



MINUTES

Oregon Racing Commission February 17, 2011

Meeting Detail

The Oregon Racing Commission (ORC) met on Thursday, February 17, 2011 in Room 1B of the Portland State Office Building located at 800 NE Oregon Street, Portland, Oregon.

In Attendance

Commissioners: Vice-Chairman Christopher Dudley (presiding), Commissioner Michael Huber, DVM, (by telephone), Commissioner Charles Williamson and Commissioner Kerry Johnson

Staff: Randy Evers (Executive Director) and Kelly Gabliks (Assistant Attorney General)

Absent

Commission Chairman Stan Robson

Call to Order

Commission Vice-Chairman Christopher Dudley called the meeting to order at 1:30 p.m.

AGENDA ITEMS

Approvals:

February 17, 2011 Meeting Agenda

Action: Motion to approve the agenda as submitted with the addition of the Oregon Horsemen's Benevolence and Protective Association (OHBPBA) to new business

Moved by: Commissioner Williamson

Seconded: Commissioner Huber

Vote: 4 Ayes, 0 Nays

January 20, 2011 Meeting Minutes

Action: Motion to approve the January 20, 2011 Meeting Minutes as submitted

Moved by: Commissioner Williamson

Seconded: Commissioner Johnson

Vote: 4 Ayes, 0 Nays

Commission Vice-Chairman Christopher Dudley requested that discussion be added to the March agenda regarding a possible change to how detailed the minutes need to be.

Old Business:

Sub-Committee Update Reports:

- a. Advanced Deposit Wagering (ADW) and Multi-jurisdictional Hubs
Commissioner Johnson stated that she had nothing new to report
- b. Best Practices
Commission Vice-Chairman Dudley stated that he had nothing new to report
- c. Budget and Hub Funds
Commissioner Johnson stated that the hub fund requests are coming in at this time. The sub-committee will be meeting prior to next month's Commission meeting to review each request with the expectation of submitting them to the Commissioners for approval in April.
- d. Medication and Horse Welfare
Commission Vice-Chairman Dudley stated that he chaired this meeting in Commissioner Huber's absence. The sub-committee discussed four topics:
 - 1) Catastrophic injuries for this meet currently are significantly lower than in past meets.
 - 2) The sub-committee is cautioning the Commissioners with regard to these injury numbers. While The ORC is very happy with these numbers, the Commissioners need to be aware that this could be cyclical.
 - 3) There are some proposed medication changes coming from the national level that some states are considering. The Veterinarian's Organization is looking at some changes in job descriptions and clarification of duties for track veterinarians. These changes will be recommended for all states. This will be discussed in future sub-committee meetings when the ORC has more direction.
 - 4) Implementing pre-race exams at the summer race meets. Further details will be discussed at the next sub-committee meeting scheduled for May 19, 2011.
- e. Executive Director's Report
Executive Director Randy Evers reported that both ORC Senate Bills were scheduled for Thursday February 10, 2011. Senate Bill #148 will allow the ORC to require licensing of Totalizator companies and ORC Senate Bill #149 will delegate authority to the ORC to set licensing fees by rule. Unfortunately, at the last minute, they were canceled and postponed until a later date. It is still the plan that ORC Hub Manager Audrey Kaufman will attend the meeting with Director Evers for Senate Bill #148 and the Stewards,

Martin Hamilton (Presiding Steward) and Mike Twiggs (Deputy Steward) will attend for Senate Bill #149 to receive some experience at testifying in front of the Legislature.

Director Evers reported that he and Nancy Artmann, ORC Program and Administrative Coordinator presented the 2011-2013 Racing Commission budget hearing on Tuesday, February 15, 2011 before a joint Ways and Means sub-committee. The presentation lasted about one hour and ten minutes. There was a lot of interest in the Racing Commission from the legislators. Ms. Artmann did a very good job walking through the ORC's new and improved mission, goals and objectives document. The committee really liked and appreciated the concise, clear, easy to read, one page document that identifies what is really important to the ORC.

