

MINUTES

OREGON RACING COMMISSION SEPTEMBER 19, 2002

The Oregon Racing Commission met on Thursday, September 19, 2002, at 1:30 p.m. for their regular meeting in Room 140 of the Portland State Office Building located at 800 NE Oregon Street, Portland, OR. Commissioners in attendance were Steve Walters, Chair; Tom Towslee, Vice Chair; Lisa Metcalf, Jeff Gilmour and Todd Thorne. After calling the meeting to order, Chair Walters expressed his appreciation to members of the racing community for the many cards, letters and flowers he received following his surgery. Agenda items were discussed in the following order with resulting actions:

1. Approval of August 22, 2002, Minutes

ACTION: MOTION(Towslee) Approve minutes as submitted.

VOTE: 4 Aye, 0 Nay, 1 Abstention (Walters)

2. Portland Meadows Update

Art McFadden reported on a couple of projects that had been completed that hadn't been mentioned in previous meetings - refinishing the starting gates and renovation of a water truck which gives them two that are operational. Jerry Kohls stated there are 465 horses currently on the grounds. The track is in good condition and is open for training seven days a week, the track kitchen is open, and the first condition book will be out October 1st. A new house rule is that with there being two-year-old races only in the fall and not the spring, two-year-olds will not be stabled on the backside in the spring. Another new house rule is a 90-day moratorium on moving claimed horses off the grounds or the end of the meet, whichever is sooner. They also have re-establishment of a scratch time for this season. On the frontside the nurse's room has been relocated adjacent to the jocks' room, and a new lighting system is being installed in the parking lot. Chair Walters raised some questions about the Thoroughbred purse schedule and the Quarter Horse stakes schedule. Steve Barham stated the race meet application approved at the August meeting was subject to receipt of a purse schedule and a stakes schedule. Since approval of those schedules were not delegated to the executive director, the commission needs to take action on them today. Mr. Barham recommended approval of the purse schedule and the stakes schedules.

ACTION: MOTION(Metcalf) Approve Thoroughbred and Quarter Horse stakes schedules.

VOTE: 5 Aye, 0 Nay

ACTION: MOTION(Thorne) Approve purse schedule.

VOTE: 5 Aye, 0 Nay

ACTION: MOTION(Gilmour) Delegate to the executive director approval of any changes in the purse schedule.

VOTE: 5 Aye, 0 Nay

Commissioner Metcalf asked Mr. McFadden to provide an update on the Willamette Valley property, to which Mr. McFadden stated there was nothing new since the last report on that issue.

3. Multnomah Greyhound Park Race Meet Report

Carl Wilson reported they had a nice Derby Night with four of the eight dogs in the race being Oregonbreds, and the live performance handle and attendance were up over last year. The Oregon handle is down 6.4%, which includes live and simulcast, versus 5.8% last month. The simulcast horse handle has been steadily declining.

4. Harney County Fair Race Meet Report

Steve Barham stated in an end of meet report prepared by the stewards there were some specific items that needed to be addressed prior to next year's meet. There were 31 trainers there, 12 jockeys, and 86 horses started, which was quite an improvement over last year's meet.

5. Final Order for Joyce G. Grable

Raul Ramirez, AAG, summarized the history of this case. The proposed final order allows the licensee to reapply for reinstatement of her licenses on the understanding the evidence in the file suggests she did not test positive for an illegal substance under the commission's rules. In addition as a result of comments by Chair Walters, Mr. Ramirez recommended the proposed order to be amended to say on page 3 licensee can apply for reinstatement provided that all of the conditions of reinstatement under our rules are met by her.

ACTION: MOTION(Thorne) Approve final order as amended by counsel.

VOTE: 5 Aye, 0 Nay

6. Approval of OTBA 2002-2003 Fiscal Budget

Steve Barham recommended approval.

ACTION: MOTION(Towslee) Approve budget as submitted.

VOTE: 5 Aye, 0 Nay

7. Approval of Distribution of OTBA 2002 Grants Pass Breeder Awards

Steve Barham recommended approval.

ACTION: MOTION(Towslee) Approve distribution of OTBA 2002 Grants Pass breeder awards as submitted.

