Quorum having been established, Chair Reyna called the meeting to order at 5:35 pm on March 23, 2022.

Commissioners present were Ronnie Reyna, Chair, James Collins, Robert Hartman and Russell True.
Staff present were Martina Gonzales, Lisa Uthe and Kathryn Ore.

Those present recited the pledge of allegiance.

Chair Ronnie Reyna introduced two new commissioners Russell True, representing Sharon Bronson District 3 and Robert Hartman, representing Steve Christy District 4.

Consent Agenda

A motion was made by Russell True and seconded by James Collins to approve the January 14, 2022, minutes. The motion passed.

COMMISSION DISCUSSION:

1. Kathryn Ore, Pima County Attorney, reviewed Open Meeting Law. See attachment 1

2. Update of Pima County Fair Horse Racing (PCFHRMC) (Mike Weiss) Mr. Mike Weiss, advised they had originally applied for 20 days of racing but because they were not ready, opening day was pushed back. Some changes this year include new equipment, food, and beverages. Import and export of the signal to bring simulcast races in the US or to sell our signal out was delayed for two weeks, which was hurtful, but once able to bring the other tracks in they did an all-time high of $400,000 in export. They have expanded U of A students from racetrack industry students to also include journalism and vet students.

3. Operations Manager, Mark Van Buren was unable to attend the meeting so he will be brought back at another time.
4. Update on County Fair Racing outside of Pima County (Jim Collins): County Fairs are in full swing. They are going to run 8 stake races in the $20,000 range with a regular purse structure the same as Rillito Park, if not a little bit more. Get the word out to support the county fairs. Cochise County Fair Horse Races in Douglas will be April 23 & 24, Sonoita Horse Races May 7 & 8.

CALL TO THE PUBLIC:

Gary Duke asked Mike Weiss what percentage of money the horseman get in out of state off track betting. Debbie Ferguson added the money is not given up front; it is given as we race. There is a lot of accounting that goes into the funds.

Debbie Ferguson feels like we have been swimming up river and there are too many horsemen against us when we have all worked so hard to make this a successful meet. Things have happened which are beyond our control. Social media is so negative. She would like to see a united front to support racing.

Dr. Joanne di Filippo – see attachment 2

Future Action Item: Economic Recovery for what horseracing provides for Pima County

ADJOURNMENT: As there was no further business to come before the commission, duly motioned and seconded, the meeting adjourned at 6:10pm.
OPEN MEETING LAW 101
Arizona’s Open Meeting Law in a Nutshell
Information compiled by:
Liz Hill, Assistant Ombudsman – Public Access
Last revised August 2010

Two core concepts

“All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings.” A.R.S. § 38-431.01(A).

“It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonable necessary to inform the public of the matters to be discussed or decided.” A.R.S. § 38-431.09.

Why do we have an Open Meeting Law?

1. To protect the public.
   a. To avoid decision-making in secret.
   b. To promote accountability by encouraging public officials to act responsively and responsibly.
2. To protect public officials.
   a. To avoid being excluded (notice).
   b. To prepare and avoid being blind sided (agenda).
   c. To accurately memorialize what happened (minutes).
5. Build trust between government and citizenry.

What constitutes a meeting?

A meeting is a gathering, in person or through technological devices of a quorum of a public body at which they discuss, propose or take legal action, including deliberations. A.R.S. § 38-431(4). This includes telephone and e-mail communications.

Who must comply with Open Meeting Law?

Public bodies. "Public body" means the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of the state or political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by the state or political subdivision. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body. A.R.S. § 38-431(6).
"Advisory committee" or "subcommittee" means any entity, however designated, that is officially established, on motion and order of a public body or by the presiding officer of the public body, and whose members have been appointed for the specific purpose of making a recommendation concerning a decision to be made or considered or a course of conduct to be taken or considered by the public body. A.R.S. § 38-431(1).

The Secretary of State, Clerk of the County Board of Supervisors, and City and Town Clerks must conspicuously post open meeting law materials prepared and approved by the Arizona Attorney General’s Office on their website. A person elected or appointed to a public body shall review the open meeting law materials at least one day before the day that person takes office. A.R.S. § 38-431.01(G)

**What is Required under the Open Meeting Law?**

1. **Notice**

Public bodies must post a disclosure statement on their website or file a disclosure statement as provided for by statute. The disclosure statement states where the public body will post individual meeting notices. A.R.S. § 38-431.02(A)(1) through (4).

The open meeting law requires at least 24 hours notice of meetings to the members of the public body and the general public. A.R.S. § 38-431.02(C).

