

MEETING MINUTES

OREGON RACING COMMISSION

May 15, 2008

The Oregon Racing Commission met on Thursday, May 15, 2008 at 1:30 p.m. in Room 1A of the Portland State Office Building located at 800 NE Oregon Street, Portland, Oregon. Commissioners in attendance were Chair Kerry Johnson, Vice Chair Stan Robson, Chris Dudley, Michael Huber, DVM, and Charles Williamson.

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

1. Approval of Agenda

Chair Johnson moved item number eight to follow item number three.

2. April 17, 2008 Meeting Minutes

ACTION: MOTION (Williamson) Approve minutes as submitted.

VOTE: 4 Aye, 0 Nay, 1 Abstain

3. April 25, 2008 Special Teleconference Minutes

ACTION: MOTION (Williamson) Approve minutes as submitted.

VOTE: 4 Aye, 0 Nay, 1 Abstain

4. Summer Race Meet Officials, Take Outs and Bute & Lasix

ACTION: MOTION (Robson) Approve applications, including Crooked River Roundup and Josephine County Fair as amended.

VOTE: 5 Aye, 0 Nay

5. Subcommittee Update Reports

a. Hub Advisory Subcommittee Report

Commissioner Williamson stated that the committee held another subcommittee meeting which included the representatives from all the ADWs to discuss robotic wagering, computer assisted wagering and rebating.

He explained that no one had an issue with computer assisted wagering, but had concern with robotic wagering and the ability for the computer to calculate the wager and also place the wager without any human intervention. He continued that the sub-committee's recommendation was to have commission staff begin drafting a rule that would require the ADWs to prohibit their bettors from robotic wagering.

Commissioner Williamson stated, "With respect to rebating, every ADW, except one, felt that rebating should be allowed and that it's not a matter for state regulation to be involved. There was some concern that if we were to outlaw rebating that ADWs would pick up and leave and go to a state where rebating is allowed so that they could compete on that basis.

It's a very dangerous place we are, I think, because if we lost the ADWs, I think we lose all of horse racing in Oregon."

He further explained that there were two concerns. The first was that small bettors would feel discriminated against which might discourage them from betting. He added that there was no evidence of that happening, but something that they would keep a lookout for. The second concern was that, in an effort to compete with those offering rebates, the ADWs may have to cut the amount of source market fees that they were able to pay to the tracks. He stated, "That is the problem right now. The tracks are not making enough from the ADWs which is hurting the industry."

Commissioner Williamson stated that because of the overwhelming opinion that rebating did not require the involvement of state regulation, he felt that the commission should stay out of it for a year or two and see if the free market couldn't work it out. He explained that the sub-committee was going to continue to look at rebating and that if they did come to some sort of consensus or agreement about any kind of limitation on rebating that they would talk to the ADWs again and see what might be workable. He added that even if applications were approved today, if new rules were adopted, they would still apply to whoever was licensed.

⇒ For the record, Chair Johnson stated that she was opposed to rebating and that she anticipated that the commission would be making a statement on this issue soon.

b. Medication Subcommittee Report

Commissioner Dudley explained that the sub-committee met for the first time to work on the medication rules, OAR 462, Division 160. The committee included Executive Director Randy Evers, Dr. Stacy Katler, and Deputy Steward Mike Twiggs. After talking to the various interest groups, the committee drafted proposed medication rule changes. He stated that rules regarding anabolic steroids would also be in those proposed changes, adding that the issue of anabolic steroids was being addressed nationally.

Commissioner Dudley stated, "The working group is committed to trying to get something in place in Oregon that is consistent with what's happening in the surrounding states so if you move horses from one state to another state, you're not going to be facing different kinds of rules. We're also committed to trying to work out some kind implementation timelines because the science isn't exact, yet, in this arena and figure out a reasonable way to implement them in a state knowing that we don't know for sure the right levels or cut-offs yet. But, I think in our mind, we'll be proposing something back to the Executive Director to bring to the commission that would probably implement these changes and rules probably this fall before the next Portland Meadows race meet. In doing

that we're going to continue to keep in touch with other states that are going through this process and nationally there are model rules that were looking at so that we're consistent with what's happening in other states because it's an issue that going to get a lot of attention. There's some feeling that if the industry itself doesn't do this, someone else is going to come in and impose on us certain kinds of rules and sanctions that we may not want or be able to live with."

The subcommittee was scheduled to meet again next Tuesday.

Hub Applications: Prior to the discussion and approval of the Hub applications, Gordon Tallman, Supervisor of Account Wagering Hubs, stated that the Oregon Administrative Rules, Division 200, provided the requirements for a Hub application and that each application before the commission today met all of those requirements. He recommended approval of the applications.

