

## MINUTES

### OREGON RACING COMMISSION January 20, 2005

The Oregon Racing Commission met on January 20, 2005, 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, Chair, Jeff Gilmour, Todd Thorne, and Lisa Metcalf. Agenda items were discussed in the following order with resulting actions:

#### 1. Approval of December 16, 2004 Minutes

ACTION: MOTION (Metcalf) VOTE: Minutes are approved as submitted.

VOTE: 4 Aye, 0 Nay

#### 2. Request by OQHRA to Distribute Breeders Awards Earned During 2004 Summer Race Meets

Jodi Hanson recommended approving this request.

ACTION: MOTION (Gilmour) VOTE: Request approved as submitted.

VOTE: 4 Aye, 0 Nay

#### 3. Portland Meadows Race Meet Report

Following is a transcript of this agenda item:

Dragone: Good afternoon, Mr. Chairman. For the record I'm Chris Dragone, General Manager, Portland Meadows.

Daruty: Scott Daruty, with Magna Entertainment.

Walters: Welcome, gentlemen.

Dragone: A general update on Portland Meadows. So far year to date the live handle is down 12.1%, the export handle is up 16.7%, simulcast overall is down 17.2%. That's year to date. The drop for the past two years is 23% on the live, up 119% on the export and down 25% simulcast overall.

Walters: Chris, have you broken down that simulcast decline between greyhound and horse simulcasting or have you done any analysis of...

Dragone: We have. I don't have it handy here, but I can get that to the commission tomorrow or the next day. They are running fairly close together. It's tracking for the both. It's pretty much been about equal and the same with the drop in the live handle as well.

Walters: Have you been, maybe this is sort of futile analysis, but have you done any analysis of sort of field size contributing to a decline in the simulcast? I seem to recall a couple of years ago particularly in Northern California they were having a severe problem with field size which, obviously, would affect the simulcast.

Dragone: I don't know the exact number of the field size whether it's in the sevens. It's actually fairly solid based on what we see throughout the country. Actually, we have one of the better fields sizes at Portland Meadows. I don't know if there has been a drop in the last year or two. I haven't talked to Jerry Kohls yet, but I can do that; but I don't think if we have seen a decline it's been marginal.

Walters: I was referring to field size for the tracks where you're bringing in the signals.

Dragone: The tracks we're bringing in? That's quite possible. I know that several tracks around the country are, we're not unique in the sense that I know some of the tracks are also seeing a great decline in their live and in the simulcast numbers. Just a couple of things to point out. We did have to cancel our card on both Saturday and Sunday due to the weather situation. We do have a couple of events upcoming – the

hat giveaway which was scheduled for this past Saturday and has been rescheduled for this Saturday. The following Saturday we have a giveaway of a wallet, and then we have a Valentine's Day promotion coming up, and then a beer cooler giveaway on March 6. We are going to try a new advertising approach. As opposed to spending the \$30,000 a month that we've been spending newspaper ads, we're going to go and spend it on major TV advertising sometimes around the 6 o'clock news if we can. We'll try a different tact as far as the advertising goes. But that's really all I have to report at this point.

Walters: Chris, what about the issue of purses? Obviously.....

Dragone: I don't have the number as of through this past weekend since there was only one day of racing. It was standing at \$254,000 I think going into this weekend in an overpayment situation. We did reach out to the horsemen who are at this time willing to cover the overpayment above the \$200,000 that we've already covered and we did reduce our purse structure by \$51,000 to try and bring that in line at this point because we were looking, quite frankly, we went to the horsemen, we were looking at trying to bring ourselves back into even. We were looking at about a 16% purse cut if that hadn't happened.

Walters: But the horsemen... My understanding is they have agreed to cut stakes purses and in addition to that they've agreed...

Dragone: Yes. They've agreed to meet the overpayment above the \$200,000 that Magna has agreed to cover.

Walters: Thank you. Questions for Chris before we move to Scott. Scott.

Daruty: I'm not sure whether this is an appropriate time or not but I was hoping to give an update on the state of the industry and I thought under the Portland Meadows report might be the appropriate place. Is this an acceptable time?

Walters: Yes, it makes sense to do it.

Daruty: Well, I think you all know we had a meeting with the horsemen's organizations yesterday. That meeting follows a lot of very difficult and thought provoking analysis we have done internally about the industry and our involvement in Oregon and everybody's involvement in Oregon. I think there's a sad fact that we all kind of know but I think don't like to recognize or talk about and that is that the pari-mutuel industry in the state of Oregon is broken. It does not work. The framework that is set up by the statutes and the regulations that govern the industry do not work. They are left over from a different time, a time when they did work but not anymore. The racetracks lose money. The horsemen and previously the dogmen complained about how they were running for purses that were too low. The horsemen have a hard time getting by. We're talking about a purse cut this season and we already all acknowledge that purses are too low. So, when the horsemen say you can't cut purses, we need more purses, they're right. But the fact is there's nowhere for that money to come from. We at Magna have been essentially subsidizing this industry in the recent past and unfortunately we do not see that trend reversing under the existing framework that we're operating. Because of that we have come to the conclusion that we simply cannot continue to lose money in Oregon with no reasonable likelihood of ever seeing a profit in this state. Now, we as I said have given a lot of thought to the issue and a lot of different ideas have been bounced around, and I'd like to take a minute if I could and sort of describe for you a little bit about our history here, a little bit about the thought process we went through to get to the point where we are today, and some ideas we have for moving forward.

We came into Oregon back in 2001 and we saw this state as a state with much opportunity. As you all know, the greyhound track and the horse track were historically operated by different entities and it appeared to us as outsiders was that those two competing industries or segments of the industry spent more time fighting among themselves than they did figuring out how to make the business better. That's not a criticism of any prior operator, that's just the reality. They were fighting over pie, each trying to get the biggest piece and no one focused on making the pie bigger. So, while that created certain inefficiencies, to us we saw that as opportunity. If we could acquire both the greyhound track and the horse track we could quit fighting amongst ourselves, we could move the industry forward. One example which is the most striking is the OTB network. We all realized that the OTB network generates the bulk of the handle in this industry and yet prior to our arrival the OTB network was operated by different people each six-month period – the greyhounds for six months and the horse track for six months. Neither operator wanted to invest in an OTB network. Every dollar invested by that operator \$.50 of it goes to help the competitor. So it was a natural reaction not to invest, not to improve, not to grow. We thought that was something we could change and improve. As any business we came to Oregon with the expectation that eventually we were going to make a reasonable profit. We didn't come here looking for a

quick buck. We knew that deferred maintenance was extraordinary to say the least, particularly at Portland Meadows. We knew we were getting into an expensive repair on the environmental issues, but we saw an opportunity to after a few years of investment realize a reasonable return on our investment. It's the same business decision that drives every for-profit business.

To talk a little bit about the investment, in the Oregon industry since 2001 Magna has invested \$21.3 million. That's money we spent to purchase operating rights at the greyhound track, that's money we invested first for acquiring short-term rights and then long-term rights to operate Portland Meadows, that's money we invested in an ownership position in the Portland Meadows real estate which secures the future of that facility for as long as horse racing can continue. That includes approximately \$1.5 that we've spent over the last several years putting into place at Portland Meadows a storm water runoff system that now fully complies with all federal and state requirements. Without that investment this industry would have been gone two or three years ago quite honestly. The sad fact is that investment of over \$21million in the industry has done nothing more than earn us the right to lose money on an annual basis. As I mentioned, we did not come here with any expectations that we were going to make a quick buck. We knew that in the early years our expenditures were going to exceed our revenue. But, what we thought of originally as an investment which would earn us a reasonable return because of a change in a large number of circumstances in the state which I'll describe in a few minutes, but because of that it now appears that that was not a short-term investment but that trend of losses has continued and has grown, and at this point as we look at the industry moving forward we don't see any reasonable likelihood of making a profit at any point in the future operating the pari-mutuel industry in the state of Oregon. Again, we are operating under some regulations and statutes that just don't work anymore. They're broken and they either need to be fixed so we can move on as an industry or we all need to recognize that this is the end.

