

# MINUTES

## OREGON RACING COMMISSION MAY 19, 2005

The Oregon Racing Commission met on Thursday, May 19, 2005, at 1:30 p.m. in Room 140, 800 NE Oregon Street, Portland, OR. Commissioners in attendance were Steve Walters, Lisa Metcalf, Jeff Gilmour, Todd Thorne and Julianne Davis. Agenda items were discussed in the following order with resulting actions:

### 1. Approval of April 21, 2005, Minutes

ACTION: MOTION (Thorne) Approve minutes as submitted.

VOTE: 5 Aye, 0 Nay

### 2. Proposed Order for Joe A. Crispin

Charlie Williamson, attorney: Submitted a report from the Clark County Council on alcohol and drugs where Joe has been in a program. Chair Walters noted that they may not be able to consider this information because it is not already in the record, but allowed it to be distributed.

Joe Crispin: Wanted to reassure the commissioners that he will never touch alcohol or any illegal drugs again. He said he has learned a lot from the program he is in and feels he can be successful. He asked for another chance to do his job correctly.

Walters: Asked for clarification of what they want the commission to do today. There is a recommended order of revocation where the stewards suspended him for a year. That was not stayed so he has been down for some time. The proposed order includes revocation.

Williamson: They agree with the one year suspension but he would like to be able to get his license back after the year is up. They would like to change the penalty in the proposed order to a one year suspension instead of revocation. They also agree that there should be some conditions on Mr. Crispin to assure his compliance – UAs, continuing his program.

Walters: Was there anything in the record regarding the basis for the June 2003 no tolerance order? Williamson had no recollection. Walters asked for the opinion of Counsel Raul Ramirez regarding the letter that was submitted. He advised that the letter not be considered because it is not part of the evidentiary record. He also mentioned that the exceptions that were filed were timely but Mr. Ramirez did not receive them in time to consider them. Aside from that he sees the proposed order as quite clear.

This item will be considered later in the meeting.

### 3. The Racing Channel, Inc. 2005-2006 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Walters: Questioned the number of tracks on page 15 of the application. Asked if they have an agreement with Magna to take those signals.

Joe Michaels: The tracks listed there either have contracts in place or are in the process of negotiation. They do not yet have contracts in place with Magna either nationally or internationally. They don't feel it's likely they will get the national contract, on the international side they've been negotiating for about a year now.

Walters: Asked if the substantial source market fees listed in Exhibit C are correct.

Joe Michaels: It depends on how source market fees are calculated. On the national side they pay source market fees to each track they have an agreement with, anywhere from 3% to 7%. They have a system with their international operators where they keep a percentage and then pay everything else back to them which are what they count as their source market fee for that area.

Walters: Asked for a breakdown of what source market fees they pay domestically and where they pay them. Mr. Michaels will supply that. Asked if they have a responsible gaming program for their personnel to recognize possible patterns of problem gambling.

Ben Hayes: They don't have such a program because they don't take wagers, but they will review and implement that program as requested.

Jodi Hanson: Recommended approval of the license application and the operating plan.

**ACTION: MOTION (Gilmour) Approval of the license application and operating plan as submitted subject to implementation of the responsible gaming program.**

**VOTE: 5 Aye, 0 Nay**

#### **4. AmericaTAB, Ltd. 2005-2006 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License**

Todd Bowker: Their application is not significantly different from last years.

Walters: Asked for specifics on source market fees and was assured that they are correct. He asked for more detail on the enhanced host fees they pay to see what is going to the industry for market mitigation efforts.

Bowker: It is mostly unchanged from previous spreadsheets except that they have an agreement with Magna so he will add that information.

Walters: Raul pointed out that their letter of credit expires on July 31, 2005. Todd confirmed that but said they have traditionally provided a continuation of that to the commission as they expire.

Jodi Hanson: Recommended approval of the license application and the operating plan.

**ACTION: MOTION (Thorne) Approval of the license application and operating plan as submitted subject to letter of credit supplied for the full license period**

**VOTE: 5 Aye, 0 Nay**

#### **5. US Off-Track, LLC 2005-2006 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License**

Ben Hayes: Noted that they provide a responsible gaming program for their employees. Walters asked for that in writing and Hayes promised to supply it. Their operating plan lists source market fees but in addition to that they have a combined host market fee model. He will provide the commission with a breakdown of those fees.

Todd Thorne: Noted an addition from last years application that mentions sites located outside of Oregon and asked if there's anything that should be read into that by the commission.

Hayes: There may be some changes, but the tellers will all stay at the Oregon site. With the expansion they may have to move some of the customer service personnel out of the current building because they are running out of space, but a decision hasn't been made yet as to where they will go. The operations aspects of the plan will not change.

Walters: Confirmed that they will notify the commission about any change of that sort and get the appropriate approval under the delegated authority of the executive director.

Jodi Hanson: Recommended approval of the license application and the operating plan.

**ACTION: MOTION (Gilmour) Approval of the license application and operating plan as submitted**

**VOTE: 5 Aye, 0 Nay**

## **6. Portland Meadows End of Meet Report**

Dwayne Yuzik: They were able to maintain the field size working in partnership with the HBPA the horsemen received a total purse payment almost equal to the previous year. Overall state wagering was off about 17%. On track wagering was down 1.7%. The largest OTB decline was in off-track wagering on live races at Portland Meadows which is primarily a function of closing down some of their key OTBs. Export sales are down due to discontinuing Friday evenings and getting into some of the Southern California marketplaces. Total handle is off about 3.6 %.