6. ODS Technologies, L.P. dba TVG 2008-2009 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

The following is a transcript of this agenda item:

Nyquist:

Thank you, Madam Chair, Commissioners. For the record, Roger Nyquist on behalf of TVG, with me today is BJ Cosson. He's the Vice President of operations out at the Beaverton facility.

Just some highlights for you: The Source Market Fees that TVG has paid to the industry in Oregon in 2007 was \$653,403. That's up from \$557,340 in 2006. It's over two million dollars since we've been here. Source Market Fees paid nationally in the United States in 2007 was \$54.9 million dollars. And, in 2006, it was \$49.5 million.

Our handle tax to the State of Oregon in 2007 was \$477,971. That's up about \$50 grand from 2006. We pay that tax because we've chosen option B in that tax plan. And, this application has that as well.

Our facility budget out at the Beaverton facility looks to be about \$14 million dollars in the next year. That's money spent locally in this state employing Oregonians, paying rent and things like that.

Our television distribution in the United States is up to 30 million homes; internationally it's another 20 million homes. Recently, we had the Toyota Blue Grass Stakes. We were in 130 million homes with that event. It was a great event.

I hope you've noticed and if not, I'd call your attention to the fact that we're addressing problem gambling and potential that our customers may have with our Aware Program. We've been a leader in the industry in that regard and that's been a mainstay of what we do since we started here in Oregon.

We've done a good job, we think, in bringing new customers and new money to the industry. We like being in Oregon for the most part and welcome the opportunity to reapply to be here another year.

Johnson: Is there anyone on the commission that would like to ask these gentlemen any questions?

Robson: Do you expect the same gain this coming year?

Cosson: Actually, we do. We expect more.

Robson: Okay.

Johnson: I have a couple questions. Do you take bets from states that don't allow pari-mutuel wagers?

Nyquist: We do not.

Johnson: All of your Hub personnel is licensed with the ORC?

Nyquist: As currently required.

Johnson: Do you have segregated accounts?

Nyquist: We do.

Johnson: Do you plan to rebate or use computer robotic wagering? I thought I'd save it for last.

Nyquist: I vowed I wasn't going to bring the topic up as we came up here, but you did, Madam Chair. As our business model currently exists and as our application is before you, we don't have immediate plans to do fixed rate rebates. I would just say, however, it is a competitive market place out there and the issue of rebates and who's doing what and who benefits from that is reaching a boiling point. We've got to do what we've got to do to stay competitive in the market place. Should we change, we surely will disclose that to the commission.

Johnson: All right. Thank you. Is there a motion by one of the commissioners to approve this application?

Dudley: So, moved.

Robson: Second.

Johnson: Commissioner Dudley and Commissioner Huber? Is that who I heard? Oh, Robson.

[Laughter and miscellaneous chatter]

Johnson: All right. I got a motion and a second, is there any further discussion? All in favor: Commissioner Williamson?

Williamson: Aye.

Johnson: Commissioner Dudley?

Dudley: Aye.

Johnson: Commissioner Huber?
Huber: Aye.
Johnson: Commissioner Robson?
Robson: Aye.
Johnson: Chair votes aye. Motion is carried. Thank you.

ACTION: MOTION (Dudley) Approve application as submitted.
VOTE: 5 Aye, 0 Nay

7. XpressBet, Inc. 2008-2009 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

The following is a transcript of this agenda item:

Chabrier: Good afternoon, my name is Gene Chabrier. I'm with XpressBet. I'm the Director of Regulatory Affairs. XpressBet has, we believe, a very successful 2007. I'm not going to run through a bunch of numbers, but we are looking forward to a very prosperous 2008-2009 year.

We do have a call center in Beaverton which many of you visited recently. That has proved to be tremendously successful and continues – that operation will continue to employ several Oregonians and contribute to the local economy.

I already provided Randy with a letter with our tax option and to try and answer a few of your questions ahead of time.

We also have a partnership with Green Brier Treatment Center for the training of our staff on problem gambling issues.

Johnson: And, what was your tax plan, what did you say it was?

Chabrier: I think it's B.

Johnson: B?

Chabrier: Yes. And, I trust that you'll find the application in order. Do you have any questions?

Johnson: Are there any questions? Well, I have a couple standard questions that Kelly says I have to ask. All of your personnel is licensed by the ORC?

Chabrier: As required.

Johnson: Okay. You are not taking bets from anywhere where pari-mutuel wagering is illegal?

Chabrier: Correct.

Johnson: Correct, you're not?

Chabrier: We are not taken wagers from anywhere-

Johnson: Okay. You have your source fee agreements in place with the horsemen and the track?

Chabrier: Yes.

Johnson: Okay. Do you have segregated accounts?

Chabrier: Yes.

Johnson: Do you plan to rebate or operate CRW wagering?

Chabrier: As the regs. permit us to, we probably will move forward, if allowed.

Gablks: For both?

