>, 2015

The Honorable Sharon Bronson  
Pima County Board of Supervisors – District 3  
130 West Congress – 11<sup>th</sup> floor  
Tucson, AZ 85701-1317

Dear Supervisor Bronson:

At the request of Nanette Slusser and Tom Moulton, I am writing on behalf of Rillito Racing, Inc., a wholly owned subsidiary of Rillito Park Foundation, to ask for special consideration.

In light of the postponement of a vote on the Rillito Park Foundation contract with Pima County, we respectfully request reinstatement of the earlier contract with Rillito Racing, Inc. to conduct racing for the planned Winter Meet beginning Jan 1<sup>st</sup>, with Opening Day scheduled for January 30<sup>th</sup>, 2016. The contract number which is CT 14\*537.

We are confident that all of the concerns you expressed regarding the long-term contract during the recent meeting can be answered to your satisfaction in due course. That contract is with the Rillito Park Foundation.

I know you are aware of the impact the delay has caused on our race preparations and would appreciate every effort to expedite this request. If the horsemen do not have some assurance soon that racing will happen, the meet will be damaged severely if not forced to be cancelled.

On behalf of the Board of Rillito Racing, we thank you for your attention to this matter. Please don't not hesitate to contact me should you have any questions or need clarification on this request.

Sincerely,

Jaye Wells, President  
Rillito Racing, Inc.  
1090 East River Road  
Tucson, AZ 85718  
520-360-2049 direct

cc: Nanette Slusser  
Tom Moulton  
Russell True

# ATTACHMENT 3



Race Track Industry Program

Race Track Industry Program  
Department of Animal Sciences  
College of Agriculture & Life Sciences

845 N. Park Ave., Suite 370  
P.O. Box 210158E  
Tucson, AZ 85721-0158  
Tel: (520) 621-5660  
Fax: (520) 621-8239  
rtip-info@ag.arizona.edu  
ua-rtip.org

December 18, 2015

The Honorable Sharon Bronson  
Supervisor, District 3 and Chair  
Pima County Board of Supervisors  
130 West Congress, 11th Floor  
Tucson, AZ 85701

Dear Supervisor Sharon Bronson:

I was in attendance at the last board of Supervisor's meeting December 15, 2015 but due to commitments at the University of Arizona I was late and missed the call for comments to the public. I regret that I missed the first hour and I was also not aware of the fact that public comment now comes at the beginning of the meeting.

I want to share with you some changes we have made with curriculum and student opportunities as a direct result of the new opening of Rillito Race Track in the spring of 2015.

First some background. My wife, Tresa and I and our family have been residents of Pima County for twenty one and a half years. My wife and I have been very active in the community and supported youth and education activities. I have been treasurer and a coach of the CDO Little League, President of our homeowners association, coach of the U of A Bowling Club Team and ran for the Amphi School Board (however did not win that election.) My wife was past president of the Wilson K-8 school and very active in fund raising for that school and other volunteer efforts with youth activities. We care as much as most people in our community about youth activities and education.

I have been director of the University of Arizona Race Track Industry Program (RTIP) since moving to Tucson and proud to say the program is known worldwide throughout the \$100 billion global horse racing industry. The Program was established in 1973.

Now that Rillito Park Foundation (a Not for Profit Foundation) supports the activities at Rillito and the track has hired professional horse racing management the RTIP found this a perfect opportunity to collaborate with them to enhance our teaching. What was accomplished in the spring race meet of 2015 was spectacular given the short time frame and shows what progress can be made. Perhaps one of the most significant improvements was the \$100,000+ that was spent to improve the safety of the racing surface, something fans and spectators do not notice but what makes having professional management involved so important. Of course many improvements were visible to the customers. When I went to the track opening day I was shocked how much was done and how much better the fan experience was. It was so crowded that I even helped students at the admission gates to comfortably get the large crowd into the facility.

Our program has always been known for its hands on and applied approach. Our faculty has all worked in the industry, we bring guest speakers to the class from the industry, we host North America's largest horse racing conference each year here in Tucson that brings 500 executives from around the world to town and the students learn and interact with

The Honorable Sharon Bronson  
December 18, 2015  
Page 2

them. We also have a great Internship program. Now we have the opportunity to have a working lab and training center. When the news of our involvement with Rillito was released to the horse racing industry we receive many accolades and positive recognition and feedback from the industry.