We do not come here today and say we have a mess and we're looking for somebody to fix it for us. We have always believed that we need to solve our own problems. We've always believed that we need to clean up our own messes, and I think that we have done a tremendous job both our management team here in Oregon as well as the members of the industry. We're in this together. I think within our control we have done a good job making improvements. Where we have been unpleasantly surprised has been the large number of competitive forces we have faced that are outside of our control.

I'd like to touch just briefly on a few of the accomplishments we have achieved since we've been here. First of all, we're proud of the fact that the Portland Meadows export signal has been increased almost threefold in the time we've arrive in Oregon. We realize as everybody in this room does that export dollars are lower margin dollars for both the racetrack and the horsemen, but I think that is an example of the effort we have put in and the benefits we have been able to bring to Oregon is really go out and really market the Portland Meadows signal and really create a tremendous growth in the export product which as we all know every state loves exports. You have the jobs here in the state of Oregon and they're bringing in money from people located outside the state. So that's one thing we've done. We have realized over \$1million per year in savings since we've acquired both tracks, that's from their historical operating numbers. That has been done through membership of the Oregon tracks and the Magna family the ability to negotiate, for example, better tote agreements, other purchasing arrangements that are made on a company-wide basis, the benefit of that has fallen to our Oregon operations. That's over again I say \$1 million a year better off we have been by some of the things we've been able to accomplish. We have made, if you look at the Portland Meadows facility, we have made significant investments in barn area, the racing surface, the backside. I don't sit here today and tell you that those facilities are as good as we would like them to be, but the truth is they're better than they would have been had we not made those investments. There are things that we look out there and we say there's more money that needs to be spent, there are improvements that need to be made, but the sad fact is there's no money to pay for that and it's impossible to justify additional investment when your expectation of a return is nonexistent.

Lastly, and I mentioned this earlier, but as far as the Portland Meadows facility without our investment in the storm water system, without that actually quite novel approach that we negotiated an almost groundbreaking system that has never been used before, that we were able to negotiate with the EPA that allows portions of the site to go through the Portland sewer system and other portions of the site where clean water falls those can go into the storm drains. That system which took a lot of thought and development and then \$1.5 million to actually build but for that Portland Meadows would have been shut down in 2001 by the EPA.

Our original budget as we sat down in late 2004 and tried to plan out the 2005 year, our original budget showed a loss of \$2.1 million for our Oregon operations. That includes Portland Meadows, that includes Multnomah Greyhound Park and that includes the OTB network. Portland Meadows and Multnomah would both lose approximately \$2 million and the OTB network would have brought in about \$2.5 million,

so clearly there's a significant loss. We made again the decision that any business would make is we're not going to operate and continue indefinitely to fund significant losses with no expectation of a profit.

We made a decision to close the greyhound track as you all know and I'm going to talk about that in a minute, but I want everybody to understand that was not a financial decision. We always have and always will live up to the commitments we make whether they are good commitments and are going to earn us money or whether in hindsight they turn out to be bad commitments. When we have a commitment we will live up to it. We've told this commission things and we've always done what we've told you. Our decision to shut down the greyhound track is totally unrelated to the fact that we were going to lose significant money there this year. We would have operated and would have lost that money because we made that commitment but for a breach of our purse contract by the OGA and that's the only reason we're not moving forward.

The numbers as far as our expected loss in 2005, again that was a budget we put together when we were still expecting the OGA to live up to their agreement and, therefore, were still expecting to run the 2005 season, the budget we put together, again a \$2.1 million loss, is a little bit eye opening I think to people. I think everybody has recognized that this industry is under siege. I'm not sure people have ever focused on the fact that the racetrack actually loses that much money. Again, we understand when the HBPA comes to us and says you can't cut purses, we need higher purses, we would love nothing more than to give a purse increase; but I hope you understand if we were to give a \$.5 million purse increase all that means is that our lose goes from \$2.1 million to \$2.6 million. Again, that's not acceptable. When you look at the numbers and you scratch your head and you say how did it get this bad, you know, a few years ago the racetracks weren't doing this bad, well I have in front of me the handle numbers for the state of Oregon. This is in-state handle. In the year 2000 there was \$85 million handled within the state of Oregon on both live Oregon racing and on import signals. That number dropped to \$78.9 million in 2001, and then dropped to \$75 million [2002], \$73 million [2003], and last year in 2004 was just over \$63 million in handle. So, in-state Oregon handle has dropped \$22 million over the last five years. If we think about what that means to the racetrack, if there is roughly \$.10 on every dollar going into the track's bottom line, at \$22 million of handle loss that's \$2.2 million. Guess what, we wouldn't have a loss next year, or this year, 2005.

But the sad fact is the competitive landscape has changed drastically in Oregon. People talk about whether or not expansion of gaming is a good thing or a bad thing, and the governor and legislators talk about not wanting to expand gaming but the sad reality for us is that gaming has expanded. It has exploded around us and unfortunately we have not participated in that growth. There have been tremendous changes over the last ten years in Oregon, but let's just focus on the changes since 2001, just since Magna showed up in Oregon.

In 2003 shortly after our arrival here, the state passed a law which increased by 20% the number of video lottery terminals within Oregon. Every bar, every tavern, every restaurant that has VLTs went from 5 to 6. When you first hear that you think, well how much difference does that really make if a bar downtown has 6 poker machines instead of 5, does that really impact the racetrack. Well, when you spread that across every bar and tavern in the state and you realize that it is a 20% increase and you see the numbers for the lottery that they did take a 20% jump when they introduced those extra machines, you realize those additional wagered dollars came from somewhere. Wagering is a form of entertainment and there are limited entertainment dollars out there, there are a limited amount of gaming dollars. When there's a 20% boost in the lottery, a lot of that's coming out of our OTB network, a lot of that's coming out of our racetracks.

Since we've been here the Indian casinos have continued to grow and expand. You look at Spirit Mountain, it's up to 1500 slots. It's a beautiful facility, they've spent a lot of money and they can spend a lot of money on entertainment, on advertising.

Walters: It also offers simulcasting.

Daruty: They also offer simulcasting, an excellent point. But we're not able to compete with that. They bring in money numbers that incomprehensible to our racing operations and they do it with minimal or no tax and then they do it with minimal or no regulatory oversight, and yet here we are with our hands tied behind our back with the same regulations that were put in place when we were a monopoly.

Over the last few years there's been a tremendous growth in account wagering. In many ways that's a positive thing for our industry. Every state, however, is impacted differently. In Oregon because of its extensive OTB network is, I believe, inordinately negatively impacted by the introduction of account

wagering. As you all know our OTB network has historically been funded by a \$.05 surcharge. That surcharge allows the track to basically compensate individual restaurant owners for putting our equipment and facility into their restaurant and that's what they get out of the deal for having an OTB. That 5% surcharge, however, now drives our customers away. We have customers who can sit home and bet by telephone or by the internet and I won't even mention the times that they get rebates. Let's say we're not talking about rebates, let's just say just making a straight bet and compare that to what happens if they have to get in their car, maybe it was last weekend and there was an ice storm or maybe it's just a typical rainy day and you're out driving through traffic and cross town and you get to the OTB and you make your way inside and you sit down and you place your bet and for all that trouble you went through you get the privilege of paying an extra 5%. Why does anybody do that? Well, you know what, more and more they don't. More and more they bet through the hubs and that's why our handle, among the other reasons I've identified, has gone in the tank from \$85 million to \$63 million over the past several years.

If I had a bag of tricks I could reach into and solve those problems I just identified, that doesn't help us because think about what we have looming on the horizon. The governor recently announced they are going to convert, the state's going to convert video poker machines to true line games, to true slot machines and they are doing that because they predict a 20% revenue increase for the lottery. That's wonderful for the lottery and we know that they take that money and they do good things with it, but that 20% is going to come out of the racetracks and OTBs to some extent. There will be some new dollars but again some of it's just going to be a transfer of existing wagering dollars. There have been recent announcements regarding urban Indian casinos, whether it be Cascade Locks which you could argue is not really urban but certainly is a lot closer than the closest existing Indian casino, or whether it be La Center, north in Washington. If they open that casino in two years financed by the Mohegan's 16 miles north of our facility right off Interstate 5 to the extent the pari-mutuel in Oregon is not already dead, that will drive a stake through our heart.

