



MINUTES

Oregon Racing Commission January 23, 2015

Meeting Detail

The Oregon Racing Commission (ORC) met on Friday, January 23, 2015, in Room 1B of the Portland State Office Building (PSOB) located at 800 NE Oregon Street, Portland, Oregon

Call to Order

Commission Vice-Chair, