

MINUTES

OREGON RACING COMMISSION February 17, 2005

The Oregon Racing Commission met on February 17, 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, Julianne Davis, and Lisa Metcalf.

The selection for the new racing secretary was announced. The selection committee included Jim Smith, Jeff Gilmour, Ron Sutton, Jerry Underwood, and Carol Morgan. It was a unanimous decision to hire Jack Palmer for the position. He has been involved in racing for many years and has experience as a racing secretary.

Agenda items were discussed in the following order with resulting actions:

1. Approval of January 20, 2005 Minutes

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

VOTE: 4 Aye, 0 Nay

2. Requests from OGBA

a. Status of Training Track Funds Generated from 2004 MGP Race Meet

Vince Bruno, OGBA: He has been corresponding with Jodi Hanson regarding the training track at Multnomah Greyhound Park. They were considering building a training track in Estacada at a cost of around \$100,000, but have now found that the land is too dry and would require them to drill a well which is unlikely. The OGBA believes that there are leftover funds totaling around \$11,000 in Magna's possession that were never expended on the training track in 2004 season, along with an additional \$30,000 that was due in April of 2005. The OGBA is interested in using that money to fund the building of a training track in the near future.

Chair Walters: Asked commission staff to find out the status of the money. How much is left and where it is. He also asked legal counsel for his advice on the status of that money given the fact that there is no training track operating in Oregon right now.

Vince Bruno, OGBA: Made a point that the OGBA is in need of assistance because there is currently no training track and no racing scheduled for the season. They want to be sure they are not left out of the process.

Walters: To the extent that there is money and it is available for disposition by direction of the commission, they certainly will be happy to hear from the OGBA.

b. Approval to Use Benevolence Funds for 2005-06 Operating Expenses

Vince Bruno, OGBA: Requesting approval to use the benevolence funds for operating expenses. He presented worksheets and discussed specific figures with the commissioners about projected operating expenses for the next three months. Without approval of this request they will not be able to operate at all, and even with these funds will operate without income for the executive director and the registry during that period.

Commissioner Walters: He has no problem approving this request but requested a formal resolution of the OGBA board because this decision affects their members.

ACTION: MOTION (Davis) VOTE: Delegate authority to Jodi Hanson to approve this request upon receipt of official board approval from the OGBA.

VOTE: 4 Aye, 0 Nay

3. MBCS, LLC dba eDowns Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Chair Walters: Commissioners have just been handed and amended application. Background and license checks still have to take place as well as a physical inspection of the facilities.

Jim Shires, Managing Director; Tim Connor, Marketing Manager; Herb Connor, IT Manager; Jack Mullen, Mutuel Manager were in attendance representing eDowns.

Jim Shires: The organization overview of the application summarizes the business plan they propose. They intend "through enhanced applications to provide their account holders a heightened awareness." Herb has 20 years of experience in software engineering programs for wagering companies and Jack has been mutuel manager of various tracks since 1962. They don't plan to enter any areas that they haven't already discussed with the commission.

Walters: If they move forward into additional areas it would require amendments to the operating plan, and would need to be approved by the commission, most likely by the executive director under delegated authority. Contracts with additional tracks would have to be approved by the commission as well.

Commissioner Gilmour: Verified that they have an administrative office in Oregon and that they consider this an Oregon company.

Jim Shires: eDowns will have administrative offices in Oregon with support staff in Arizona. They will not be taking any wagers over the phone; it will all be done through the web site at edowns.com. They are also looking for additional office space in Oregon and once the application is approved Jim will be moving here full time to operate the Oregon office.

Walters: Commented that throughout their application they refer to "accepting wagers over the Internet" which has undesired connotations of online casinos. He confirmed with eDowns that this is a closed loop system. The subscriber has to have an account and there are various firewalls that restrict access to the site. Walters also noted that in their plan of operation they have velocity limits regarding maximums allowed for deposit by credit cards. He informed them that velocity limits are not required by the commission.

ACTION: MOTION (Davis) VOTE: Approve the application in amended form with the submissions received today subject to completion of licensing and background checks, and to inspection of physical facilities in Arizona. Delegate final approval subject to those to ORC staff.