So, when I say that we came here realizing there was going to be investment but also with the expectation that there would be a reasonable profit to be made at some point and compare that to what we now face, we face a loss situation which even if we could overcome is going to be followed on by more competitive threats. The industry is regulated in a way that doesn't work, the statutes that apply no longer work. Again, we're fighting a battle with our hands tied behind our back.

One thing that becomes apparent when you start to look at our business segments, and I mentioned earlier that if we look at our 2005 budget that was put together late 2004, we were expecting about a \$2 million loss at each of our racetracks. Not really that hard to see why. We've got tremendous overhead, large pieces of property, large facilities; it's very expensive to put on live racing. The OTB network on the other hand makes a profit. When you look at that it occurs to you that historically the OTB network has supported two live racetracks in the state of Oregon, but that is no longer possible. The OTB network cannot support two racetracks. You take the money that it makes and you divide it in half and you take half of that and put it to the horse track and half of that and put it to the dog track, they both lose money. So, in our discussions with the greyhound association back in early 2004 as we were negotiating with them they raised....

Walters: Excuse me, Scott. Could I ask whoever has their cell phones on, this is about the fifth time a cell phone has gone off. Please turn your cell phones off. It's very distracting.

Daruty: When we sat down with the greyhound owners back in early 2004, we told them that the HBPA in an effort to improve its performance and increase its purses had told us in no uncertain terms that they were going to insist on a breed-to-breed style simulcasting program where they were no longer going to consent to greyhound purses being funded by thoroughbred races. As we started down that discussion, again with the constraints on us imposed by the HBPA, the greyhound owners raised a point which was hey, our purses are too low. Our owners are barely squeaking by. We need higher purses, and our response of course was we cannot subsidize higher purses. We would love to give higher purses but we're losing money, and if we pay higher purses that just means we're losing more so that you can lose less and that doesn't work. As that discussion progressed, we sort of all came to the realization what are we doing? We're sitting here negotiating over an industry that doesn't work. We're sitting here not deciding how to cut up a pie but there is no pie and we're both losing money and we're trying to figure out how to continue. Ultimately the agreement, the arrangement that was struck upon was that we would pay considerable money over and above otherwise we would have agreed to in order to give the greyhound owners two good years, in order to let them run a good meet in 2004 and a good meet in 2005. In exchange for that they agreed to support legislation that would allow Portland Meadows to simulcast on a year round basis.

Again, our industry can no longer operate in the way it historically operated. The OTB network can no longer support two live tracks. We wanted to clean up our own mess, we wanted to solve our own problem. We wanted to do the right thing, go to the greyhound owners, look them in the eye and say here's the situation and here's what we're willing to do. We'll give you two good years, we'll pay a lot of money in 2004 and we'll pay a lot of money in 2005 that you would not otherwise get and in exchange you support this legislation which gives the industry as a whole an ability to continue. The horse racing will continue, the greyhound racing after two good years will phase out rather than what you're otherwise facing which is limping into oblivion because the purses you say are not sufficient to continue.

We paid that amount in 2004 that we agreed and we're prepared to do it again in 2005 only to find out late last year that the OGA was not going to support our legislation for year round simulcasting. We exchanged correspondence with them and discussions with them that they had made an agreement and we expected them to live up to it. Ultimately they declined to do so. It was at that point because we were now operating under a purse agreement that had been breached because we had made a deal and paid money and didn't get what we bargained for in return, that was at the point where we decided not to renew our lease at Multnomah Greyhound Park. That is why there will be no greyhound racing in 2005. It's an unfortunate result, it's unfortunate for the greyhound owners who are expecting another year but unfortunately their leadership made a decision and now they've got to live with that decision.

If we are able to pass legislation that will allow Portland Meadows to simulcast year round, horse racing in Oregon has a chance to survive. If we are not able to do that, then the closure of Multnomah is just the first closure that's going to happen this year. The second would be the closure of Portland Meadows because without a law allowing year round simulcasting through Portland Meadows, Portland Meadows cannot exist. To operate Portland Meadows under any other circumstance would mean for us to continue losing considerable money, and we're not prepared to do that.

I think it's important to note that the greyhound association, and I know they have a lot of folks here today and I know they're going to am sure come up here and say their piece, they knew the deal that we made in late 2004. In fact, they expressly acknowledged that by supporting our legislation that was going to allow year round simulcasting for Portland Meadows and thereby not allow greyhounds to simulcast anymore, they acknowledged the strong likelihood that live greyhound racing will not continue within the state of Oregon following the 2005 season. They knew the deal they made and yet are now taking the position that they will not support our legislation unless we eliminate live racing at Portland Meadows as well. That's what we have been told. They said they stand willing to support any legislation that allows us to simulcast on a year round basis but only if it eliminates all live racing in the state of Oregon. I think that's a shame. We believe in live racing, we believe in this industry, we did not come here four years ago thinking that we were going to eliminate a racetrack. We came here four years ago with the expectation of making a reasonable profit. Today we know because of the facts before us that the only way that can be done is if we have a single racetrack. We think there should be live racing in Oregon, we want there to be live racing in Oregon. We want Portland Meadows to survive. But when we hear the greyhound owners say essentially if greyhound racing is going to go then we want horse racing to go as well, to us that is very frustrating.

Assuming we can get the law passed that allows Portland Meadows to simulcast on a year round basis, that will reduce significantly the \$2.1 million loss we were budgeting for 2005. It will not, however, by any means eliminate the loss. It will not in and of itself get us to profitability. We are going to need help from the legislature and from this commission to put together a package of additional changes that will allow Portland Meadows to continue operating as a commercial meet. We've thrown out some ideas, we've mentioned some of those to the horsemen yesterday. We are not going to move forward with anything unless we have the agreement of the horsemen and the agreement of this commission. We're not here to force anything on anybody, we want to help, we want this industry to succeed. It will not be here if can't have year round simulcasting at Portland Meadows. But, assuming we get over that hurdle and assuming we can pass that law, we need more. The industry needs more. What precisely that is we need to develop jointly between the horsemen, the racetrack and with the blessing of the commission.

That's all I have to say. I know that is not a message that anybody wants to hear. It's not a message that we want to deliver but it is the truth, it is reality, we can bury our heads in the sand and the industry will be gone in six months or we can face the challenges and work together as a team, get something accomplished and all move forward. Thank you.

Walters: Thanks, Scott. Any questions for Scott?

Gilmour: Do you want us to ask any questions?

02/16/05

Walters: If you have questions, use your own judgment as to whether or not you should ask a question.

Gilmour: Well, I've been thinking about that part, too.

Metcalf: While he's thinking about it, I have a generic question. So, can you give us a two minute version of your ideas that you discussed with the industry of where this is headed?

Daruty: Well, yeah. Let me throw some ideas out and there are things in this package that you will find offensive. There are things in this package that the horsemen will find offensive. There are things in this package that Magna finds offensive. What we did was we looked at reality and we looked at the numbers as we can best predict them and we said, where can we find money through cost savings or revenue enhancement that will get the track to profitability. And by profitability I'm using that term loosely. I'm saying let's not lose money, let's break even or be slightly above. I'm not looking for some big windfall. The ideas that came to us:

The pari-mutuel tax in the state of Oregon is 1% for Portland Meadows. Under our handle projections for 2005 that means we're going to pay \$600,000 to the state of Oregon for pari-mutuel tax. I think it is a travesty that the live racetrack which supports jobs, which supports live horseracing, which has taken an investment of millions and millions of dollars, pays a 1% pari-mutuel tax whereas the account wagering industry, which most of the operators readily admit consists of a room somewhere with a computer and a couple of employees, pay a .25% pari-mutuel tax. I don't think it's appropriate for us to pay four times the tax of the hubs. I think we should be on a level playing field. At a maximum we should be paying .25% like they are. More realistically I think that tax should be repealed or least there should be a temporary moratorium placed on the pari-mutuel tax. Nobody in Salem is going to want to hear about a tax cut, but the reality is that money is gone. That money is gone next year because they're either going to leave a 1% tax in place and end up getting 1% of zero or because they're going to repeal the tax to allow the industry to survive and recognize that for the greater good it makes sense to forego that money.

