

MINUTES

OREGON RACING COMMISSION MARCH 20, 2003

The Oregon Racing Commission met on Thursday, March 20, 2003, in Room 140 of the Portland State Office Building located at 800 NE Oregon Street, Portland, OR. The meeting began at 10:00 a.m. with the conducting of a hearing on proposed rule changes. Following the hearing the commission adjourned for lunch and reconvened at 1:30 p.m. for the balance of the meeting. Commissioners in attendance were Steve Walters, Chair; Tom Towslee, Vice Chair; Lisa Metcalf, Jeff Gilmour and Todd Thorne. Prior to discussing and taking action on items on the agenda, Chair Walters welcomed Jodi Hanson, the new executive director, to her first meeting, stating she has been on the job since March 1, 2003. Agenda items were discussed in the following order with resulting actions:

1. Approval of February 20, 2003, Minutes

ACTION: MOTION(Metcalf) Approve minutes as submitted
VOTE: 5 Aye, 0 Nay

2. Eastern Oregon Livestock Show 2003 Race Meet Application - June 6, 7, and 8

Jodi Hanson stated she had reviewed the application, that it appears to be complete and recommended approval. Vice Chair Towslee raised a question about the difference in purse amounts between EOLS and Harney County. Dick Cartney stated the OHBPA would be adding money to all thoroughbred races at each of the summer fair meets and that there was the possibility that the added amount was included in the purse amount for Harney County and not in the EOLS application. The intention is to have the average purse at each meet to be \$2000.

ACTION: MOTION(Towslee) Approve race meet application as submitted and delegate to the executive director to approve any changes in race meet officials.
VOTE: 5 Aye, 0 Nay

3. Harney County Fair 2003 Race Meet Application - September 6 and 7

Jodi Hanson stated she had reviewed the application and appeared to be fairly complete except that some of the race meet officials had not yet been named.

ACTION: MOTION(Gilmour) Approve race meet application as submitted and delegate to the executive director to approve final list of officials and any changes assuming the director attends the race meet.
VOTE: 5 Aye, 0 Nay

4. Portland Meadows Update

Art McFadden and Jeff Grady, the new general manager for Portland Meadows and Multnomah Greyhound Park, were present. Mr. McFadden reported that the horse population is declining. With 115 empty stalls, 75 horses on the vet's list and 75 two-year-olds in training who are not eligible to race in the spring, the racing secretary is having a difficult time filling races. The field sizes have also dropped. Chair Walters stated a number of people he had talked to who have the better horses are turning their horses out now to give them a rest so that they will be ready for the Emerald Downs meet where the purses are higher. Also, at this time of year horses have run

hard so there are more sore horses. Vice Chair Towslee suggested that if this is going to be a chronic issue, the commission along with Magna may need to look at the windows. Commissioner Metcalf raised the question about why so many horses are on the vet's list and why have the weekly reports commissioners receive indicate more horses have been destroyed than in the past. The purse cushion will be most likely be completely used up by the end of the meet due to some high stakes races toward the end of the meet. The live handle has tapered off and is exactly where it was at the end of last season and are down about one percentage point from two months ago. Mr. McFadden did note that they are up 23% on the Oregon daily average live handle over pre-Magna two years ago. The good news is that the exported signal is up 55% as well as the Oregon accumulative handle which is down now only 2% compared to 4% a month ago. The biggest problem is there are no quarter horses entering which has resulted in Los Alamitos dropping the Portland Meadows signal due to the short fields. Mr. McFadden then introduced Jeff Grady who came from Philadelphia Park and whose area of expertise is in OTBs.

Jeff Grady began by stating due to heightened security requirements, no vehicles are being allowed to park within 50 yards of the facility. He invited commissioners to attend the two stakes races that will be taking place this coming Saturday, the \$19,000 Quarter Horse Derby and the \$10,000 Preview Stakes. Improvements have been made in the paddock area and work is continuing in other areas throughout the facility. In response to a request, Mr. Grady stated he had come from Philadelphia Park where he ran the largest OTB in the country. He also had run a couple of other OTBs where he was able to increase the handle and he fully intends to do that here in Oregon.

5. Confirmation of Next Commission Meeting - April 17, 2003

No changes were made in the April meeting date. Chair Walters reminded the other commissioners there will be a rules hearing that morning related to the new form of wager called the instant racing game. Some commissioners have already seen a demonstration on the game. The principal issue the commission will be looking at is to understand how the game works and to insure that it is pari-mutuel wagering. Experts from throughout the country will be present to testify and demonstrate the game. Chair Walters strongly urged as many commissioners as possible to be present at the morning session due to the importance of hearing and its effect on the racing industry in Oregon.