VOTE: 4 Aye, 0 Nay

4. Requests from Youbet.com to Amend Operation Plan **a. Telecommunications Services Provider**

Jeff True: They are looking to move forward with some new functions and features. They were asked previously to provide additional information on this item but that information is unavailable. They are asking for further direction on this item. The amendment to the plan as stated has not changed.

Walters: Delegate to the Executive Director the ability to approve particular arrangements subject to the provision of the information, they but they do need the information so will continue the discussion to the next meeting.

b. Player Management Program

Jeff True: Requesting approval of initiation of 3 primary pieces of a player management program: players rewards, players desk and integrated products. Player's desk would be an extension of their current concierge service. They are looking at a phased in approach, not all at once. They have already implemented parts of the plan that had prior approval including the winners' bonus and one-to-one messaging. They plan to use a software product called *Data Analyzer*. They will use this information to offer customized services to their players. They are not tracking players on whether they are good or bad players; offers are made based on services they might want. These changes will also help Youbet become more competitive.

Commissioner Davis: Clarified with Jeff that this service is similar to the marketing done on Amazon.com. Jeff's example was of a customer who regularly bets during a certain time period and if a new track becomes available during that same time period the customer might be messaged in some way with that information. Chair Walters expressed his pleasure with the proposal which he feels will boost service to customers and be an asset to the industry.

ACTION: MOTION (Davis) VOTE: Player Management Program portion of the amended business plan be approved.

VOTE: 4 Aye, 0 Nay

c. Wager Cancellation Change

Jeff True: Wager cancellations are currently done at race tracks across the country now. Youbet wants to offer the same service to their customers. They have had requests for cancellations in some form from both large and small players. Their amendment addresses the processes used. This portion of the change would not be deployed right away but will be phased in over time. Players will be presented with the full rules before they proceed with a bet. Limitations will be placed on both dollar amounts and frequency based on research on their players.

Walters: Clarified that this is a service that is currently available at Oregon tracks. Oregon doesn't have specific cancellation requirements in our rules, rather written guidelines are established by the track. It was also established that the same types of precautions that are taken at live tracks to prevent abuse of the system will also be used in the Youbet wagering system.

Davis: Asked if notification of the right to refuse access to this feature would be present in the initial agreement signed by the customer. Jeff assured her it will.

ACTION: MOTION (Gilmour) VOTE: Wager Cancellation portion of the amended business plan be approved.

VOTE: 4 Aye, 0 Nay

5. Portland Meadows Race Meet Report

Chris Dragone: The Oregon handle is down 17.8% for the year, live handle is down 11.2% and export is up 6.1%. They will be closing Multnomah as an OTB on 3/21/05 and transferring the tote system over to Portland Meadows. Magna is in the process of looking for a new location for an OTB in the Gresham area but don't anticipate that happening anytime in the next couple of months. They are seeing a trend of a decreasing horse population on the back side that is getting alarming. This month they are at 585 which is a decline of over 200 horses in the last 6 – 8 weeks. Much of it may be due to Emerald Downs opening up the barn area. If the trend continues at this rate they will have some trouble with short fields and problems filling races as we get into April. Their field size is still well ahead of the national average, but they are concerned. Magna added some material to the race track, at a cost of about \$13,500, and he feels it has improved the track. They have had no complaints. They have also been running several more NTRA ads as well as their own ads on some of the major networks.

Scott Daruty: Commented that account wagering companies continue to thrive and that additional companies are applying for licenses. He wants to be sure that live racing is always considered when reviewing issues of account wagering. In agreeing with the commission that customer service is important, he noted an incident where their prior general manager was fined \$500 for canceling a wager that was placed by a player in error. The reason for the fine was based on an internal policy that stated that only mutuel managers (not general managers) can cancel a wager. While trying to provide the same services as the account wagering companies they often find their hands tied and that makes their business more challenging.