I think the hub funds are another area that need reexamination. I think that the fairs are an incredibly worthy cause. I think they're important to the society in Oregon. I think they fulfill a very important role, but I question whether we should give them the kind of preference in allocating hub funds that they've gotten in the past. Am I saying cut off the fairs? Absolutely not. Am I saying eliminate any funding to the fairs? Absolutely not. What I'm saying is let's look at it in a fresh light, understanding the stress and strain on this industry and allocate those funds in a way that makes sense for everybody – fairs and commercial track.

I think the outs money which is sent to the general fund every year is money that's not going to be there if this industry isn't there. So, in my mind it makes sense to keep the jobs, keep the industry and turn that outs money back to the commercial track.

I think that the surcharge at the OTBs is something we have to remove if we ever have a chance of competing with the hubs. And yet if you look at the economics of the OTB network you realize that if you realize that surcharge there is no OTB network. If you own a restaurant, why are you going to allow me to come in and open an OTB in your facility if you don't get anything in return. Right now you get compensated out of the surcharge. If we were to remove that the choice is the track reaches into its pocket and pays a fee, and that just puts us that much deeper in a hole.

Walters: Assuming that the handle doesn't increase enough to offset that.

Daruty: If the handle can increase by 25% I think then you make up for the removal of a \$.05 surcharge. Anything less than a 25% increase in handle you're better off keeping the surcharge. But your point is well taken. The idea that we have had is if the legislature saw fit to allow additional video lottery terminals in the OTB network similar to the way they allow the racetracks to have extra VLTs, we could then go to an operator and say we have no surcharge so we can't compensate you that way, but if you open your facility and allow it to be an OTB you'll get extra video lottery terminals. It's an idea. Whether it flies or not, who knows.

I think that we have certain account wagering hubs who recognize the importance of live racing. They recognize that it doesn't make sense to kill live racing because then they will have no product to accept wagers on, and those account wagering hubs who fall in that category pay adequate source market fees. There are other account wagering providers who take a much more short-term view, they're here to make as much money as they can as quickly as they can for as long of a period of time as they can, and if the

horse racing industry goes away they'll pack up their computer and two employees and go on and do something else. And those are the account wagering providers who have chosen to flaunt this commission's rules and regulations and have refused to pay source market fees to the racetracks. It's not bad enough that the guy is sitting at home betting through his computer and not going to our OTB network but now we don't even get source market fees from some people. I think it's critical that this commission mandate that every account wagering provider pay source market fees. I think it's critical that the racetrack and the HBPA have audit rights so that we can actually know how much was handled and know that they're us the right amount.

I think ultimately we need to look at live racing in Oregon. It's got to run 80 days a year at the horse track, three days a week, nine races a day. The horsemen come to us and beg us to run four days this week and two days next instead of three each week. We can't do that. I think it's nuts for the statute to tell a business exactly what days and how often it's got to run. I think that that should be left to the agreement between the horsemen and the tracks and should be subject to the approval of this commission.

Those are some ideas. As I said, there's stuff in there the HBPA doesn't like, there's stuff in there we don't like and I'm sure there's stuff in there that you don't like. These are not the only ideas that are out there, it's just that these are the only ideas we could think of. So, we welcome the opportunity to dialog with this commission and with the rest of the industry to come up with a solution, always with the understanding that if we cannot make a reasonable profit or at least break even at this racetrack in the short-term there will not be another race season at Portland Meadows.

Gilmour: I'm going to ask half of my questions.

Daruty: I'll give you half of my answers.

Gilmour: That's fair enough. This proposed legislation, and you have quite eloquently told the commission some of the great details that it changes, proposes to change, what other states have similar legislation or what is different about other states that you, which you haven't mentioned, to the Magna Entertainment, are they losing money too or are their statutes different?

Daruty: Every state is different. Every state has its own idiosyncrasies and quirks. No state, and I say this off the top of my head, that I can think of sitting here at this table is as broken from a regulatory standpoint as Oregon is right now.

Gilmour: That's fair.

Walters: Excuse me if I could just interject. And my understanding is that nowhere do you face the sort of competition from other types of gaming that you do here in Oregon with prospects for it escalating as you have described.

Daruty: That is absolutely correct. We face competitive threats in every jurisdiction but Oregon with the widespread availability of gaming options is far and away the most competitive landscape that we face.

Gilmour: The other question you mentioned taking a look at the 5%. Have you had discussion about the distribution of the hub funds also whereas the state takes one-third off of the top of that?

Daruty: Are you suggesting that perhaps the general fund does not take the one-third and that that be returned to the industry?

Gilmour: I'm suggesting that to me an argument could be just as easily made to take a look at the period of time that this hub legislation has been in effect, the situation then to the situation now, that maybe we ought to look at that also.

Daruty: I think that's an excellent idea.

Thorne: There seems to be natural arguments to make that case whether it's Indian casinos or added lottery terminals, etc. I think somebody should look at that seriously and present it.

Daruty: Are you talking about alternate gaming at the racetrack facility?

Thorne: I'm talking about any alternate gaming from which the state of Oregon may have the ability to generate revenue at the expense of pari-mutuel.

Daruty: Yeah, that is something that we can definitely spend time looking at. I also want to say that one question that came up quite repeatedly yesterday in our discussions was what about some sort of other form of gaming at Portland Meadows. Yeah, if you could make it happen it would be wonderful. Given the constraints we have with the state constitution and with some past attorney generals' opinions and various precedents, although we've looked at that and although we continue to look at that, I don't hold out a tremendous amount of hope right now that that's something that's going to happen in the short-term. But as far as receiving funding from other sources, that's an avenue we can certainly explore.

Thorne: My point would be that if you take a look at what pari-mutuel does for the state of Oregon, present value of ten years of revenue versus present value of six months of revenue it's probably a strike argument that can be made and probably ought to be made.

Walters: Other questions? Comments? Thank you very much, gentlemen.

#### **4. Request from Youbet.com to Amend Operation Plan – Telecommunications Services Provider**

Walters: There was additional information to be provided on this issue that they haven't been able to get it in yet so we will table this request until the next meeting.

#### **5. Race Dates Request for 2005 Submitted by the OGBA for Greyhound Racing**

Following is a transcript of this agenda item:

Walters: Welcome, gentlemen. Could you identify yourselves for our record?

Bruno: Thank you, Mr. Chair. My name is Vince Bruno, executive director of the Oregon Greyhound Breeders Association. I have along side of me to my right Mr. Dick Gage. He is the president of the Oregon Greyhound Association, and Kirk Shaffer is president of the Oregon Greyhound Breeders Association. We are here today to request from the commission as per my understanding of the commission's request to calendarize race dates in the state of Oregon, whether they be horse racing dates or greyhound dates, for the calendar year 2005. I did this thinking that I was fulfilling a request by the commission so that they would be better organized in their race dates and by no means was this to be construed as a racetrack application. It was just the preservation of the dates that the greyhounds have been running historically at MKC for a number of years. However, since the presentation so eloquently presented by Mr. Daruty it has broadened the scope of our appearance here today. We would first like to put forth the request of the dates being calendarized only to give the greyhound industry the opportunity to seek an occupant at a site that would be agreed to by the commission to run greyhound racing in the year 2005. It is unlikely that this would take place for the industry in 2005, but we've put the race dates in to show people that are interested in running a greyhound facility here in the state of Oregon that we would apply for the dates and preserve those dates in the event that we were able to procure somebody to take over the race meet application. We would relinquish those dates to an individual that would come before you in a presentation of making an application for a race meet. My thinking is that there are two different things here: one the preservation of the dates and one a race meet application which is entirely different from what I'm requesting here today. I would very much like for the commission to give consideration to allowing us to calendarize these days so that we can make presentations to people that are interested in the preservation of greyhound racing in the state of Oregon that we do have the commission's attention that these race dates would be set aside for the applicant. If nobody applies for those dates and there's just no interest in the state of Oregon for greyhound racing, we as an industry in the state of Oregon are very much interested in the preservation of greyhound racing. It is beneficial to the state as well as to the communities that these race meets are operated in. My recommendation is that with the approval of the commission we can press forward in the progression of greyhound racing in the state of Oregon. Without the races dates be able to go to a concern and say we have these dates set aside, all you have to do is find a facility, build a facility that will be authorized by the commission for the function therein, then we're in business. But without the dates being set aside we can't persuade anybody to come to the state of Oregon.