Notice must be posted on the public body’s website, unless otherwise permitted by statute. Notice must also be posted at any other electronic or physical locations identified in the disclosure statement and by giving additional notice as is reasonable and practicable. A.R.S. § 38-431.02(A)(1) through (4).

2. **Agenda**

Agendas must contain information reasonably necessary to inform the public of the matters to be discussed or decided. A.R.S. § 38-431.09.

Agendas must be available at least 24 hours before the meeting. A.R.S. § 38-431.02(G).

3. **Public’s Rights**

The public has a right to: Public has no right to:
- Attend Speak
- Listen Disrupt
- Tape record
- Videotape
4. Calls to the Public

An open call to the public is an agenda item that allows the public to address the public body on topics of concern within the public body’s jurisdiction, even though the topic is not specifically included on the agenda. Ariz. Att’y Gen. Op. I99-006.

Although the Open Meeting Law permits the public to attend public meetings, it does not require public participation in the public body’s discussions and deliberations and does not require a public body to include an open call to the public on the agenda. See Ariz. Att’y Gen. Op. No. I78-001.

An individual public officer may respond to criticism, ask staff to review an item or ask that an item be placed on a future agenda, but he or she may not dialogue with the presenter or collectively discuss, consider, or decide an item that is not listed on the agenda. A.R.S. § 38-431.01(H); Ariz. Att’y Gen. Op. I99-006. Note that individual members of the public body may respond to criticism by individuals who addressed the public body during the call to the public, but the public body may not collectively discuss or take action on the complaint unless the matter is specifically listed on the agenda. A.R.S. § 38-431.01(H).

Public bodies may impose reasonable time, place, and manner restrictions on speakers. Restrictions must be narrowly tailored to affect a compelling state interest and may not be content based. Ariz. Att’y Gen. Op. I99-006.

A member of the public body may not knowingly direct a staff member to communicate in violation of the Open Meeting Law. A.R.S. 38-431.01(I).

In sum:
- Calls to the public are permitted, but not required.
- Should be added as an agenda item.
- Public body may limit speaker’s time.
- Public body may require speakers on the same side with no new comments to select spokesperson
- Public body may set ground rules:
  - civility
  - language
  - treat everyone the same

5. Executive Sessions

Public bodies may hold private executive sessions under a few limited circumstances. In executive sessions, the public is not allowed to attend or listen to the discussions, and the public body is not permitted to take final action. A.R.S. § 38-431.03(D).

Members of the public body may not vote or take a poll in executive sessions. A.R.S. § 38-431.03(D).
There are seven authorized topics for executive sessions:
1. Personnel (must provide 24 hours written notice to employee).
2. Discussion or consideration of records exempt by law from public inspection.
3. Legal advice – with public body’s own lawyer(s).
4. Discussion or consultation with public body’s lawyer(s) to consider pending or contemplated litigation, settlement discussions, negotiated contracts.
5. Discuss and instruct its representative regarding labor negotiations.
6. Discuss international, interstate, and tribal negotiations.
7. Discuss the purchase, sale, or lease of real property.

Notice and Agenda: Agendas for executive sessions may describe the matters to be discussed more generally than agendas for public meetings in order to preserve confidentiality or to prevent compromising the attorney-client privilege. A.R.S. § 38-431.02(I). Nonetheless, the agenda must provide more than a recital of the statute that authorizes the executive session.

6. Minutes (A.R.S. §§ 38-431.01(B), (C), (D) and -431.03(B))

Public bodies must take meeting minutes of all meetings, including executive sessions.

May be recorded or written, keeping in mind that permanent records must be on paper.

Public session meeting minutes must include:
- Date, time and place of meeting;
- Names of members of the public body present or absent;
- A general description of matters considered; and
- An accurate description of all legal actions proposed, discussed or taken, and the names of members who propose each motion. The minutes shall also include the names of the persons, as given, making statements or presenting material to the public body and a reference to the legal action about which they made statements or presented material.

Executive session minutes must include:
- Date, time and place of meeting;
- Names of members of the public body present or absent;
- A general description of matters considered;
- An accurate description of all instructions given; and
- Such other matters as may be deemed appropriate by the public body.

The minutes or a recording of the public session must be open for public inspection no later than three working days after the meeting, except as otherwise provided in the statute. A.R.S. § 38-431.01(D).
Cities and towns with a population of more than 2,500 persons must post approved city and town council minutes on its website within two working days following approval. A.R.S. § 38-431.01(E)(2).

Minutes of executive sessions must be kept confidential except from certain individuals. A.R.S. § 38-431.03(B).

How long meeting minutes are maintained is determined by the public body’s record retention and destruction schedule authorized by Arizona State Library and Archives.

Persons in attendance may record any portion of a public meeting, as long as the recording does not actively interfere with the meeting. Acceptable recording equipment includes tape recorders, cameras, or other means of reproduction. A.R.S. § 38-431.01(F).