Chabrier: With the computer assisted wagering, yes, and for rebating, yes.

Gablks: Thank you.

Johnson: But, as it is right now there is not specifically a rule.

Chabrier: No. We are currently not doing it?

Dudley: What was that?

Chabrier: We're currently not rebating or working with any computer assisted wagering.

Dudley: Thank you.

Evers: I just want to make a comment just so it's clear. What we're approving today is the application as you see it in front of us today. If, down the road, anyone wants to amend their application to offer something like rebating, computerized robotic wagering or any other kind of changes to the application. What I've done as the Executive Director on things that are fairly simple, if it's just a staffing change, or something that's minor as the Executive Director I've given that approval. But, because of the sensitivity around the issues we're talking about rebating and computerized robotic wagering, if an amendment came in on any of these applications after they're approved, I would bring that to the commission for discussion.

Johnson: Correct and there are no material changes from their application that should occur without commission being made aware of this and acted on.

Evers: And, just to respond to that, Gordon and I have made it crystal clear because I will say this, we did have a little bit of an issue with people amending their application and then asking for approval after the fact, if you will. We have sent letters to all of the advanced deposit wagering companies and asking them if you're going to make any changes to your application, we need to approve that in advance and the ADWs have been great about that.

Johnson: We're not picking on you, you're just sitting there.

[Laughter and miscellaneous chatter]

Johnson: All right. Is there a motion to approve the renewal application for XpressBet?

Robson: So moved.

Johnson: Commissioner Robson.

Huber: I'll second.

Johnson: Commissioner Huber. Thank you. Is there any further discussion? All in favor: Commissioner Williamson?

Williamson: Aye.

Johnson: Commissioner Dudley?

Dudley: Aye.

Johnson: Commissioner Huber?

Huber: Aye.

Johnson: Commissioner Robson?

Robson: Aye.

Johnson: Chair votes aye. It is carried. Thank you.

Chabrier: Thank you very much.

ACTION: MOTION (Robson) Approve application as submitted.
VOTE: 5 Aye, 0 Nay

8. US Off-Track, LLC 2008-2009 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

The following is a transcript of this agenda item:

Hayes: Madam Chair, Commissioners, Executive Director, US Off-Track has no major changes to its operating plan or any of the other documentation other than some small changes to shareholders and so forth. We respectfully request approval for our application.

Johnson: Are there any questions for Mr. Hayes with US Off-Track? Okay. What tax plan are you using?

Hayes: B.

Johnson: Do you have a problem gambling program?

Hayes: Yes, we do.

Johnson: All your hub personnel is –

Gablks: Are you sure you're B?

Tallman: No.

Gablirks: Okay. I thought you weren't B -

Hayes: Hold on one second.

Gablirks: Okay.

Hayes: Hold on one second. Three A, I'm sorry. It's three A.

Johnson: That's why she makes me ask these questions.

Hayes: It's in the operating plan.

Johnson: You do not take bets where pari-mutuel wagering is prohibited?

Hayes: That's correct.

Johnson: Your source market fees and agreements are in place?

Hayes: The source market fee with Portland Meadows expires June 30th. We have shared, obviously, they have a copy of that agreement. I spoke to Will before the meeting and he does not see any problem with getting that renewed when the expiration comes up.

Johnson: You have segregated accounts?

Hayes: Yes, we do.

Johnson: And do you plan to operate rebating or computer robotic wagering?

Hayes: We don't have any computerized robotic wagering. With regard to rebating, there has been a promotional rewards program much like frequent flier whatever, monthly promotions, but not the type of rebating, I think, that we've talked about in groups, the subcommittee.

Johnson: Okay. Thank you. Are there any other questions?

Dudley: Madam Chair, what's PayDog?

Hayes: Just a brand name. It is a fictitious name that is used by US Off-Track in promoting their product. They have a website. It's called www.paydog.com.

Dudley: What's it do?

Hayes: It's just a brand name for the ADW.

Dudley: And, then, Greyhound Channel?

Hayes: Same thing. That actually is an older name that we're bringing back. It was one of the original names that we had used. We put it on the shelf for a couple years, used PayDog. They want to bring that out and use that as an additional brand.

Dudley: For the same process?

Hayes: Yes.

Dudley: For basically the same thing?

Hayes: Yes.

Dudley: Just under two different names?

Hayes: Yes. Same company, no one else is involved.

Dudley: Sounds like it's dog racing.

Hayes: Yes. US Off-Track is – the ownership is comprised of three major dog tracks: The Jacksonville group, the Palm Beach group, and the St. Pete Kennel Club Group.

Dudley: In terms of what goes through your hub, how much of it's dog racing; how much of it's horses?

Hayes: My understanding is that it's about 95% dogs with only about 5% horses.

Dudley: Thank you.