The sub-committee was very complimentary on the ORC's progress on its performance measures. There are four performance measures. Two years ago, the ORC was meeting only one of the four. Currently, we are meeting three. Horse welfare, which includes catastrophic injuries, has a goal of 1.5% per one thousand starters. At the time of this report last period we were around 2.0% per one thousand starters. For this race meet, that number is approaching 1.5%. The sub-committee was very happy about our continued progress.

Director Evers stated that he walked the committee through several topics:

- The ORC revenue projections for 2011-2013 have dropped. Director Evers stated that this is a reflection of betting being down across the nation and in Oregon.
- The ORC is called a 100% "other fund" agency. This means that the ORC earns revenue to pay for its own expenditures.
- In the ORC agency's budget request, with revenues down, the ORC has reduced one and one-quarter of its employment positions. Those positions include the entire licensing position and one-quarter of a full-time equivalent (FTE) position in the test barn. The licensing position is now being covered by the investigators and by Jill Miller who also works the tote room.

The ORC also reduced the Attorney General (AG) budget, which the committee was very interested in as a lot of agencies are asking for increases to their AG budget. These are some of the things that set a productive stage for conversation with the committee.

In addition to the ORC's request budget there is the Governor's balanced budget. The Governor, by law, is required to submit a balanced budget that will eventually meet the May forecast. In the Governor's balanced budget the ORC was asked to take an additional 5.5% cut to those already made. Some of that may be made up with furlough days over the next biennium and some may be made up with savings. There are a variety of ways to make adjustments. Employee benefits may be an area that will be affected by the cuts. If the ORC has to take even further cuts, they will have to look at possible reductions in the investigator's department and the ORC's administrative office.

Director Evers reported that the next two reduction options are the “Photo Finish” that the ORC pays for at Portland Meadows. This costs the ORC about \$60,000.00 per year (\$120,000.00 per biennium). If the ORC were no longer able to pay this expense the cost would shift to the race track. Director Evers shared with the Legislators that this would be difficult for the track to absorb. The second reduction option would be a further cut to Hub funds which go to purses, summer race meets, Portland Meadows, awards to the Oregon Quarter Horse Association, Oregon Thoroughbred Owners and Breeders Association and the OHBPA. Directors Evers stated that the feedback was strong from the committee that they do not want to cut that deep. Director Evers stated that the sub-committee does understand how hurtful that would be to racing in Oregon. Director Evers stated that he believed, although nothing has been decided as yet, that the last two reduction items were most likely off the table. There is a high likelihood that the ORC will be asked to take the 5.5% cut. If so, he will work with the budget sub-committee to create a way that will cause the least amount of pain and impact to the Commission as possible.

Director Evers reported that at the conclusion of the budget presentation there was a nearly twenty minute conversation among the Legislators in support of racing and the summer race meets. They really love the summer race meets and talked about what could be done to bring racing back to Salem, Oregon. Overall the meeting went very well.

Summer Commission Meeting in La Grande – Time and Location:

Directors Evers stated after researching the options, the only place available with the amenities needed to hold the Commission meeting in June is America’s Best Value Inn Hotel in La Grande. The meeting will be at 10:00 a.m. in the Hotel’s conference room.

Final Approval of Summer Race Meets:

Commission Vice-Chairman Dudley stated that the ORC received all but two of the requests for additional information regarding what each summer race meet will do to improve the safety and security for horses and humans at their meet.

Action: Motion to remove conditional approval and give full approval of the race dates for Crooked River Roundup, Eastern Oregon Livestock Show and Tillamook County Fair.

Moved by: Commissioner Williamson

Seconded by: Commissioner Johnson

Vote: 4 Ayes, 0 nays

Commissioner Huber stated that the managers of these Fairs did a great job detailing the additional information requested and thanked them for rising to the call for more detailed information.

Commissioner Johnson requested that Director Evers contact Josephine County and Harney County to encourage them to immediately submit the additional information requested as it will be nearly impossible to include them in hub fund request allocations without their race dates fully approved.

