

MINUTES

OREGON RACING COMMISSION May 20, 2004

The Oregon Racing Commission met on May 20, 2004, at 2:00 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, Chair, Todd Thorne, Lisa Metcalf, Jeff Gilmour, and newly appointed Commissioner Julianne Davis. Chair Walters welcomed Ms. Davis to the commission and thanked her for her participation. Agenda items were discussed in the following order with resulting actions:

1. Proposed Changes to Administrative Rules – OAR 462-220-0040

Chair Walters opened a public hearing on the rule amendment to extend the sunset provision that allows the Commission to waive all or part of the 2.5% tax on handle with respect for handle generated in states that also license account wagering and require less than 2.5% payments with respect to bets within that state.

Roger Nyquist, TVG: Encouraged passage of this change as proposed but also argued that it should eventually be removed all together. Pointed out that this will be the third extension of this rule and hoped the Commission would be comfortable enough with it now to make it permanent.

2. Approval April 22, 2004 Minutes

ACTION: MOTION (Thorne): Minutes approved as submitted.
VOTE: 5 Aye, 0 Nay

3. Americatab, Ltd. 2004-2005 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Todd Bowker: Americatab wishes to renew their license. They appreciate the Commissions flexibility and the regulatory environment in Oregon. The only change in the application has been an update of previously approved things that occurred during the course of the year. They also had a minor ownership change which is indicated in the application.

Chair Walters asked Todd to confirm that they have a contract at Golden Gate Field as stated in the application. Todd said they do not have a contract with GGF and that should have been removed from the application.

Chair Walters requested more information about contracts with TVG tracks and Todd said Americatab has signed a contract with TVG to have access to their exclusive content. Those tracks generate a lot of handle for them and they understand the value of having a TV product out there because it is a good service for their customers. Walters asked about the listing of a South African track in the application. Todd said it is similar to the Australia program where they use different race tracks during the course of the day. They get a surprising amount of play on them.

Chair Walters requested the status of Americatab's handle in relation to the issue of availability of signals. The first quarter of 2004 was the first quarter they were without the 2 prime tracks and their handle was up in the first quarter even without those, but he suspects they would have been up even higher with those tracks. Americatab's primary owners are also owners of race track so they understand that you want to control who has access to your product, but they don't withhold their signal from any account wagering provider for any reason. Their customers have been very clear that they want to be able to choose their own account wagering provider, and don't like the idea of having multiple accounts. Some of their customers have changed the tracks they bet on rather than open an additional account.

Chair Walters asked for clarification about source market fees as listed in the application. Todd said that some tracks they deal with want everything spelled out in the contracts, but some don't require the breakdown of host fees and source market fees to be detailed in the contracts. He can provide details

of that information if requested. Chair Walters confirmed that they would like to have that information from Americatab and all of the Hubs. Todd agreed to get the information but requested that if the information is made public that it be made public for all of the Hubs and if anything is kept confidential for publicly traded companies that the same information be kept confidential for all of the Hubs. Chair Walters agreed.

Commissioner Gilmour asked Todd if he had ever had a contract with track cancelled. Todd said they had a contract not renewed with Magna, but the only one that had been cancelled was with Australian Racing and they are in the process of renegotiating it now.

Jodi Hanson recommends approval of this application.

ACTION: MOTION (Gilmour): Application approved as submitted.

VOTE: 5 Aye, 0 Nay

4. The Racing Channel, Inc. 2004-2005 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

John Dixon: Chair Walters asked John if The Racing Channel has worked out an agreement with Magna to take all of the signals listed in their application. John clarified that they can take the signals for international wagering, but not U.S. residents. They have recently begun talking with TVG regarding their tracks but is under NDA so can't discuss it. As of today they don't have an agreement yet. Chair Walters asked them to provide the details of their negotiations with various parties so they can track what is being paid. John agreed.

Chair Walters asked for an update on how their business is doing, particularly with the international wagering program. John said that its not going as well as they had hoped. Late last year and early this year they didn't have Churchill signals or Magna signals and several others. Some signals are back now and they are trying to get them all back with the expectation that the business will recover throughout the year. Chair Walters asked if the Bill that just passed in the Senate with the 30% alien tax will help them. John said it makes things easier, but they only do business in countries that have a tax treaty with the U.S. because of the withholding on aliens. Removing that tax will make it easier for them to grow the business into other countries.

Jodi Hanson recommends approval of this application.

ACTION: MOTION (Metcalf): Application approved as submitted.

VOTE: 5 Aye, 0 Nay

5. US Off-Track, LLC, 2004-2005 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Ben Hayes: Multnomah is listed in their application but is no longer taking signals and Remington should not be on the list. Chair Walters asked US Off-Track to provide the details of their negotiations with various parties and Ben agreed. Chair Walters asked if, as primarily greyhound oriented, availability of signals is as large of an impact on their organization. Ben's understanding is that it isn't very significant.