Walters: But Vince, I guess my reaction to this request, and I do understand why you have submitted it and I appreciate your observation that you're not at all sure that a greyhound meet could happen in Oregon in 2005 and that is consistent with the article in which you were quoted a couple dates ago about this request. The difficulty I have is the point of granting race dates since I've been on the commission has

been to plan and look forward to race meets that are either going to happen or have a very, very, very high likelihood of happening. And so our history has always been that unless someone comes before us and they control a facility, they either have a track record of running a race meet or the obvious financial wherewithal to run a race meet where we would have confidence that (1) an application for a license would be coming, and (2) that we could act favorably on that request, that we don't just sort of grant race dates in the air if you will. There are several occasions that I can recall since I've been on the commission, Carol and I are sort of the historians here, but I know that there were a couple of occasions when a group came and requested race dates and simulcasting rights as you refer to in your email for the State Fair or Grants Pass but they didn't control the facility and we turned them down. Similarly I seem to recall that there was a fellow several years back who wanted to build a racetrack in Central Oregon and he said please give me some dates, and the response was when you show the ability to have a facility to conduct a race meet and the wherewithal to conduct a race meet we will consider dates. In my history on the commission we have never granted race meets just because someone would like to carve out some dates and then go out and see if they could possibly put together a race meet, acquire a facility and that type of thing. Given the present situation and given your own observations in the newspaper I think it would be highly unlikely that a race meet application would be forthcoming, and as you observed you have no idea who it would come from or what the facility would be for or anything of that sort. So, at least from my point of view it would be a radical departure from the practice of this commission and what I see our responsibility under the law to say, sure here are some race dates, now go out and see if you can find somebody to use them. I will say this has nothing to do with whether or not there would ever be another greyhound race meet in the state of Oregon. It has nothing to do with the future of greyhound racing in Oregon or expressing a view on that one way or another. It's expressing a rather firm view on a request for race dates that at least as I sit here today certainly have no demonstrate ability to be used and to the contrary the folks making the request have expressed considerable doubt that they ever could be used. I'd be interested in hearing if there's a different view from other members of the commission.

Bruno: Could I expound on that just a little bit, Mr. Chair?

Walters: Sure, go ahead. Actually, first let see if there are other members of the commission who have questions or comments.

Thorne: I just tend to agree. There're certain elements of protocol that we have to abide by on this commission to make sure that we handle ourselves with respect to every special interest in a way that is fairly concrete. I would just have to agree with Chairman Walters on that case.

Bruno: I don't disagree with the Chair and I do not disagree with the commissioner. What I'm trying to ascertain from the commission and I think glean from the commission at a point in time when we do find somebody to either build and operate a racetrack in the state of Oregon, will it be a hard task for that operator to receive the dates in accordance with the laws of state of Oregon, i.e., seven months racing for greyhounds. That individual comes in here.... There are many things that struck us all at one time. It's just been three weeks since we were aware of the track closing. It's been three weeks from being aware of legislation pending by Magna. The greyhound industry has survived in the state of Oregon for over 75 years. I have nothing against the horse racing. My members do not have anything against the horse racing. The HBPA and the greyhound people I thought have worked quite well over the last twelve years. I have nothing against them, but what I am looking for is assurance from the commission that when an applicant comes in here that they will be granted the authority to run greyhounds.

Walters: Vince, I could never give anyone assurance that when submit an application that it's going to be granted. I wouldn't give that assurance to Portland Meadows, I wouldn't give that assurance to Magna before they came in with an application for Multnomah Greyhound Park, and I certainly couldn't give assurance for some unknown person just on the hypothesis that they could come in and present an application. It would depend on many, many things. Do they control a facility, is it a facility that is adequate for greyhound racing rather than some sort of ramshackle facility that wouldn't be appropriate to race or could endanger the animals that were racing, does this person really have a reasonable prospect of running a race meet, do they have prior experience running a race meet, do they have the financial resources to hire someone who knows how to run a race meet. And then I would have to see if particularly in today's environment whether one agrees or disagrees with the numbers and trends that Scott Daruty just described having an analysis with an economic feasibility of a race meet is something that we would have to look at very carefully. We have always done that. We've always looked at the economic feasibility of race meets and the financial wherewithal of an applicant to do it. All I can say is that we would look at an application and consider it and decide whether it could or should be granted from my point of view. Kirk, did you have something you wanted to say?

Shaffer: I was just going to give a quick state of the state of the greyhound industry. We've got now a lot of Oregonians unemployed and we've got a lot of people whose livelihood has just been cut short. I understand Magna's side, their perception. We believe it to be just the opposite, but I think that that's going to be something that comes up and is going to be handled in another forum. I just wanted, I guess I wanted to know the commission's stand on greyhound racing or the desire to have live racing in this state. I spoke with you a month or two ago and I believe that you were in support of live greyhound racing continuing in this state. This is one step that we wanted to take to show people that are still raising animals, that have worked at the track, that had a livelihood there that there's a chance that we can get this thing going again. The problem that we have is we're trying to talk to different people about possibly coming in and we have had interest in people wanting to come in and possibly running a meet. This is something that we wanted support from you guys to say, yeah, we want greyhound racing to continue in this state, and that gives us something to go to these people and say we do have the backing of the Racing Commission that wants live greyhound racing to continue in this state. And I guess that's what we're here for. We're asking you guys to give us the support to go to tell other people that might be interested in running a meet that that's a possibility. That's a positive step for us being able to sell this to somebody else that might want to do it to know that the commission is in support of this.

Walters: Kirk, and I appreciate that, and you're absolutely right. I did tell you and I've told people for years that at least from my point of view I do this job because I support live racing, and I see the goal of everything we do to support live races both greyhound racing and horse racing. I have no interest in being on the simulcasting commission of the state of Oregon. I want to be on the racing commission of the state of Oregon. The reality is though we can't say just sort of generally in the air, yeah, we support greyhound racing and if someone wanted to submit an application we would grant it. We can't say that. It would depend on a lot of factors including facility, financial wherewithal, the background, and whether it's an economically feasible meet. Those are the factors that come to my mind. But absolutely I support live racing, always have and always will and don't want to preside over the death of racing in Oregon. I have a great deal of fear that this year may be the year that we do, except for the fairs perhaps, but I'm very concerned about that. That's the most that I can tell you. I can't give you an assurance that if someone walked in with a greyhound meet application that we would grant it because it would depend on a huge number of factors.

Shaffer: We understand that, and I'm not saying give us a blank check for anybody that comes in here he gets to run greyhounds. We're asking that those days would be available if the right person or company came along and went through the proper procedures and got the license to run a meet. I think that knowing that we have the support of the commission to do that is something that would be a very big selling point to somebody that's interested in that. So, that's what we're asking.

Walters: I understand that, Kirk, but we have a chicken and the egg situation. We can't just say, sure those dates would be available for someone to come in without any idea of who that may be, what the circumstances may be, whether it would be two years, five years, ten years from now. If racing exists in Oregon two years, five years from now it could be very, very different than it is today. So, that's the difficulty that I have. I just don't see a way we can responsibly carve out those dates and say, yes those are greyhound dates and are going to be there until someone comes forward who is qualified to run a race meet and has a facility and all of the other factors. I realize it's a great deal of uncertainty but I don't think we can provide the certainty that you feel you need.