Portland Meadows Report:

Will Alempijevic, General Manager of Portland Meadows (PM), was present to give the PM report. Mr. Alempijevic stated that since the last Commission meeting, PM hosted their new signature race "The Portland Meadows Oaks." It is a race for three-year old fillies and carried an \$80,000.00 purse. It was the largest individual purse since 1989 when the company Coors sponsored the "Portland Mile" carried a \$100,000.00 purse. The inaugural day was a success, but going forward, it will be very difficult to continue to sponsor and spend the money marketing this event. PM itself contributed \$50,000.00 to the \$80,000.00 purse. In the future, it will be difficult to offer this event under the same terms. While PM was thrilled with the results, essentially it was a financial loss. The facility was full and that was very exciting to know that an event like this would bring that many people out to see live racing. PM is on track handle for the day was \$83,820.00.

The day was also well received on the simulcasting side. California took three of PM's races that day. PM had almost \$334,000.00 in export sales which is a lot more than PM would expect on a Saturday when there are other major tracks running. This was the largest on track handle of record for PM. On Kentucky Derby Day they had a full facility as well. However, the on track handle was only \$69,000.00 that day which is significantly less than on the PM Oaks day.

Since the beginning of the meet from October 4, 2010 thru February 13, 2011, PM has run 49 race days with 459 races that had 3,576 starters (which is an average of 7.79 runners per race). This is a similar number to last year's average of 7.72 per race. PM's total purses are \$2.27 million this season versus \$2.24 million the previous season for an average purse, per day, of \$46,500.00 this year versus \$43,000.00 the previous season.

PM's average on track handle this year per day is \$24,868.00 which is similar to last year's daily handle of \$24,794.00. The off track betting sites' (OTB) numbers on Portland Meadows races are \$7,300.00 for this meet versus \$9,100.00 for the last meet. That number is down approximately 19.64%. PM's in-state number is \$32,210.00 for this meet versus \$33,931.00 for the previous meet, which is a drop of 5%.

PM's export sales which have been a strong point have stopped their phenomenal growth. For this meet PM has earned, to date, \$32 million dollars in export sales versus \$38 million the previous year. PM's average export sales, per day, this meet are \$655,000.00 which is an 11.5% decrease from last year's daily sales of \$740,000.00.

Mr. Alempijevic reported that several tracks across the nation have changed their race days to the same days that Portland Meadows runs. This has created competition for Portland Meadows. This is why, in part, the export sale numbers are down. With these other tracks having fuller fields, customers are turning their attention to them. PM's average daily handle is \$687,000.00 this year versus \$774,000.00 the previous year. With regard to wagering in the State of Oregon (not just on Portland Meadows but the Portland Meadows network including the OTB's) there has been \$13.171 million wagered this period versus \$14.77 million for the same period last year, which is a drop of 10.83%.

Mr. Alempijevic stated that the Commissioners at the last meeting requested PM to provide an estimate of the number of races PM will be able to run in order to conclude

racing in March. PM has reviewed all the facts. If everything goes perfectly, PM would be able to finish the meet with running 660-672 races. Mr. Alempijevic stated that this includes adding an eleventh race on Mondays and Tuesdays for the remainder of the race meet.

Mr. Alempijevic stated that he was surprised to see the letter that the OHBPA has drafted petitioning the Commission for approval of 690 races. He wasn't aware of it prior to the meeting.

Oregon Horsemen's Benevolent & Protective Association, Inc. (OHBPA):

Dick Cartney (President) and Ron Sutton (Vice President) of the OHBPA were present on behalf of the horsemen to petition the ORC to run fewer races than required by statute. Mr. Cartney stated that it was very important to the Association that the integrity of the statute be upheld. The statute does allow for the horsemen to request running fewer races. At the January ORC meeting, Mr. Alempijevic stated that Portland Meadows would be unable to run the 720 races required by the statute, but thought he would be able to run 690 races. The OHBPA stated they would accept running 690 races and requested that the ORC approve the reduction of races from 720 to 690.

Action: Motion to approve the OHBPA's petition to reduce the number of races that will be run at Portland Meadows from 720 to 690 for the 2010-2011 race meet.