Commissioner Gilmour asked if they have a contract with Multnomah and Ben said they don't. Jeff Grady broke in to say that as of 3 hours ago they do.

Jodi Hanson recommends approval of this application.

ACTION: MOTION (Gilmour): Application approved as submitted.

VOTE: 5 Aye, 0 Nay

6. Youbet.com, Inc. 2004-2005 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Victor Gallo: Delivered their check to Jodi. Chair Walters asked if they have any agreement with TVG and Victors said they do. They also carry Magna's signal for California tracks. Chair Walters asked if availability of signals has had an impact on their organization. Victor said their handle is up anyway but it would probably be up even more with additional signals. Chair Walters reminded Victor the age rule has been amended to allow those 18 and older the bet even though their application lists an age of 21. Victor said he was aware of the change but their due to their risk assessments they want to keep the age a 21.

Chair Walters noted that Yobet has already provided the details of their negotiations with various parties in their application that has been requested of all other Hubs.

Jodi Hanson asked how the negotiations are going with Magna. Yobet has reached an arrangement with the local horseman's association to pay them the source market fees and they understand them to be happy with that arrangement. They still haven't come to an agreement with Magna itself.

Commissioner Gilmour asked if Yobet is a licensed Hub in California since they are doing business there. Victor says they are not but intend to be in the future, possibly at Bay Meadows. The purpose of that is redundancy in the event of an outage here and they will be using a different tote provider at the Hub as well. Commissioner Gilmour asked if this is a signal they are leaving Oregon and Victor said that is not their intention. They are very happy with the support Oregon has given the ADW community.

Jodi recommends approval of this application.

ACTION: MOTION (Thorne): Application approved as submitted.

VOTE: 5 Aye, 0 Nay

7. XpressBet, Inc. 2004-2005 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Ron Maneski: They have a significant brick and mortar investment in Oregon and see a great opportunity for account wagering integration into all of the Magna facilities across the country. They see Oregon as a key place to start. They also plan to expand into international dog racing. They recently opened facility outside of Vienna, Austria which they see as an anchor to expansion. Chair Walters asked if Magna has access to any TVG tracks and Ron said they do in some very restricted cases on the telephone only due to acquisition of existing contracts.

Chair Walters asked them to provide the details of their negotiations with various parties and Ron agreed. Commissioner Gilmour asked if the application is for the full year and it was clarified that it is.

Jodi Hanson noted that previous applications have been approved with a call center in Oregon and this application has the call center in Pennsylvania. Chair Walters says this is a little different because this is an existing operation and this is just a new branch for this applicant. His recommendation would be to approve the application with this arrangement and see how it works. Commissioner Gilmour suggests reviewing it annually with their license. Commissioner Thorne mentioned that he would like to see a physical presence in Oregon at some point.

Jodi also wanted to discuss the "Tiny Tims" at the track. Ron says their call center is in Pennsylvania which supports the account wagering business. Magna sees tremendous opportunity in using new technology in racing facilities. As they move forward they would like to have interactive appliances at tracks. They tried a PDA application this year that was very successful. The "Tiny Tim" is an interactive appliance, about the size of a typewriter, which follows the same notion and they will probably start with that appliance. Bets through interactive appliances are counted as on track bets so even though they don't have a physical presence here, the Pennsylvania office directly contributes to supporting tracks in Oregon by supporting these new technologies which benefit the tracks. Chair Walters asked about Magna's ability to track where a bet was placed. Ron said it's easy to track and they are always counted as on track wagers.

Jodi noted that they are currently banking with Wells Fargo which is a national institution and there was some discussion between Jodi, Chair Walters, and Raul on if they are required by Statute to

use an Oregon bank or if a bank with a branch in Oregon is sufficient. Ron said their view on the statute is that it is not required but if the Commission feels it is they would be happy to open an Oregon based account.

ACTION: MOTION (Thorne): Application approved as submitted with authority delegated to Jodi on approval of an appropriate financial institution

VOTE: 5 Aye, 0 Nay

8. Portland Meadows End of Meet Report

Jeff Grady: Portland Meadows was down 8.5% this year in live handle, and down 4.4% in simulcast which is above the national average, and up 72.4% in export handle. Handle to date at the end of the meet is \$54,491,000 as opposed to \$48,512,000 last year which is up 12.3 %. The purse contribution is almost equal to the 2002 – 2003 race meet. They ended the meet at \$183,000 deficit.

Magna recently purchased a grader to improve the track condition. They are now working with Multnomah County Fair to host that event in late September and are possibly looking into a small race meet for the fair. They have 207 horses on the grounds for summer stabling which is up from 141 last year. They reduced the cost to the horseman.