Walters: It could be debated whether that was an overly technical reading of the policy, but the rule says that wagers will be cancelled in accordance with written guidelines from the race track. In a sense their written policy is a rule of the racing commission and a violation of that is a violation of a rule. The commission will approve any reasonable policy they may submit.

Scott Daruty: Said Magna is committed to maintaining the viability of live racing in Oregon. They are moving forward with portions of legislation that people have agreed upon and it seems to be going well. They are working closely with the breeders association and the HBPA and their lobbyists to present a united front for the industry. They are winding down operations at Multnomah and had offered to the OGA to pay for spaying and neutering of all dogs in the adoption kennel. That offer was rejected, but Magna stands ready to fulfill that commitment. They expect to be out of that facility by the end of the month. Scott stressed that they are not anti-greyhound and don't want to see anybody go out of business, but he thinks it's important to note that their contract with the OGA included a contractual obligation for them to advise all breeders not to breed greyhounds with the intention of racing them in the State of Oregon after the 2005 season. They did shut down one season early but tried to give everyone notice that there would not be greyhound racing after 2005.

Walters: Applauded the offer to pay for spaying and neutering of the greyhounds in the adoption kennel. He hopes that offer could still be accepted. Also congratulated the OGA on the arrangement to keep the greyhounds at the current site and care for the dogs despite the current fight. Walters emphasized that the commission is very supportive of live racing and all areas of the industry should try to work together cooperatively in order to help live racing and make it survive.

6. Responses to Commission Action on Allocation of Tier 1 Hub Funds for 2005 at the January 20, 2005 Commission Meeting

a. Josephine County Fair/Southern Oregon Horse Racing Association

Al Westhoff, JCF: A letter was sent to the commission outlining the effect the restriction of Tier 1 funds would have on their race meet.

Gilmour: Thanked Al for clearly presenting the problems posed by limited funds available. Money in the account was distributed so each of the county fairs would have an opportunity to continue the same supplement level that they had in 2004. A racing secretary position will be funded by the commission this year, relieving the fairs of that expenditure. This will ensure consistent application of the rules and establish the possibility that there might not be a minimum of \$2,000 per race required, but rather allow more flexibility in filling the cards. In reviewing requests it was found that there were overlapping days requested by at least 2 fairs. Based on the limitation of funds this year, the commission decided not to use Tier 1 funds at competing venues. JCF was denied a few days of their request based on this conflict. In July the commission will review the situation again, so all groups should be ready to request additional funds if they are available. Emergency funds have been granted in the past and may be available again in July.

Walters: There is a statute on the subject of overlapping dates which states that dates that overlap should not be granted. The meets involved should come to an agreement to eliminate the overlapping dates. He feels very strongly that the commission needs to look at how funds have been allocated in the past and see what makes sense going forward. The summer fairs have received the bulk of the money in recent years and Walters has a concern that the major commercial race track may need hub fund assistance. He endorsed Commissioner Gilmour's previous comments.

Al requested confirmation that JCF will not receive more than 16 days and cannot race at the same time as Union. Gilmour corrected him in that they can apply for any days they wish, but they will not be granted funds to supplement purses on days that overlap with another race meet. There was some discussion about JCF running for 4 weeks then shutting down for a week based on difficulty finding and keeping enough horses and jockeys. Walters suggested they try to work out the issue with Union or try to adjust their days so there is no break in the middle of the meet. Walters encouraged him to read the statute for reference and Gilmour suggested that Al call Union to see what they might be able to work out.

Al noted that the simulcast from the JCF race meet is advantageous to the meet and the owners. Walters agreed that their product is an important one, but "we are in different times" with the dogs not racing this year and the major commercial horse track just hanging on.

b. Oregon Quarter Horse Racing Association, Inc.

Jackie Phillips & Lea Nelson: They are disappointed with the lack of hub funds. They will probably have to eliminate their Summer Stakes program and their Triple Crown Bonus program. They submitted an emergency request for the following funds:

Priority 1

\$ 4,500 to continue the Bonus program needed by March 15. (50% of total need)

\$15,000 for the Firecracker - second leg of Triple Crown needed by July 4

\$10,000 for Northwest Open needed by October

The Triple Crown was very popular this year and added a lot of visibility and interest for the races involved.