They had a very successful Kentucky Derby party with BBQ and a bluegrass band which attracted 1500 – 2000 people to the track. Last year with a live day at MGP facility wagering with a live card lwas \$335,000 and this year it at Portland Meadows it was \$311,000. They are increasing guest benefits through ammenities and are reopening areas of the facility that historically haven't been open. They are trying to cultivate an environment where businessmen will socialize. They hope to open more OTBs in the next few months based on the anticipated passage of SB 929.

Walters: Inquired about the plans for a race meet for next year. Yuzik said they have had preliminary discussions internally and hope to have discussions with the HBPA within the next couple of weeks. Walters also reminded him that we need at the very least a request to continue simulcasting, but encouraged the submission of an early race meet application since their current race meet licence expires on May 31.

Lisa Metcalf: Asked why he thinks there was such a drop in Quarterhorse starts this year as compared to Thoroughbred starters.

Yuzik: He didn't know but offered to follow up and have the information sent to the commission.

Jeff Gilmour: Asked for the status of the purse account. Yuzik said they are in agreement with the horsemen that it was an overpayment of tradional revenues of about \$200,000 that Magna paid, and there was a contribution made by the HBPA to supplement the account to maintian historical levels. Yuzik could not provide Gilmour with the account balance but said it could be sent to the commission. Gilmour reiterated the need for a license application in order for simlucasting to continue past May 31.

Hanson: Thanked him for their recent meeting to discuss building a collaborative relationship between Magna and the ORC.

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

All commissioners except Lisa Metcalf will be traveling to Grants Pass for the next commission meeting to be held at 2:00 pm.

## **8. Legislative Update**

Hanson: There are three parts to the budget process for the state. Last Thursday she presented parts 1 & 2 which have to do with the details of the Governor's Recommended Budget and Performance Measures and they were well received. She expects the work session toe be held sometime in June after which technical adjustments will be made based on the fact that there is no longer greyhound racing. Due to this the ORC has cut the budget in half and has laid-off several people.

## 9. Action on Proposed Amendments to OAR 462-220-0040

Walters: A public hearing was held this morning with him and Jodi acting as hearing officers. They took testimony from 6 witnesses. There was a letter from the OTBA which is part of the record of that hearing along with 2 drafts, one of which was published. Substantively it is the same rule with revised language. The hubs supported this proposed amendment to the rule and the testimony was to the effect that there is a substantial amount of competition for the hubs businesses, but there are increased pressure on their margins in terms of the cost of fees and taxes. There was an opinion expressed that there is opportunity for growth of existing hubs that may not be at the cap based on last years handle but perhaps based on this years numbers will be. The concern expressed by the OTBA is that there's not enough money for racing in Oregon at this point. They noted that the bulk of the hub fund distribution is going to the county fair meets and this does not help sustain a breeding program. In a time of limited revenue they do not want to see a cap on the money that can come in from the hubs.

Hanson: Implementation of this rule would bring in approximately \$124,000 each year for the biennium for a total of about \$248,000 added to the general fund. The racing development fund would receive approximately \$259,000 per year for an approximate total of \$496,900. This is not a substantial change, but it will help keep hubs in Oregon and attract additional hubs to the area.

Walters: Those projections do not take into account the fact that the cap increases in the second year of the biennium and they are based on figures from last year.

Gilmour: Asked if there is a sunset provision on the rule.

Walters: There is not a sunset provision, though the commission can change it at any time. The rule allows for an annual increase unless the commission changes that limit before the beginning of a fiscal year. Once a license is granted the commission would have to wait until the license is renewed to change the tax structure.

Gilmour: Asked what would happen to the current licensees. Walters pointed out the provision in the rule that allows current licensees to elect from three options as to how that is handled. The chosen option would go into effect on July 1, 2005. Gilmour asked if current licensees have been aware of the possibility of a rule change and Walters assured him that they have not only been aware of it, but many of them have been active participants in the rulemaking process.

Walters: Noted a discussion at the hearing as to if the word "state" as used in the rule refers to states in the United States or elsewhere. Do to a lack of information he suggested that they define it for now as a state within the United States. The rule can easily be amended later as needed.

Julianne Davis: There was a great deal of effort that went into researching the possibilities with respect to this rule and important input by members of the industry. She feels it strikes a fair balance and addresses the needs of all parties.

**ACTION: MOTION (Thorne) Approve the clean draft of the rule as submitted.**

**VOTE: 5 Aye, 0 Nay**

**10. Proposed Order for Roger W. Stolp\* — held over to next meeting.**

**11. Request by OGA for 2<sup>nd</sup> Tier Hub Funds for the Oregon Bred Registry — held over to next meeting.**

*\*\*\* Commissioners went into private Executive Session to deliberate the proposed order for Joe Crispin \*\*\**

*\*\*\* Commissioner Metcalf had to leave the meeting at this time \*\*\**

**12. Action on Proposed Order for Joe A. Crispin**

ACTION: MOTION (Gilmour) Adopt the proposed order as submitted to revoke Mr. Crispin's his license with the opportunity to reapply no earlier than June 1, 2006.

VOTE: 4 Aye, 0 Nay

There being no further business, the meeting was adjourned.