

MINUTES

OREGON RACING COMMISSION NOVEMBER 20, 2003

The Oregon Racing Commission met on November 20, 2003, at 1:30 p.m. in Room 140 of the Portland State Office Building located at 800 NE Oregon Street, Portland, OR. Commissioners in attendance were Steve Walters, Chairman, Jeff Gilmour and Todd Thorne. Lisa Metcalf was excused. The governor has not yet appointed an individual for the remaining commissioner position. Agenda items were discussed in the following order with resulting actions:

1) Approval of August 29, 2003, Minutes:

ACTION: MOTION (Thorne) Commissioner Thorne moved that with one correction, NPSES permits corrected to read NPDES permits, the minutes of August 29, 2003 be approved.

VOTE: 3 aye, 0 nay, 1 excused.

2) Approval of October 23, 2003, Minutes:

ACTION: MOTION (Thorne) Commissioner Thorne moved that the minutes of October 23, 2003 minutes be approved as submitted.

VOTE: 3 aye, 0 nay, 1 excused.

3) Proposed Order for Delmer L. Webb:

Ted Runstein, Attorney, represented Delmer Webb during the Commission meeting at the request of the OHBPA. Attorney Runstein acknowledged that Mr. Webb had elected not to be represented by a lawyer at his hearing but wanted the Commission to consider further evidence regarding the use of Isoxsuprine. Chairman Walters allowed further testimony with a note for the record that the information was offered, it was not received and then restated that the Commission could not consider anything more in arriving at a decision. Attorney Runstein made three points very clear: 1) Mr. Webb is not a liar nor is he stupid. If he had known there would be a problem with the Isoxsuprine, he would never have raced the horse the first time, let alone a second. 2) He was instructed incorrectly regarding the use of the drug and 3) neither the owner nor the trainer had been warned there was a problem. Counsel Ramirez commented that the nature of the trainer being ultimately and strictly responsible for the condition of the racing animal at the time the animal is entered into the race and actually races is a determination of the Legislature and therefore not open for interpretation. Despite any concerns regarding the handling of the case, all issues not on the original record were extraneous to the question. Chairman Walters closed the argument and directed the Commission to make a decision. Chairman Walters began by stating that all who knew Mr. Webb acknowledged his impeccable reputation. The problem, however, was the absolute insurer rule. The issue for Chairman Walters was the appropriate penalty. Commissioner Thorne stated that he understood there was no intent to deceive but overall there were two violations to be considered. Commissioner Gilmour commented that he tended to be lenient and

hoped for a compromise of consecutive suspension time. Counsel Ramirez stated that all exceptions had been addressed.

ACTION: MOTION (Thorne) Have a revised final order prepared to deal with the exceptions to include two \$250 fines and two 14-day suspensions to run concurrently.

VOTE: 3 aye, 0 nay, 1 excused.

4) Distribution of Oregon Greyhound Breeders Trust Bonus Awards:

The OGBA was represented by Carol Bruno, Secretary. Executive Director Hanson issued a recommendation to lease the funds.

ACTION: MOTION (Gilmour) Approve the distribution of OGB Bonus Awards

VOTE: 3 aye, 0 nay, 1 excused.

5) OQHRA Request to Distribute Breeders Awards / 2003 Summer Race Meets:

The OQHBA was represented by Dave Nelson. After a brief description by Mr. Nelson of how the funds were accrued and how they were to be distributed, Executive Director Hanson issued a recommendation to approve distribution of the funds.

ACTION: MOTION (Thorne) Approve the distribution of Breeders Awards

VOTE: 3 aye, 0 nay, 1 excused.

6) OQHRA 2003-2004 Proposed Budget:

Dave Nelson presented a request for approval to deduct \$15,000 from the QH purse account at PM to contribute to the operating budget of the OQHRA. The \$15,000 was identified as a weekly deduction paid by PM to the QHA. After a brief Q&A, Executive Director Hanson recommended approving the OQHA budget.

ACTION: MOTION (Gilmour) Approve the OGHRA 2003-2004 Budget

VOTE: 3 aye, 0 nay, 1 excused.