Shaffer: Well, okay, are you saying that because in past history you haven't or because you could say that, that you could give those days but you choose not to.

Walters: Frankly I don't think we could consistent with the law. I think that is stretching the concept of race dates way beyond anything in the statute. Frankly the statute contemplates the allocation of race days, at least in my reading of it, in connection with granting applications and allocating race days among people, licenses, among the licensees. We have had a practice of sort of confirming race dates for people as I've said before where it is certain they're going to run. But even then we don't make a legally binding commitment to them because they have to submit an application and have that approved, and a lot of things can go wrong in that application process. But we have never as a matter of practice, and I don't think consistent with our legal responsibilities, could say, yes if someone somewhere sometime came in with a race meet application that sure, we'll hold some dates for them. I just don't think that we can do that responsibly, Kirk.

Shaffer: Whatever dates are set today, is that done for the year then or could somebody come in...

Walters: Someone could come in with a license application and we would consider it.

Hanson: I just wanted to make a quick comment. I am sure you are aware Chair Walters referred to the statute and it's 462.050 and it nicely outlines the requirements for a race meet application. But I also wanted to mention that you know Mr. Walters has said that he supports live racing. Well, that will be in writing in the minutes that will go before the commission next meeting, so those are available on the internet, so those written words of support would be there. Am I wrong in saying that?

Walters: You're not wrong in saying that, but all the other words I said would be in there too.

Hanson: Absolutely. We'll be doing them verbatim.

Walters: Other questions or comments? You mentioned, Vince, when you came up here that you because of Mr. Daruty's comments that sort of expanded the points you wish to work. Kirk addressed some of them. I don't know if there are others that you want to do. I would give you leeway to go beyond that, and frankly that's why I went to that agenda item afterwards. If you want to say anything just to give us your perspective.

Bruno: I'm not in a position to elaborate on the contract negotiations or the result thereof, but I do want for the record Mr. Daruty was very eloquent in making his statement of the stress of our industry, but at the plight, risk, demise of the greyhound industry which we think could have been avoided. Mr. Gage is the individual who probably can address Mr. Daruty's remarks. If the Chair indulges me after Mr. Gage's remarks if I feel he left something out I'd like to add to it if I may.

Walters: Okay. Dick.

Gage: Well, Mr. Daruty did an excellent job as usual on presenting his case. Unfortunately I'm not as eloquent as he is. I have a lot less hair, less teeth, everything else. We, the Oregon Greyhound Association, struck an agreement with Mr. Daruty and Multnomah Greyhound Park. We feel that still up to this point of the agreement we have not breached that agreement based on the verbiage of the agreement which we did not write this agreement. It was written by Mr. Daruty or his associates, so we feel that they are the ones who have breached the agreement. Anyway, that's for somebody else to decide now.

Walters: That's certainly not for the Racing Commission to decide that. And I appreciate having Kirk acknowledge that already, and I agree with you.

Gage: I think we all knew here pretty much what the answer would be, I'm sure we did, by them asking for these racing dates. But we just wanted the commission to know and wanted everybody to know that the greyhound people here in Oregon are interested in a race meet. We knew what the outcome would be. We have been contacting people that could be backers, so that's where we are. There's a short amount of time. We pretty much agree that there will be no greyhound racing in 2005, but we wanted the door left open for you all to know that we are still interested in greyhound racing and there are people in other states that are interested in greyhound racing here that are very profitable. I appreciate your time.

Walters: Thank you, and you have certainly made that point. Vince?

Bruno: Well, almost everybody on this commission knows me and knows for many years. If I've got something to say I say it. I apologize if it doesn't seem like it comes across in the right manner...

Walters: We have very thick skin...

Bruno: ...but we are fighting for our lives. In some cases some of our people are fighting for their livelihood. I know that a great deal has been mentioned about the discontinuation of live racing and that would make some people happy because of the care of the animals. I'm here today to congratulate this commission of the state of Oregon on the manner in which we've conducted ourselves in the care and welfare of the greyhounds themselves. There are many places in the United States that greyhounds aren't treated like they are in the state of Oregon. I challenge anybody to come to the state of Oregon and challenge the manner in which our greyhounds are cared for during and after their racing careers. I want to compliment the commission in the hope the commission remembers when things come to pass in legislation this summer that we all stand together in the preservation of live racing of greyhounds and the care and welfare of those greyhounds. I want to thank you for your time.

Walters: Thank you, Vince. Are there other questions or comments? I think that Ms. Connie Thiel had asked for the opportunity to address this request. It's been disposed of, but please feel free to make your statement, Ms. Thiel.

Thiel: Thank you for allowing me to testify in front of you. I really appreciate that. It's an honor. I'm Connie Thiel with the Oregon Defenders of Greyhounds and I'm really glad to be here today, and I just want to reiterate everything you said, Chair Walters, about this track, this new track they're talking about. Although we oppose greyhound racing, we do recognize that this track has been a better track than a lot of tracks in the nation. They do take pretty good care of the dogs and we are very happy about the adoption program. We are very worried about the possibility of some backwater track being allowed to be here in Oregon that could be even worse than many tracks in the nation such as the Boise track. And so we're just strongly advising that this is a very inadvisable move to just allow some backwater track to come in here and we don't know what will happen with the humane treatment of the dogs. So, that's all I have. Thank you very much.

Walters: Thank you, Connie. Just rest assured that if there continues to be greyhound racing in the state of Oregon there's not a member of this commission that would allow it to be done in a way that endangered the greyhounds, their welfare and safety. We wouldn't compromise the standards that we've applied at all, and I know that goes true for the individuals in the industry, too.

Thiel: Thank you, Chair Walters. Thank you, commissioners.

(The commission took a 10 minute break)

## **6. Race Dates Requests for 2005/ Hub Funds for 2005**

Following is a transcript of this agenda items:

Walters: Will the meeting come to order please. We are back in session and we are going to go to the next item on our agenda which I think it would probably be a combined discussion of items 2. Race Dates Requests for 2005 and Item 5. The Hub Funds for 2005 which involve the subcommittee report and recommendations and commission action on the recommendations.

Gilmour: Thank you, Mr. Chair. The subcommittee on the hub distribution met this morning. One of the things we asked for, and it is on the agenda from Item 2, is would like to have seen the race day requests for the noncommercial meets particularly because we would like to make sure that we don't have some overlaps and we would really like to see their applications without overlaps. We'd also like to see some ability for some rest appropriately between the race meets. These are not race applications for our approval, but we're hoping when those race applications come in that in dealing with the commission office and each other they will take under consideration those items that I've mentioned, which are reflected within the sub-committee's on hub distributions recommendations for Tier 1.

Walters: Just to make an observation. We do have a statute that relates to overlap among the noncommercial race meets.

Gilmour: That is correct.

Walters: And specifies a process for resolving it.

Gilmour: That is correct. So, with your permission I will make a quick summary report from the hub committee's distribution. We first of all got a report from Carol of how much money we have. That report was not good news, and it does reflect in the fact that the last distribution last year of the hub funds we granted more than the annual income for that year so that we could fulfill some of these needs particularly in Tier 2 by counties for facilities. So, that is very much reflected in the fact that when we take a look at the ending balance for our cutoff days we had much, much less than we did a year ago.

So, with that preface, we chose in Tier 2 to continue the jockey incentive program for \$35,000. The rules will tweaked a little bit. We've appointed a subcommittee of one which is Ron Sutton who was the father of that particular idea to work with our commission staff to tweak those rules. What the main circumstance is that if a jockey is involved in the incentive fund and cannot complete the duty of riding throughout the required meets because of an injury caused at a meet, he is not totally wiped off the slate for that bonus.

Walters: She wouldn't be either.