7. Where to turn for help

Self-help resources available:
The Arizona Ombudsman – Citizens’ Aide handbook – The Arizona Open Meeting Law (available on line at www.azoca.gov under open meetings/publication)
The Arizona Ombudsman’s website, www.azoca.gov

Questions/File a complaint:
Arizona Ombudsman-Citizen’s Aide (602) 277-7292

File a complaint/Enforcement authority
Attorney General’s Open Meeting Law Enforcement Team (602) 542-5025
County Attorney’s Office
Call to the Public: Statement read by Dr. JoAnn di Filippo, PhD at the Pima County Fair Race Commission – March 23, 2022

Each of you has been confirmed to serve as a Commissioner on the Pima County Fair Race Commission. The commission’s role as stated on the county website is to:

1. Advise and assist the Supervisors on matters relating to PC horse racing meetings.
2. Conduct meetings for the benefit of the community.
3. Perform other duties for the Supervisors in furtherance of horse racing as shall be directed by a majority of the Supervisors.

Those are substantial roles to fill. You serve as the “eyes and ears” for the Supervisors and, conversely, the “eyes and ears” for the horse racing industry in Pima County. When you sit as a commissioner at these meetings, you must relinquish any role or perception you may possess resulting from your involvement and/or association with other organizations, entities and businesses—regardless of whether it is County Fair Associations, UofA Racetrack Industry Program, private business selling goods at the racetrack and/or affiliation with the Rillito Park management operator organization.

I do not believe any of you hold a pecuniary interest in the park; however, it is very possible that a claim for a “remote” conflict of interest could be asserted. As such, I personally ask that when you serve as a commissioner to this commission, place your other affiliations to the wayside and focus on your role and obligation as a commissioner not influenced by your role and/or affiliation with other organizations and entities.

There’s a reason why I state this opinion. A recent review of the county’s distribution of the COVID/CARES Act funding on the Pimarecovers.gov website revealed that not one penny of this funding
has not been allocated to Rillito Park. Look at the handout provided, especially the Attractions and Tourism allocations at the bottom of the page. Rillito Park is a county-owned property just as the seven properties detailed on the bottom of this sheet. Note that each county property is receiving economic recovery funding—some in the millions, some less. You may hear from the county that funds were recently provided to improve the Rillito Park parking lot. That improvement which cost approximately $500,000 was split between a county department and the flood control district. I inquired how this project was approved and the response received was that the parking lot improvements were justified as they serve as a “trailhead” parking lot for the Loop. That’s an interesting scenario.

Nevertheless, I ask you as Commissioners, why isn’t Rillito Park on this list to receive economic recovery funding? What has the commission done to ensure Rillito Park had or has a fair opportunity to be a recipient of the county’s economic recovery funds? I’m not talking about an outside entity or organization such as Rillito Park Foundation or Rillito Racing asking for these funds; I’m talking about the Pima County Fair Racing Commission—all five of you commissioners.

Which then takes me back to the “remote conflict of interest” imposed on commissioners who at the same time hold office and/or have direct involvement with organizations and/or entities involved in organizations and businesses benefitting from horseracing. You, as commissioners, are required to sign documents agreeing to serve as a commissioner (in addition to the required Open Meeting Law training).

Thus, if you are unable to perform these tasks or the tasks render a conflict for you (direct or remote or otherwise), I respectfully ask that you resign from the commission. Remember, last year the county attempted to abolish the Pima County Fair Race Commission. The community objected and the supervisors voted to uphold the
commission’s standing. Do not think this could not happen again. Be proactive in protecting horseracing in the county and Rillito Racetrack. When destruction and damage occur on the track, take immediate action to rectify the matter and notice the proper authorities. Help us protect historic Rillito Racetrack.

In summary, I ask the Commission to:

1. Request the Supervisors provide economic recovery funding for Rillito Park—a county owned property. Doing so will create a level playing field for all county-owned properties especially those under contract to outside management organizations; and

2. Include a standing line item on the commission agenda that provides the HBPA designated Rillito Racetrack representative an opportunity to speak at each commission meeting to relay horsemen’s concerns and issues as it pertains to the furtherance of horse racing in Pima County.

Thank you.

Dr. JoAnn di Filippo, PhD
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<tr>
<th>Funding Sources</th>
<th>Economic Recovery Projects</th>
<th>Budgeted Amount</th>
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<tr>
<td>Coronavirus State &amp; Local Fiscal Recovery Fund Direct</td>
<td>Pima Early Education Program - Free Preschool</td>
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| Economic Recovery Total                               |                                                                     | 69,714,711      |