6. Legislative Update

Jodi Hanson stated a number of bills introduced in legislature are being tracked and provided the commission with a written summary of where each bill is at this point in time.

HB 3128, which was sponsored by Rep. Miller at the request of Magna Entertainment, would authorize the Lottery Commission to enter into video lottery game retail contracts with certain race meet licensees and would direct 10% of the video lottery game sales to augment purses at the licensees' race meets and would authorize up to 50 video lottery terminals at each racecourse facility. The bill was referred to the Trade and Economic Development Commission on 3/17/03.

HB 3139 directs the director of the Oregon State Lottery to acquire a cite for state-owned casinos. This would also require approval by the public in an election next fall.

SB 830 was filed by a number of senators at the request of Oregon Defenders of Greyhounds. Chair Walters testified at a public hearing held on 3/10/03 at which Jodi Hanson was also present. The same wording appears also in HB 2897 which is currently sitting at the Rules and Public Affairs Committee.

SB 790 was sponsored by Sen. Nelson at the request of Portland Meadows and is currently sitting with the General Government Committee. A hearing was scheduled for 3/10/03, however, it was pulled by Larry Campbell on that date.

SB 5540 is the ORC appropriations bill. Our hearing is scheduled for April 1 and 2 at this time.

Vice Chair Towslee had some comments about HB 2838 which eliminates the requirement that the State Fair have racing, stating he felt the commission should have asked the question about their being required by law to conduct racing at the fairgrounds.

7. Request by OTBA to Reinstate Practice of Deducting Non-member Fee When Processing Oregon-bred Thoroughbred Owner Bonus

Ursula Gibbons stated they already take an administrative service charge according to ORS 462.062(7). The board is requesting the reinstatement of this practice just to include owners in everything they do, which could be done one of two ways. They could deduct the amount they take as a non-member fee for owners from the administrative service charge that has already been approved or add it on top of the administrative service charge. In response to a question from Chair Walters, Ms. Gibbons explained the difference between member and non-member fees currently in place. Jodi Hanson recommended approval.

ACTION: MOTION(Gilmour) Approve the request to reinstate deduction of non-member fee.
VOTE: 5 Aye, 0 Nay

Commissioner Gilmour asked for Ms. Gibbons' for her input as to the reason for the lack of horses. She feels the many years of uncertainty at Portland Meadows has resulted in smaller and smaller foal crops for Oregon-bred horses. It takes a lot of time from the time one decides to breed a mare, 11 months gestation period, a minimum of two years before being ready for the racetrack, and as a result we're way behind in the cycle. Now that Magna has announced that they will be at Portland Meadows for the long-term, people can again foal mares in Oregon and breed them with the intent of foaling in Oregon. Better purses are also needed as an incentive to breed and ultimately enter horses to race. Dick Cartney, OHBPA, added the big part of the problem is economics. Because of the purse structure it's very difficult to make money, so a lot of people are not buying horses. During the course of the meet when horses begin to wear out due to having run a lot, there aren't any replacements available. Mr. Cartney contends that if the purse structure were bigger people might be inclined to have two strings of horses available to run at different times during the meet.

8. Request by TVG to Institute Rulemaking to Remove or Amend The Sunset Provision in OAR 462-220-0040

Roger Nyquist was present to request the rulemaking process be initiated to review the sunset provision in the rule prior to its expiration on June 30, 2003. There was some discussion about the rule - how much the rule with the current wording is costing the state, if the current wording were not in place the 80% market share of TVG would not be available for even non-California wagers - and the ramifications to the State of Oregon if the commission were to decide to delete subsection (2) of the rule. Chair Walters stated another matter the commission should look at the way the state portions of hub funding is done, whether the tax as presently structured should be continued, whether caps on handle should be considered, or other possibilities that should be considered.

ACTION: MOTION(Towslee) Initiate the rulemaking process.

VOTE: 5 Aye, 0 Nay

9. Action on Proposed Changes to Administrative Rules - Greyhound Racing

Chair Walters began by saying a rules hearing was conducted this morning where testimony was presented, with the bulk of the testimony focused on the rules relating to disposition reports. This is the time the commission will deliberate and act on the proposed rules. During their deliberation the commission may ask questions of staff but they cannot take any further testimony from members of the public. With the assumption that commissioners have had the time to review all the proposed changes, Chair Walters suggested bringing up specific rules about which commissioners had questions, discuss those rules and then act on the rules as a package. It may be decided to act on the proposed rule on disposition and injury reports separately from the other rules. Clarifications were made on the following rule changes:

462-140-0460(5) - After greyhounds have been placed in the lock-out kennels, deals with who is and who is not allowed in the lock-out kennels. Lengthy discussion as to whether or not the commission veterinarian should be in the lock-out kennel alone.