Gilmour: Yes, I apologize. So, anyway that's going to be clarified. Next of all, from my meeting with the counties on the 7<sup>th</sup> of January we got quite a bit of feedback on two particular areas of interest. One is the photofinish and the video solved 99% of what they called their problems and they desperately want to see that continue. We granted that request. Second of all, in discussions I had last summer throughout the county fair circuit I found quite a discrepancy and quite an argument among individuals between noncommercial racing horses that the consistencies, the rulings, the draws and everything were not in consistency. I had suggested back then that the commission devise some plan to entertain a motion that we would interview and we would have consistency through a racing secretary throughout non-commercial meets. To my surprise, every county fair thought that was the best thing since sliced bread. I've worked with our director in trying to figure out how we can do that, and she is in the process of working through that so that will come to fruition. Not to be taken out of the hub funds.

Walters: Not to be taken out of the hub funds.

Gilmour: Not to be taken out of the hub funds.

Walters: So the idea here is to hire a Racing Commission employee?

Hanson: No.

Gilmour: No. A contracted individual for the period of time necessary.

Walters: Contracted with whom? Us?

Hanson: Us. It would be a professional services contract.

Gilmour: Okay? Now, the next request for Tier 1 hubs is the supplemental purse amount of money that we have been in the past contributing. Now with the limited funds, and we went through because of the race dates and the race requests, we felt that we should honor first of all to those races and those counties, those non-commercial race meets, the same amount per purse but with the new secretary the latitude of that supplement to be adjusted per race so that there is the possibility that that supplement would dip below the \$2000 figure for some races. The overall would be \$2000 per race. So we started with Eastern Oregon. Their request, of which they withdrew some, was for 24 races and that amount of money would be \$48,000. Next we moved on to Josephine County and SOHRA...

Walters: No, we're doing Jackson County this year.

Gilmour: Okay, well that's a possibility, too. But anyway, one of the reasons that we wanted these is because we were looking for conflicts. That's the first time we found one. We found that the request to race in Southern Oregon was for two particular days that conflicted with Eastern Oregon. We're hoping that, through the application process, can be resolved. According to that we awarded Southern Oregon 160 races to be funded at \$2000 each.

Walters: That's \$320,000?

Gilmour: That's correct. Okay, moving on to the next one and that we also detected a problem, in our opinion, but we're not voicing that because they have not applied for their... But, Southern Oregon would like to race on the 4<sup>th</sup> of July and the race meet dates that are being requested for Prineville start the 6<sup>th</sup>. We think that...

Walters: Which means that entries are taken on the 5<sup>th</sup>.

Gilmour: Yes. So we detected that could be a problem and we're hoping to get those two parties involved to figure out, hopefully be able to resolve that in a more timely fashion. But anyway, getting back to the story, Prineville requested funds for 36 races which is consistent exactly with what they did last year, so the sub-committee recommends \$72,000. Tillamook requested dates where there is no conflict we noticed. They requested 22 races for three days which is consistent with their past year and we recommend \$44,000 for Tillamook. Multnomah County Fair put in a request. We did not at this for their request which is in August of 26 races, we did not recommend funding those at this time. Harney County submitted a request for three days, Friday, Saturday and Sunday. Last year they raced 18 and they requested 23. Having been

there and having discussed with their fair manager over there, I think it's a great idea to rearrange and race on three days, but we with being short of money still are only inclined to fund 18 races. If they want to put an application in for those 18 races to be run 5, 8 and 5 and if that would be their desire, we fund those, 18 races at \$36,000.

Now, I hope you all have what I'm looking at because if you do take a look at it and you do compare it to the line item for hub availability projected money that ends in June of 2005, you will see that we spent 99% of that money with this request.

Walters: Okay. I'm sorry. Just to make sure I'm looking at what you're looking at.

Gilmour: I'm looking at this, yes.

Walters: I'm looking at the same thing. I'm sorry. Could you show me on this sheet where it shows the amount available?

Gilmour: That's the sheet I was looking for before I was... There's one... I apologize. I haven't found mine yet but I will right after we need it.

Walters: This is the one I had gotten before and then this is an updated version?

Morgan: That's... Yeah. That was in your packet.

Walters: Through June is...

Gilmour: June 2005.

Walters: Okay. Great.

Gilmour: So, here's the bottom line. The bottom line is we have spent all of the money at the end of the state legislature's mandated biennium budget which ends on the 30<sup>th</sup> of June. Okay? Now, since the hub funds come in on an annual basis that still leaves the remainder of the year for hub funds to come in to be distributed. We have chosen not to go beyond June 30<sup>th</sup>'s availability of funds for the first tier allocation. And usually which we had in the past we have had emergency requests and we have taken a priority list of those and the commission has approved some of those in the past. My guess is that after the legislative dust settles, which we don't know what's going to happen and I'm sure there's going to be amendments and nonamendments and lots of discussion with the proposed legislation, we feel that we would be in a better opportunity to not commit beyond this biennium's June 30<sup>th</sup> dates any other hub funds until we have seen the legislation whether it passes or not, becomes effect. We should have a signal by the 30<sup>th</sup> of June one way or the other we hope, and we will then be able to put in a process for further distributions of hub funds that come in after October 31<sup>st</sup> which is our normal cutoff date. Now, here's a word of caution. As I told everybody a year ago at this time we spent all of the money, we spent more than we should, so don't expect a lot for the next year. My area of caution is if there is a huge amount of requests that we dip into the next year, then Tier 1 for 2006 could be in jeopardy. So, there is a limit to what we can do with hub funds. The state of Oregon and fiduciary responsibility by this commission I believe have got to be to the best of our ability show an ending balance of at least zero at the end of a fiscal year or state fiscal year which gives us a two year more of a latitude than normal. I think we have fulfilled that obligation for these last two years and kept our obligation that I believe was part of the legislation that initially passed the hub bill. Thank you.

Walters: I did have one question. On the purse supplements, you said you wanted to give the same amount but there would be some discretion in the racing secretary. What did you mean by that?

Gilmour: Well, here's a point that, you know, owning horses and racing horses and being in the business there's two different general understandings of how life really works on the track. Here's something that was pointed out to me. First of all, we've encouraged the local communities that put on races to work to building money for their own purses. Because of economics of the circumstance geographically or the length of their meets, some are hired employees, some are volunteers, some purses are higher. For instance, in a letter we got from Prineville it's noted that they're expecting the minimum purse to be \$2500. Now, getting back to your point, the point being that in some circumstances where the supplement of \$2000 is the minimum you are placing an unfair purse level for maidens first time running on the track compared to a better horse, more experienced, higher quality, you're trying to run apples and oranges for the same amount of money is the bottom line. My great worry was is how each individual race secretary

would view this latitude and that would have scared me without a consistency. I am reassured in discussing this is that if there is a consistency with the rules, the entries, that giving the authority for somebody who is a racing secretary to be able to build a race or a race card, giving the latitude of a flexibility, somewhat flexibility of moving those funds within, for instance an \$1800 maiden and a \$2200 other race, might be better advised.

Walters: Yes, I understand it. I thought that's where you were going on that.

Gilmour: Exactly.