Through the cooperation of the RTIP and Mike Weiss almost 20 students were given the opportunity to work at Rillito Park during the spring 2015 semester. Our yearbook reflects the great experience those students had. (I have enclosed a copy of the yearbook with the mailed copy of this letter but here is a link to the digital copy if you would like to review it beforehand: [http://ua-rtip.org/rtip\\_publications](http://ua-rtip.org/rtip_publications).) Page 30-31 has an article about the education and experience those students gained. Also in the student profile section (page 12-20) many of the students mentioned in their own words that the experience was important.

Given the short time line last year to work with Rillito management I was personally proud of all the opportunity students had. But, I was not satisfied and knew together we could make a special and unique educational experience.

We have changed a number of aspects of our curriculum this year to make a world renowned program even better. For example, in my class in the fall semester students were assigned two projects that present them with a real life business challenge and the ability the following semester to see their plans in action. Students were asked to prepare a strategic analysis and recommendations for the operation of Rillito Park for 2016 and forward. They were also asked to design a business experiment to conduct during the 2016 live racing meet and the experiment would be monitored and measured like any lab experiment by students in the spring 2016. The marketing class and track business and operations class also have incorporated projects in their class directly related to Rillito Park track operations. It was our desire to make Rillito a "working lab" and a place for internships and real world experience to further enhance their educational opportunity. Mike Weiss of Rillito Park was given the student reports earlier this month.

Both through direct communication and on social media I have seen hundreds of positive comments from many industry executives applauding this collaboration with Rillito Park. We also received a grant from the Bert W. Martin Foundation that supports hands on opportunities for students.

In the spring of 2016 it was our hope and plans to expand educational opportunities and hands on learning. Mike Weiss was in our office for four hours on December 11 interviewing many students wishing to work at the track to gain experience and build a resume. You may know of American Pharaoh the horse trained by Bob Baffert that won racing's Triple Crown, an achievement that had not been accomplished for 37 years. Mr. Baffert "cut his teeth" at Rillito with similar hands on education and now gives Tucson and the U of A continued exposure to national and international press. For example, there was a half-page article in the USA Today about the Race Track Industry Program in Tucson because of this achievement.

The Honorable Sharon Bronson  
December 18, 2015  
Page 3

As mentioned before, I gave Mr. Weiss the reports done by students this semester with the plan to carry out some of the student's suggestions and have students involved in a working lab to test the ideas in a real world situation. I could envision a true incubator/lab that gives a small historic racing facility international acclaim as a R&D lab and training center combined with the U of A's internationally recognized horse racing program.

In closing I would be happy to discuss what I see as the possibilities and the realities of a collaborative effort with the facilities that would enhance education, opportunity and I believe benefit the operations at the Rillito Park facility with the help of young enthusiastic minds.

Sincerely,



F. Douglas Reed  
Director  
UA Race Track Industry Program  
[dreed@ag.arizona.edu](mailto:dreed@ag.arizona.edu)

FDR/bp

cc: Chuck Huckelberry, Administrator, Pima County

enclosure

# ATTACHMENT 4

this project, and their submitted Request for Waiver was denied. Meridian exceeded the goal at 14% and Granite met the 9% goal. Funding Source: 1997 HURF Revenue Bond Fund. Administering Department: Transportation.

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day, and carried by a four to zero vote, to approve the Award of Contract.

17. DEVELOPMENT SERVICES: REQUEST FOR ZONING CODE TEXT AMENDMENT INITIATION

Staff requests direction to initiate and advertise Pima County Zoning Code Text Amendments to modify Chapter 18.03 (General Definitions) and Chapter 18.07 (General Regulations and Exceptions), regarding Wireless Communications Facilities. (All Districts)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Carroll, and carried by a four to zero vote, to direct staff to initiate and advertise the Zoning Code Text Amendment.

18. DEVELOPMENT SERVICES: FINAL PLAT WITH ASSURANCES

P1205-049, Windmill Ranch, Lots 1-24. (District 3)

On consideration, it was moved by Supervisor Bronson, seconded by Supervisor Day, and carried by a four to zero vote, to approve the Final Plat with Assurances.

19. NATURAL RESOURCES, PARKS AND RECREATION DEPARTMENT

Presentation by Dr. Julio Betancourt of the U.S. Geological Survey and Travis Bean of the University of Arizona on management of Buffelgrass in Pima County.