462-170-0030(7) - Changes wording regarding greyhounds racing in Grade E from "shall" to "may".

462-180-0010(3) - New rule regarding transfer of owners procedures which allow greyhound to continue racing for up to 14 calendar days as long as photocopy of NGA registration papers are on file in race office. Purse distribution will be held until new registration papers have been returned to the racing secretary and are approved by the board of judges.

Chair Walters summarized testimony provided during the hearing on the following:

462-140-0420 - Duties of Kennel Owner. Part of the rules for several years has been the kennel owner must provide the board of judges with written notification of the disposition of each greyhound whose NGA paper was turned in during the meet and general description of the types of information the notification should include. Copies of the relocation forms were available at the hearing for people to review. Information requested on the form was (1) if going to another track, to which track; (2) if retired for breeding, location of farm where they are going to breed; (3) if being placed for adoption; and (4) if they are going to be euthanized, reason for euthanasia and name of veterinarian performing the euthanasia. For the past four years Julie

Delkamp, formerly as the association judge and now as the director of racing, has tracked the destination of every greyhound that has raced at Multnomah Greyhound Park. The system currently being used has been very detailed and very thorough.

The concern of Oregon Defenders of Greyhounds and other greyhound organizations is that the information we receive is not detailed enough and on both greyhound disposition and on greyhound injuries. Their main concern is that they don't feel they have sufficient access to the information that Multnomah Greyhound Park and the Oregon Racing Commission have access to so that they can track the disposition of the greyhounds after they leave Oregon. They observe a number of states have adopted either rules or statutes similar to what is listed in proposed rule 462-180-0070 and propose Oregon adopts this rule. It is also the subject of SB 830 and HB 2897. Testimony in opposition to this proposed rule expressed several concerns: (1) It isn't necessary due to fact our current system is working very well; (2) There were considerable privacy concerns about the level of detailed information being requested such as driver's license number. In regard to the driver's license number, proponents stated it would enable them to check for criminal background of anyone receiving or handling these greyhounds. Testimony from Chief Investigator Mannix stated the driver's license number would not give them access to criminal records. There was testimony as to whether there was information in proposed rule 462-180-0070 that would be useful in our current reports which we don't already receive. The consensus was on an injury report it might make sense to have the weather conditions and the temperature at the time the injury occurred. Another part of the testimony was it is fine to get more reports, but what matters is the follow-up which is already being done by MGP under the supervision of the board of judges.

The amendments to 462-140-0400 change the responsibility for compiling and maintaining the relocation summary from the board of judges to the director of racing or the director of racing's designee. The purpose of this proposed change is that the director of racing is historically the person who has been performing this function. It was initially done by the association judge, however, that's no longer true since the former association judge retained the responsibility of the relocation reports when she was appointed director of racing. This amendment, then, reflects in actuality the compilation of the relocation reports which is still subject to the supervision of the board of judges and is made available to the board of judges and the Oregon Racing Commission upon request. The information is included in the disposition form currently being used.

Chair Walters stated basically the decision before the commission is whether or not to adopt the proposed rule 462-180-0070, to adopt the proposed amendments to OAR 462-140-0400 and 462-140-0420, or to leave the rule the way it is. He went on to say he has privacy concerns and that they are real, stating is no need of having these sorts of stringent requirements for a state like Oregon given our record. We have been leading the field in tracking things like disposition of greyhounds and injury reports, however, it doesn't mean we can't do better. Compelling testimony was that you can have all the forms you want but the important thing is the follow-up and that's what the director of racing has been doing. Chair Walters proposed the commission adopt amendments to OAR 462-140-0400 and 462-140-0420,

not adopt the proposed 462-180-0070, but amend 462-140-0400 to require follow-up on disposition by the director of racing or designee regarding the disposition of greyhounds based on the disposition reports. The language regarding the information to be obtained should include "and any other information required by the board of judges" which gives the board of judges the flexibility to dictate additional information when necessary. The injury report forms should be modified to include temperature at the time the injury occurred.

ACTION: MOTION(Thorne) Adopt proposed amendments to the greyhound rules with the amendments proposed during deliberations which include not enacting 462-180-0070.
VOTE: 5 Aye, 0 Nay

There being no further business, the meeting was adjourned.