Walters: Let me make a few observations about these proposed allocations. I think, first of all, it reflects the usual hard amount of work and the very difficult decisions that are made and it's usually easier to allocate money when you have a lot of money and it's a lot harder when you have a little money. The concern I had and I had expressed it in correspondence earlier with both commissioners Thorne and Gilmour is I do believe that we are in a changing day, changing times in connection with racing in Oregon. We've heard a long discussion of that earlier today in the meeting about whether there's going to be greyhound racing at all, whether or not Portland Meadows can survive. Our statutory command is that hub funds are going to be used to benefit the industry and I am certainly well aware of the discussions that occurred before this legislation was passed. I also am obviously aware of the rule that we adopted and in case I had forgotten I got provided a copy of it in red about the Tier 1, about the hub funds are first going to go to race meets, the nonprofit race meets licensed during 1999 in amounts necessary in the commission's judgment to allow an appropriate race meet with an appropriate purse level. I believe that at some point we are going to have to come face to face with the issue of whether we continue to support the fair meets at the levels we have been supporting while at the same time the principal commercial meet in the state of Oregon is going down the tubes. Frankly, we are looking at a situation right now where certainly the race meet from Prineville with the amount they are contributing to purses in addition to the \$2000 that is proposed to give them, they'll be running purses just not that much less that Portland Meadows particularly if there's another purse cut at Portland Meadows. I don't think that benefits the industry. I think that if Portland Meadows goes under we have a very, very different industry in the state of Oregon. Yes, fairs may be able to continue to run but they are going to be extremely different even if they do than they are now. So, I think we are going to have to... I think we have the flexibility under the current rule to make adjustments to the amounts allocated to the fair meets based on our judgment as to an appropriate purse level. I think what is an appropriate purse level depends on things such as the amount of money available and other critical needs for the hub funds, but I don't think that in my view we can continue to fund the fair meets at \$2000 a race and then if we're out of money then we don't have any money to give to supplement purses at Portland Meadows the principal commercial meet. I think we need to do that because the economics of someone running at Portland Meadows are just as bad as the economics are elsewhere. My own view would be that if we could grant hub funds to supplement purses at Portland Meadows, not to just always fill in holes in the purse account, but to take a \$3000 race and make it \$3500 or even \$4000, that that would finally reverse the trend that we've had over the years where the purses go nowhere but down as the handle goes nowhere but down as we have talked about. I am really conflicted about how to approach these particular recommendations. As I said I think they are carefully thought out and wonderfully crafted. I will say that I may, if I think about it a little more here, vote for this recommendation because it just spends the money during the biennium. But in my mind at the very least going forward into what we all hope will be another race meet next year at Portland Meadows that we could use some of the hub funds to supplement purses at Portland Meadows and not continue this approach of simply picking a level to supplement all races at all fair meets and then running out of money and not having any money available for anything other than, for example, an emergency request. I think that, frankly, Portland Meadows is enough of an emergency right now to justify further supplements to the purses because of the situation there. I'm thinking we may need to look at the rule because consistent with the statute the words in the statute are benefit the industry and I honestly believe that it does not benefit the industry simply to have fair meets being funded at the levels that we're funding them. I will make two other quick observations and then I want to think about this a little bit. One observation is that as I had understood the purse supplement idea that it was to supplement purses at the fair meets to reach a level of \$2000. Every one of these applications or these hub fund requests except for Crooked River Roundup simply takes the \$2000. That's the purse level at the county meet and that concerns me quite a bit. And someone's shaking their head.

Unknown: Unintelligible

Walters: Okay, well great. And some people do supplement for example special races, stakes races as well. But that concerns me quite a bit that none of the handle in the majority of the county fair meets goes to purses. That strikes me as inconsistent with the policy that we adopted. The one other observation was

that I have spoken to several people and I was struck last fall where we had a roundtable, which as usual events seem to have overtaken us, where we were discussing sort of the state of the industry in Oregon and where we could go. Folks from Portland Meadows and Multnomah Greyhound Park were getting up and saying our purses are too low, we can't survive, the commercial racing in Oregon is in deep trouble, and then the folks from the county fairs stood up and said we really appreciate the money, things are doing really well there and we'd like to thank you for your support. I'm not blaming the fairs at all. They play a very valuable role in the community at large and in racing in Oregon, but that just emphasized to me what I see is a bit of a disconnect going forward with our hub applications. Now I'm going to shut up and try to think a little bit more about this recommendation.

Gilmour: Thank you very much. I'd like to just a little bit add on. I'm going to tone this down, Scott. Okay? But I'll tell you what. You listed several points in your proposed legislation and we've discussed this over a long period of time and I had urged you to get in contact with all parties and I believe you tried to do that and you probably have succeeded for the better or the worse of each party. And I know we're a regulatory agency and I'm sorry we are at times because I would like to be more of a promoting also agency. I'm challenging you, Scott, to take a look at that legislation because I mentioned earlier this morning of putting in the possibility that we should revisit the distribution level between what the hub funds are giving to the state and what the two-thirds are coming for distribution. I think the case is just strong for the legislature to adjust that takeout which then gives us the opportunity to include purses commercial and noncommercial, and I as an individual would do everything in my power to help that pass. The subcommittee particularly ended the discussion of spending more than we had after June 30<sup>th</sup> because we want to work with all parties to see that we can get all purses for live racing to a much better level than they are now. At least that is going to somewhat stop the bleeding, not completely. I don't know twenty years from now we'll do, but these are things we can work together to do. That doesn't rob from the counties, it doesn't put the counties at odds and it helps the racing industry as a whole. And I'm challenging you and your lobbyist to work with me at the legislative level to see that we can get some of these things done. Okay.

Daruty: Great.

Gilmour: Thank you, Mr. Chair.

Walters: Thank you. Are there other comments on these recommendations?

Thorne: I just have, since there was a challenge put forth, I just wanted to echo the Chairman's discussion with respect to the fairs and the \$2000 we're contributing to the fair purses that in only one case is there any additional purse monies contributed by a particular. At some point I think, I agree with the Chair, that there's a bit of a disconnect there and that it might be good for us to revisit our procedures with respect to Tier 1 in the future as it pertains to fairs. We may start requiring some sort of a match on purse monies before anyone comes forth with their applications. I really don't know what that might be but I would not why there couldn't be at least be some sort of a 25% match by the individual fairs required. I'm saying that's going to happen but I think the folks from the fairs ought to think about it because we're trying to do all we can to sustain racing in the state, and I think if the fairs can get some community support to help us do what we're trying to do that would be a great sort of a gesture to the industry as a whole.

Gilmour: Do you want a motion, Mr. Chair?

Walters: Sure.

Gilmour: I move that the Racing Commission accept as verbalized and will be on paper for everybody to see at a time certain what the subcommittee action was in distributing of Tier 1 level funding.

Walters: Just a further question as part of the discussion on the motion. Was part of your thinking in recommending the continued \$2000 a concern about planning that the fairs had done for the upcoming race meets and the concern that they have to rethink their plans and rethink the structure of their race meets?

Gilmour: Yes, that was one element. It was three elements, but I don't think you want me to tell you all three elements. Buy, yes.

Walters: Now I'm intrigued. Will you tell me later?

Gilmour: I'll mention number two. I think at this particular junction politically for us to cut the amount of money if we had it to distribute in Tier 1 less than we did last year would politically be suicide.

Walters: I guess my reaction to that is that it would surprise me if the county fair meets would put their desire to have a purse level \$2000 over a purse level of something less than that over the welfare of racing in the state of Oregon. I don't think they'd do that. But, that's my own observation.

Gilmour: I agree.

Walters: Is there further discussion on the motion? I will say I am going to vote for the motion, and the reason I'm going to vote for the motion is the two things that item number one that Commissioner Gilmour discussed and that is the planning that the county fair meets have done to this point, and number two, because the recommendations are based on hub funds through June of 2005, I will vote for that. I do want to just make clear my concerns about future hub funds distributions. I think we have to do something. If there is a race meet at Portland Meadows next year I think we have to supplement the purses there whether it's through Oregon-bred or what, and I know some states do a supplement for each race if it is won by a state-bred and that sort of thing. I think we could figure out mechanisms for doing it, but I think we're going to have to do it. If it requires altering our rule I think that we probably would need to do that as well. I just want to be clear to the fair folks this is no attack on you, it's not a feeling that you're being greedy or anything else. I just want to be very clear, you add greatly to racing in Oregon. My concerns are animated completely by the fact that I think we have a crisis here, and this time next year we may have no racing at all in the state of Oregon other than what can be supported by hub funds at the county fairs.

Gilmour: One last comment. I apologize. I would expect the county fairs to be in support of the legislation that is being drafted that would support adjustment in the statute relating to hubs.

Walters: And simulcasting as long as we're at it?

Gilmour: I'm just going to leave that alone for now.

Walters: Alright. Will call for the question. All those in favor signify by saying aye.

Metcalf: Aye.

Gilmour: Aye.

Thorne: Aye.

Walters: Aye. Opposed? The recommendations are approved as submitted.

**ACTION: MOTION (Gilmour) VOTE: The recommendations are approved as submitted.**

**VOTE: 4 Aye, 0 Nay**

## **7. Confirmation of Next Commission Meeting – February 17, 2005**

All commissioners present are available for the next commission meeting.

*There being no further business, the meeting was adjourned.*