VOTE: 5 Aye, 0 Nay

8. Approval of HBPA Proposed Budget for 2002-2003

Dave Benson and Dick Cartney were present to respond to questions.

Steve Barham recommended approval.

ACTION: MOTION(Thorne) Approve proposed budget as submitted.

VOTE: 5 Aye, 0 Nay

Mr. Benson presented comments to the commission regarding the summer race meets this year and acknowledged the commission and their role in putting together the jockey incentive program. The program brought more jockeys to every race meet that anyone can remember in recent years. He also thanked the commission and Magna for allowing the HBPA to withdraw funds from the Portland Meadows Purse Account to augment purses at the meets. At the Tillamook meet they had more horses, more jockeys and the highest handle since the mid 1980s. They also had the first ever Towslee

Memorial Race in memory of Commissioner Towslee's parents who for many years were committed to the success of the Tillamook County Fair Meet. On behalf of the HBPA, Mr. Benson advised Commissioner Towslee that they have taken steps to insure funding to allow for continuance of this memorial race at Tillamook for at least the next three years. Commissioner Towslee thanked the HBPA for their commitment to fund the memorial race in memory of his parents in future years.

9. Commission Interpretation of OAR 462-130-0070(2)(b)

Following is a transcript of this agenda item:

- Walters: This item was placed on the agenda at the request of Commissioner Gilmour. I don't know who wants to present the issue.
- Gilmour: I thought that I'm the new kid on the block along with Commissioner Thorne. And going through the rules this was not clear to me because of the wording of the rule and I thought that maybe we could at least have a memorandum of understanding of what the commission feels the interpretation of that rule is. I believe that Executive Director Steve Barham has outlined what I believe is the corrected interpretation of that rule. It would save some time and effort from rulemaking authority to clarify it, but I just believe in this form it should send at least the public's interpretation or our interpretation of what that rule means. That's about the only thing I have to say.
- Walters: Okay. Any questions or comments by members of the commission? For myself, I don't know if we need to have a memorandum of understanding. I think we can just state how we interpret the rule and that will be in our minutes and reflect the commission's interpretation.
- Gilmour: Mr. Chair, you being the attorney I would have thought this would, you as the member of the commission, I thought that maybe you would appreciate, words mean so much in law that a careful determination of what those words mean would be more meaningful.
- Walters: Notwithstanding that, it seems to me to be an appropriate interpretation of the rule. When we say no person shall have a license reinstated and then if they were revoked and then reinstated and then revoked again, there's a reference to a license but then the rest of the sentence is a bit unclear. As far as I'm concerned I think it's an appropriate interpretation of the rule that if someone has certain licenses revoked in the manner talked about in this rule, that if they want to apply for another type of license, for example, a jockey is revoked but then wants to be a mutuel teller or something like that, an entirely different line of work, that that is an appropriate interpretation that they aren't forever barred from being reinstated again. Other views?
- Towslee: No. I just want to make it clear that all this does is give them the opportunity to seek reinstatement.
- Walters: Absolutely.
- Towslee: It doesn't mean that it guarantees their reinstatement. The other thing is this should not be interpreted as some kind of an amnesty program...
- Walters: Right.
- Gilmour: Correct.
- Towslee: ...that some people may have engaged in activities that regardless of what they did, what their license was for and what they're reapplying for, they are not suitable to be part of the racing industry. I think we can make that on a case-by-case basis.
- Walters: According to the criteria...
- Towslee: Right, but I want to make it clear that we're not opening up the gates here for everybody who's been denied a license to come back and reapply for some other license. There may be conditions in

which they would not qualify for any type of license regardless of what it was based on their previous activities.

Walters: Any other thoughts? Commissioner Thorne?

Thorne: I think it's been covered. I didn't really know how to interpret it, but I was under the impression that as Commissioner Towslee pointed out that I don't think it's correct to just bar a person permanently from seeking any sort of license, so I guess I would agree on that with respect to what's been spoken here.

Ramirez: Mr. Chairman, if none of the other commission members have comments I do have a couple of comments that hopefully may help clarify some of the ambiguity.