Scott Daruty: Reported on the progress with the EPA. Magna is operating under a consent decree that allows them to continue live racing until April 2005. They have received the required NPDES permit conditional upon them completing two stages of upgrades to the backside. They intend to have all of the upgrades completed by the end of August, 2004. Chair Walters asked if it will impact the stabling of horses during construction. Scott said the stables are only ¼ full so they will do the work in stages and rotate the horses as needed. Work hours will be restricted as well to allow the horses to train.

Chair Walters commended Magna for purchasing the grader but suggested they might also use some of the expertise they have access to across the country to have the track condition reviewed. He suggested that perhaps a neutral third party could file a report. Jeff says they will be making arrangements for one of their track experts to come review the track this summer.

Jeff Grady: In regard to Youbet's application, negotiations have stalled and they may need mediation. Also, to his knowledge nothing has been signed yet in a deal with Youbet and the horsemen. Chair Walters asked if Youbet gets Magna's signal and Jeff said as a corporate policy they do not.

Jodi Hanson noted that Magna had lifted the surcharge at MGP and PM and that Jodi approved of lifting it. Chair Walters agreed it was the right decision. Jeff said it's working very well and helps to put Magna on a level playing field with everyone else. Chair Walters clarified that they are not changing a surcharge on any signal from Portland Meadows.

Commissioner Gilmour asked for an update on the negotiations of the signal from Grants Pass. Jeff said they were able to get the decoders at a reduced rate but the OTB operators still feel it is too high. All OTBs have decoders at this time.

Commissioner Gilmour asked when Portland Meadows closes their books. Their fiscal year is January 5 – December 31, always ending on a Sunday.

9. Multnomah Greyhound Park Race Meet Report

Jeff Grady: They started on Kentucky Derby day and had a great opening with over 8,000 people there. They had a few tote problems but handle was way up. Simulcast handle meet to date is down 1% from last year. On a per day basis, 4 days as opposed to 5, they are even with last years numbers. The dogmen have requested that they run on Sunday instead of Tuesday and they will be discussing that next week. They have several promotions coming up. The exports were down 43%, some of it due to the lack of a contract (until today) with U.S. Off-Track. They are also still waiting on a couple of other large contracts, and weather has not been good.

Jodi was recently in Grants Pass and there was some concern as to whether or not the signal was getting out. The investigators found that there are some live signals that are not being received due

to decoder or zoning issues. Jeff is aware of these issues and they are in the process of addressing them. Jodi said there are also some concerns about the RTNs and tracks not being available because of a lack of decoders. Jeff agrees that it is an issue. RTN is to be used to get additional tracks and not to replace decoders for the big tracks.

Jodi asked Dick Gage about the Greyhound Purse Account. Dick said they had allotted in the OGA budget added money for purses at \$8,333.33/week for the 24 weeks. After 3 weeks there is \$7,800 left in the account. Chair Walters asked what the issue is because according to the Jeff the handle is up. Dick said they are down \$20,000 - \$30,000 per week because of Tuesday racing compared to Sunday racing days.

The OGA met yesterday and Magna was very responsive about moving the race days from Tuesday to Sunday. Chair Walters asked how serious the dog rotation problem is and Julie Delcamp has worked out a system to make it work. The OGAs goal is to pay \$50/point but they are not sure if they can keep that up under current conditions.

Dick said that the breakage agreement states that the track gets one third, one third goes to supplement the purses and one third goes to the OGA. In checking records for the last 3 years they see that the supplemental purse money has never gone to purses. The purse money has been going to the tracks instead. Dick pointed out that this is not a reflection on Magna, it happened before they got here. The OGA has started discussion with Magna on how to remedy this. Jeff Grady said they just found out about this and they will look into it.

10. Confirmation of Next Commission Meeting – June 18, 2004 in Grants Pass

Commissioner Gilmour asked if the meeting can be held in the afternoon instead of the morning and all agreed to hold the meeting at 2:00 pm.

11. Action on Proposed Changes to OAR 462-220-0040 – Sunset Provision in Subsection 2

Commissioner Gilmour moved that they amend the rule to be worded so that the Commission reviews the tax on handle along with the Hubs yearly license application. Commissioner Thorne noted that if that is the intention then they should just remove rather than extend the sunset rule. Chair Walters says that his preference is to extend the sunset one more time but appoint a sub-committee that can take the time to review what should be done about it in the long term. Commissioner Thorne and Commissioner Gilmour concur with Chair Walters that the issue should be addressed and decided for the long term. Chair Walters and Commissioner Davis both volunteered to be on the sub-committee.

ACTION: MOTION (Thorne): Changes approved as submitted to extend the sunset rule.

VOTE: 5 Aye, 0 Nay

There being no further business, the meeting was adjourned.