Additional Requests

\$5,000 for the Grant's Pass Derby needed by mid June

\$1,000 for Grant's Pass handicap for older horses needed by mid June

\$1,500 for the Prineville Futurity needed by second weekend in July

Additional funds would be needed for Oregon Bred Futurity, Far West Futurity and the Portland Meadows Fall Derby (these run in October, November and December).

c. Horsemen's Benevolent & Protective Association

Dick Cartney: Stated that he appreciates the efforts of the committee and understands the limitation of funds. One of their most serious problems is the decrease in handle which has had a very negative impact on the purse account. Magna has agreed to pay up to \$200,000 of the deficit which is an amount that has already been surpassed. The HBPA made the decision to cut \$51,000 out of the stakes program and even after that they are still in a deficit position. As he has discussed with the commission before, he believes it would be catastrophic if they had to cut overnight purses. That would have a chilling effect on the ability to attract horses in the future so they are asking for a \$200,000 to supplement purse money at Portland Meadows. The HBPA could front the money until additional funds are available in July but would need it reimbursed by then. They are also asking for money for summer stabling and assistance for shipping horses to Grant's Pass; two programs that have been very popular in the past. These requests have been pared down as far as possible in deference to the limited funding available this year.

Gilmour asked what the projected deficit account is for the entire meet. Dick said it is around \$400,000. Gilmour asked if Dick had to choose between summer meets or purse accounts and after some debate Dick chose the purse account because it would benefit more people.

According to Gilmour, based on the most current figures we expect to have about \$17,000 in the bank on June 30 and receive about \$90,000 a month. He cautioned anyone about spending that money too quickly and encouraged the commission to be very careful to allocate the funds in such a way to make racing a live event throughout the year in Oregon. If the commission has the drop dead dates in hand and knows that everyone is negotiating the best deals possible the money that is available will be put to the best use.

Walters encouraged the commission to take a comprehensive view of how best to use hub funds and where they can be used in the best interest of racing. He debated whether it would be more prudent to spend hub money on the race meet that is almost finished at Portland Meadows this year or if it would be better spent next year if there is one. He noted that the greyhound adoption program would certainly qualify for an emergency request.

7. Confirmation of Next Commission Meeting – March 17, 2005

All commissioners present are available for this meeting.

8. Karen Knapp Licensing

Karen Knapp requested reinstatement of her license. Steve Walters told her that the case has already been decided by the administrative law judge and cannot be retried. She cannot be a jockey again in Oregon. She can apply in another capacity and the stewards will consider her application.

9. Raynham Wagering Service Agreement Approval

Ben Hayes, US-Offtrack: The Raynham-Taunton Greyhound Park in Massachusetts has stopped working with their current service provider and has requested US-Offtrack to provide wagering services instead. They would like to switch over as quickly as possible to avoid a lapse in service. US-Offtrack would provide them with operators to assist them in receiving wagering information and input it into the tote system. Raynham-Taunton would do their own customer service out of their facility in Massachusetts. Walters noted that he is in receipt of a letter from the Commonwealth of Massachusetts confirming that Raynham-Taunton is licensed to run live greyhound racing and are in good standing with the racing commission in MA. US-Offtrack is bound by the rules of the State of Oregon and Raynham-Taunton is bound by the rules of the State of Massachusetts so as a minimum US-Offtrack will comply with Oregon law but if a Massachusetts law is stricter they will comply with that law as well.

ACTION: MOTION (Gilmour) VOTE: Agreement is approved as submitted.

VOTE: 4 Aye, 0 Nay

Ben Hayes had additional comments regarding source market fees. He noted that US-Offtrack has paid all source market fees as they are stated in their operating agreement and they are in good standing in regard to payments of those fees. Walters confirmed that they paid these fees even when they did not receive the signal.

10. OTBA Name Change to OTOBA

Ursula Gibbons: They are changing their name from OTBA to OTOBA (Oregon Thoroughbred Owners and Breeders Association). She also invited everyone to an event on March 5.

There being no further business, the meeting was adjourned.