Walters: Thank you.

Ramirez: In talking about the interpretation of the rule, you'll notice that this rule refers to reinstatement of a license once it's been revoked, reinstated and revoked again within certain date parameters. Reinstatement is different than an application for a license. Somebody that, to give the example, a jockey who was licensed, revoked, reinstated and revoked again within the date requirements under that rule, could not be reinstated again under this rule but if that person were to apply to be a trainer or some other category that's not conflicting or that is not otherwise disallowed by rule as a dual role, then my understanding is that that person would need to apply. It wouldn't be a reinstatement because there's nothing to reinstate. It's a new category and when that person applies for that new license category then all their requirements for licensing would need to be met including whether in the past that person has demonstrated that he or she is of a good moral character and otherwise meets the requirements of the rule.

Walters: And a specific ground for denying a license is when you were previously licensed you have a history of violations of the rules and regulations.

Ramirez: That's correct.

Walters: Okay. Thank you for those comments. So, it sounds as if our counsel's on the same page with the interpretation we're proposing as well.

Ramirez: Yes.

Walters: Any other comments? Commissioner Metcalf? Do we need a motion or can our remarks just be reflected in the record.

Metcalf: We're not changing anything are we?

Walters: Right, exactly. We're just interpreting it.

Ramirez: You don't need to take any real action.

Walters: I think we're just interpreting it. Next item on our agenda....

10. Josephine County Fair 2003 Race Dates Request - May 17 through July 6 (18 days)

Al Westhoff added positive comments to those presented by the HBPA regarding the jockey incentive program. The race meet window being requested for 2003 is basically the same as this year. Steve Barham recommended approval.

ACTION: MOTION(Gilmour) Approve 2003 race dates request submitted by Josephine County Fair subject to timely submission of an application for issuance of a race meet license and approval of that application by the commission.

VOTE: 5 Aye, 0 Nay

11. Update on Relocation of Ron Weeden's Greyhounds

Chair Walters stated a report had been received from Tom Weaver stating the situation has been resolved and Mr. Weeden has found a licensed farm in Oregon for his greyhounds. In response to a question from Commissioner Towslee, Mr. Weaver reported there are four retired racing greyhounds still residing at Ron Floyd's farm and are not under the jurisdiction of the Oregon Racing Commission.

12. Action on Exercise Rider Application Submitted by John B. Heath

Chair Walters stated this item was placed on the agenda at his request. Mr. Heath has a criminal history and has had a license rescinded in Oregon in 1999 for failure to disclose the complete criminal history on the application. The last criminal situation at issue was about eleven years ago, and Mr. Heath has completed the sanctions he received for that criminal violation. He has subsequently been licensed in the State of Washington and is in good standing there. When he applied for a license in Oregon just recently and the stewards issued a recommendation that the license not be issued based on the prior criminal history, Chair Walters questioned as to whether or not denying the license in Oregon would affect his status in Washington. The normal procedure would be for Mr. Heath to appeal the decision made by the stewards and have it heard by a member from the Hearing Officer Panel which would be a month or several months down the road. Based on these factors, Chair Walters decided to take the extraordinary step of placing this matter on the agenda to see what the commission's desires were with respect to this request. Mr. Heath presented evidence that he was currently licensed in Washington, was in good standing and had had no problems during the course of his licensensure. He submitted to the commission for their review letters from the board of stewards, Washington Horse Racing Commission; the director of racing at Emerald Downs, and letters of recommendation from current employers. Mr. Heath responded to a number of questions asked by commissioners. Following the questions and ensuing discussion, Chair Walters outlined what he saw were the commission's options: (1) The stewards have recommended denial. The commission could take action notwithstanding that recommendation that Mr. Heath be issued a license; or (2) The commission could take no action and allow the appeal process take its normal course.

ACTION: MOTION(Thorne) Issue a license as an exercise rider with appropriate conditions related to UA testing.

VOTE: 5 Aye, 0 Nay

13. Confirmation of Next Commission Meeting - October 17, 2002

The meeting date was confirmed as scheduled.

There being no further business, the meeting was adjourned.