Moved by: Commissioner Williamson

Seconded by: Commissioner Johnson

Vote: 4 Ayes, 0 nays

Mr. Sutton shared with the Commissioners that the OHBPA is providing a new training event for their horsemen. The OHBPA will offer an equine nutritional seminar on March 15, 2011 at 6:00pm. The intent is that this will be the beginning of a variety of periodic educational events for the horsemen.

New Business:

Nathan Chaves – Licensing request:

Commission Vice-Chairman Dudley asked Director Evers to provide background on Mr. Chaves' request. Director Evers stated that the reason Mr. Chaves is before the Commission is because his license was revoked by the Racing Commission on April 17, 2008. The revocation was for a two year minimum. Mr. Chaves has applied for licensure through the ORC licensing department. Under statute, because the ORC itself revoked Mr. Chaves license, the Stewards do not have the authority to grant reinstatement. The Board of Stewards has recommended to the Commission that Mr. Chaves be granted a license in any capacity except riding (pony person, jockey, exercise rider etc.).

Commissioner Huber requested to hear testimony from Mr. Chaves.

Mr. Chaves stated that he was sorry for the choices that led to the revocation of his license and that making those kinds of decisions are in his past. Mr. Chaves thanked the Commissioners for taking time to consider his request for reinstatement. Mr. Chaves stated that he would appreciate another chance at the privilege of being granted an ORC license.

Action: Motion to grant Mr. Nathan Chaves approval for an ORC license in any capacity **except** riding.

Moved by: Commissioner Williamson

Seconded by: Commissioner Johnson

Vote: 4 Ayes, 0 nays

Information, Materials and Approvals:

None

Contested Cases:

Gibson- Final Order:

Assistant Attorney General Kelly Gabliks reported that Mr. Gibson had applied for licensure as an assistant starter and valet. Mr. Gibson failed to disclose his prior criminal history on his application form.

When the ORC investigators conducted the criminal background check it was determined that Mr. Gibson had been arrested in 2009 for possession of marijuana and drug paraphernalia. The marijuana possession charge was dismissed and he was ultimately found guilty of just the paraphernalia charge. That conviction later was dismissed because Mr. Gibson completed a drug program.

The ORC's license application states very clearly that if the applicant has any arrests or convictions that they must state them. By answering "no" to this question on the application Mr. Gibson falsified his application.

Upon further research, the ORC investigators discovered that Mr. Gibson had been arrested for felony burglary in 2010 shortly before he applied for licensing. The resolution of that case is still pending. Assistant Attorney General Gabliks stated that she confirmed with the District Attorney that the felony burglary case will not be dismissed. It will be heard by a jury and, even if there is no conviction, there was still an arrest.

By stating "no" on the application when asked if he had arrests, Mr. Gibson clearly falsified his application. Mr. Gibson requested a hearing. He stated that he wants employment at Portland Meadows to be his livelihood, which requires ORC licensing.

Mr. Gibson is a young gentlemen and he stated that he didn't understand the question on the application. Assistant Attorney General Gabliks stated that the question on the application is very clear. The investigators are there to help if there is any confusion regarding any of the questions. They are not trying to trick anyone with the questions. If an applicant has a question the investigators will clarify it. They are there to help.

The hearing was arranged for January 5, 2011. All parties were prepared, everything went out, and Mr. Gibson did not appear. What the Commission had before them was a proposed draft of final order by default that would deny Mr. Gibson a license.

Action: Motion to approve the final order of default proposed by the Assistant Attorney General Kelly Gabliks that would deny a license to Mr. Gibson with the additional provision that the applicant may not apply for licensing for the period of one year.

Moved by: Commissioner Williamson

Seconded by: Commissioner Huber
Vote: 3 Ayes - Commissioners Huber, Williamson and Commission Vice-Chairman
Dudley

1 Nay - Commissioner Johnson

Other Business As May Properly Come Before the Commission:

None

Public Comment:

None

Confirmation of the Next Commission Meeting:

Thursday, March 17, 2011, Room 1A of the Portland State Office Building at 1:30 pm.

There being no further business, the meeting was adjourned at 3:00 p.m.