Without objection, this item was continued to the Board of Supervisors Meeting of August 21, 2006.

20. NATURAL RESOURCES, PARKS AND RECREATION DEPARTMENT

Report by the Pima County Rillito Regional Park Advisory Committee regarding the long-term public use of Rillito Regional Park.

Gary Davidson, Chairman of the Pima County Rillito Regional Park Advisory Committee, stated the committee was comprised of a very diverse group of citizens representing many factions. Presentations were made to the committee by a variety of different groups who gave them good information and recommendations. He summarized the key recommendations of the Committee, thanked the Board and requested serious consideration of the Committee's recommendations.

Supervisor Day thanked the Committee and stated they had developed excellent recommendations that reflected the Committee's interest in both horse racing and the need for other sports facilities. She agreed there was a lack of space for sport fields in the County. She felt there needed to be an Intergovernmental Agreement with school districts to make more fields available.

The following speakers addressed the Board:

1. Tim Kelly
2. Julie Neff-Encinas
3. Patricia Dunham
4. Geronimo Ramirez Jr. M.D.
5. Ebie Aldaghi
6. Lisa Balcer
7. Joyce Hannes

The speakers provided the following comments:

1. The Horseman's Association was concerned with the 2010 deadline for moving horse racing out of the Rillito Regional Park.
2. Concern was expressed about the facilities being ready for the next horse racing season.
3. Youth sports save kids and all fields provided would soon be filled.
4. The soccer community considered this a partnership and pledged to do their part in bringing in tournaments to support merchants and tourism in the community.
5. Horse racing is a viable industry that has not been tapped and should be considered for bond funding.
6. The Board was thanked for their assistance in getting more soccer fields for the community.
7. Soccer fields at the Rillito Regional Park are currently under-utilized.

On consideration, it was moved by Supervisor Day, seconded by Supervisor Bronson, and carried by a four to zero vote, to accept the recommendations of the Rillito Regional Park Advisory Committee's Report as follows:

#### Recommendations

1. All existing uses at Rillito continue until a suitable replacement facility is established for horse racing;
2. The replacement facility should be established no later than 2010;
3. Consistent with the planned relocation, and in order to sustain the horse racing community, Pima County maintain the horse racing facilities at Rillito until these activities are relocated;
4. Any improvements to the horse racing facilities at Rillito are the responsibility of the lessee;
5. The Town of Marana's proposed Western Heritage Park, located on hundreds of acres including rodeo and equestrian facilities is the future site of horse racing in Pima County;
6. Pima County include funding to support the development of racing facilities at the Marana site in the next bond package with the intent that this project be included in the first implementation period;
7. If for any reason Marana is unable to develop the Western Heritage Park for horse racing, that a suitable alternative site be identified for horse racing and that the site must be acceptable to the Pima County Fair Horse Racing Commission;
8. The horse racing community is actively involved in the design and development of the new facility;
9. Rillito be fully developed, as currently planned, including the addition of soccer fields, lighting, parking and the removal or the relocation of stalls to accommodate these improvements;
10. Once horse racing has moved from Rillito, the facility be developed as soon as possible as a soccer tournament and practice facility with 18 full-size lighted soccer fields and additional facilities to support soccer tournaments. The local areas need for football and lacrosse practice facilities can also be accommodated, if needed, by these fields; and,
11. Pima County include funding to support the development of the 18 field Rillito soccer facility in the next bond package with the intent that this project be included in the first implementation period.

#### Further Recommendations

1. Pima County, in cooperation with other jurisdictions, identify properties for future sports and recreational uses and develop a bond question for the next and subsequent bond packages that is specific to the development of tournament and practice facility sites for the following sports:
  - Softball/Soccer
  - Football/Lacrosse
  - Baseball/Other Sports
2. In developing tournament sites, local players and their need for conveniently accessible practice fields, should be a very important consideration;
3. Pima County should identify funds and pursue property acquisition and additional concept development to establish these facilities. The 120 acres of City and County owned land in the vicinity of the Roger Road facility should be specifically considered if the present wastewater treatment facility is either relocated or reduced in size; and,
4. Pima County Natural Resources, Parks and Recreation staff should study the possibility of forming a Sports Authority.