Johnson: Any other questions? Is there a motion to approve the renewal application for US Off-Track?

Robson: So moved.

Johnson: Commissioner Robson. Is there a second?

Williamson: Second.

Johnson: Commissioner Williamson. Any further discussion? All in favor: Commissioner Williamson?

Williamson: Aye.

Johnson: Commissioner Dudley?

Dudley: Aye.

Johnson: Commissioner Huber?

Huber: Aye.

Johnson: Commissioner Robson?

Robson: Aye.

Johnson: Chair votes aye. Thank you very much, Ben.

Hayes: Thank you.

ACTION: MOTION (Robson) Approve application as submitted.
VOTE: 5 Aye, 0 Nay

9. BetPad, Ltd. 2008-2009 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

The following is a transcript of this agenda item:

Hayes: BetPad came in front of the commission, I want to say, a couple months ago after a modification to the operating agreement to allow an affiliate site in Australia. Other than that, there's no major changes, in fact, I don't think there's any changes hardly to this application from where it was.

We respectfully ask approval for the application.

Johnson: Are there any questions regarding the renewal for BetPad from the commissioners?

BetPad is using tax plan?

Hayes: A.

Johnson: A. And, they have a problem gambling program?

Hayes: Yes, they do.

Johnson: They're licensed to do business in the State of Oregon?

Hayes: Yes, they are.

Johnson: They will not be taking bets from states where pari-mutuel wagering is not allowed?

Hayes: That is correct.

Johnson: Source fee agreements in place?

Hayes: With TrackNet, yes.

Johnson: They have segregated accounts?

Hayes: Yes.

Johnson: Do they plan to rebate or operate CRW?

Hayes: CRWs, they have none and there's no plans to do so. With regard to rebating, again, like US Off-Track, they have rewards programs, but to my knowledge they have no rebating in the context that has been discussed by the subcommittee.

Evers: Madam Chair?

Johnson: Yes?

Evers: Just for clarity, Ben, it might help the commissioners because the terms in some of the organizations are - So, with US Off-Track, you have a contract in place - source market fees with Portland Meadows, itself?

Hayes: Until June 30th.

Evers: Correct. With BetPad, you have a source market agreement with TrackNet who negotiates on behalf of Portland Meadows?

Hayes: That is correct.

Evers: So, both have source market agreements with Portland Meadows, one directly, one through TrackNet?

Hayes: That's correct, sir.

Johnson: Thank you.

Evers: You're welcome.

Johnson: Any other questions of the commissioners? Is there a motion to approve the relicense of BefPad?

Dudley: So moved.

Johnson: Commissioner Dudley. Is there a second?

Robson: Second.

[Laughter and miscellaneous chatter]

Johnson: Commissioner Robson, thank you. Any other further discussion? All in favor for approving the application for BetPad, Ltd. signify by saying aye. Commissioner Williamson?

Williamson: Aye.

Johnson: Commissioner Dudley?

Dudley: Aye.

Johnson: Commissioner Huber?

Huber: Aye.

Johnson: Commissioner Robson?

Robson: Aye.

Johnson: Chair votes aye. Thank you very much.

Hayes: Thank you, Madam Chair.

ACTION: MOTION (Dudley) Approve application as submitted.

VOTE: 5 Aye, 0 Nay

10. Confirmation of Next Commission Meeting – June 19, 2008

All commissioners present indicated that they would be present at the next meeting.

11. Update on Greyhound Adoption Kennel

Tom Weaver, Presiding State Greyhound Judge, Dick Gage, President Oregon Greyhound Association, and Ron Ruthruff, Bookkeeper, Greyhound Adoption Kennel, were present to answer questions. Information and discussions included the following:

Currently, 47 greyhounds were in the kennel; 55 were adopted as of May 13, 2008; and thirteen greyhounds were on waiting list, but were not yet in the State of Oregon.

In 2007, the kennel adopted out 108 greyhounds and after conducting a survey with the racing kennels, greyhound breeders, and the greyhound farms in the State of Oregon, an estimated 126 greyhounds would enter the adoption kennel in the next 12 months.

⇒ In response to Commissioner Williamson's questions, Mr. Gage explained that in 2005, the commission requested a four year exit plan which will extend to the end of June 2009. He stated that the cut-off date for eligible dogs was May 31, 2005. Any Oregon dog whelped after that date would not be eligible for the adoption kennel. Mr. Gage anticipated that there would be approximately 87 dogs enter the adoption kennel in the last six months of the program, but hoped that by next June, all of the eligible dogs would have been processed through the kennel.

12. Best Practices Performance Measurement

Chair Johnson announced the appointment of a subcommittee that will address the Best Practice Performance Measurement. The committee, chaired by Commissioner Dudley included Commissioner Robson and Executive Director Evers.

13. Public Comment

None.

There being no further business, the meeting was adjourned.