7) Portland Meadows Race Meet Report:

Jeff Grady, GM of Portland Meadows and Patrick Harrison, director of Operations and Publicity at PM spoke on behalf of Magna Corporation. Mr. Harrison spoke first by introducing a racing handle and post time analysis spread sheet. Numbers show that the new Monday racing is profitable. It was noted that though the export numbers are growing, the money for the horsemen isn't as big as if it were live racing. Harrison formally requested a change for Saturday and Monday post times from 2:30 to 1:35 to meet the demands of exporting and create a consistent day-light post-time. A second request was made to initiate a system called "Quick Official". Jockeys cross the wire, if they have an objection to the race they notify the out-rider sitting on the clubhouse turn or close to the backside. The out-rider notifies the stewards via radio and the objection sign is put up. This system is widely used in other racing venues. There are no objections from the jockeys, stewards, totes or mutuels. Magna's third request involves the dropping of the surcharge at the OTBs for the month of December. This issue will be re-visited at the first of the year and may become policy. Chairman Walters was enthusiastically in support of this idea. Magna intends to increase the

OTB advertising with a separate budget. Two new OTBs will come on line soon. When Magna gets to 20 OTB sites, they will re-evaluate the OTBs. Marty Miller made comment that AutoTote and Magna are still in negotiation regarding the tote room. Early January is the soonest that construction will be completed. With the cancellation of Instant Racing, the local office is concentrating on OTBs, live racing and exports. Chairman Walters expressed disappointment in the decision to cancel Instant Racing. He re-affirmed that Instant Racing is still legal in Oregon. Dick Cartney requested a provision to the Quick Official system that includes the availability of phone communications between the trainers or owners and the officials in reference to any objections. Ursula Gibbons will be reimbursed for all reprinting regarding the changing of the post-time. Executive Director Hanson recommended that the commission approve the post-time change.

ACTION: MOTION (Thorn): Change the post time on Saturday and Monday to 1:35

VOTE: 3 aye, 0 nay, 1 excused.

ACTION: MOTION (Gilmour): To implement the Quick Official system subject to logistical arrangements that insures the trainers and owners quick access to stewards.

VOTE: 3 aye, 0 nay, 1 excused.

ACTION: MOTION (Thorne): PM is allowed to modify the racetrack application for the month of December to allow for the waver of the OTB surcharge.

VOTE: 3 aye, 0 nay, 1 excused.

8) Proposed Order for Larry J. Farrell:

Chairman Walters introduced the proposed final order with several corrections for typographical errors, the changing of wording in reference to female and added a statement of caution to the hearings officers. He urged caution regarding the practice of putting orders in the record and then allowing the hearings officer to sort through them without the benefit of any foundation.

ACTION: MOTION (Thorne): To adopt the second amended proposed order with the corrections and cautions in place.

VOTE: 3 aye, 0 nay, 1 excused.

9) Confirmation of Next Commission Meeting – December 18, 2003:

Chairman Walters voiced concern that he may not be able to attend but if there is a quorum the meeting will go ahead.

ACTION: MOTION (Gilmour): Moved to approve.

VOTE: 3 aye, 0 nay, 1 excused.

10) Youbet.com Request to Amend the Operating Plan Financial Surety:

Before acting on this, Chairman Walters declared a potential conflict. His law firm represents Youbet.com in some corporate matters. He assured the Commission that he is not involved in any activity regarding Youbet.com and is shielded from any income derived from them as clients of his firm. Youbet.com was represented by Rick Boonstra, General Manager. Executive director Hanson began by explaining that Youbet.com was very forthcoming with information and had given the Commission access to follow the Player's Trust money. Finding no ill

will and having easy access to all details, Executive Director Hanson recommended that Youbet.com be allowed to amend the financial surety with a \$25,000 letter of credit or bond in lieu of the \$250,000 bond. In a letter not introduced, Victor Gallo, of Youbet.com called for a bond of \$50,000 backed by a line of credit.

ACTION: MOTION (Thorne): To approve the amendment related to the change in financial surety.
VOTE: 3 aye, 0 nay, 1 excused.

11) Request for Commission Direction on the Interpretation of OAR 462-120-0110, possession and display of license:

Executive Director Hanson brought this issue before the Commission with the intent of defining any exceptions to wearing the license and photo fully displayed. Chairman Walters stated that there are no exceptions to the carrying of the license; the issue is whether there needs to be a public display at all times. Chairman Walters also stated that the security staff knows they are expected to use common sense regarding the display of licenses. Commission Gilmour commented that even if the license is under a coat, it must be accessible to the licensee and to any security personnel. Commissioner Thorne voiced a belief that with applied common sense, the wearing of the license fully displayed added professionalism and is good for the industry as a whole. Chairman Walters concluded the discussion with the statement: "It has worked well to relay on the judgment of the staff. The rule needs to be enforced as written, subject to the common sense judgment of our staff."

There being no further business, the meeting was adjourned.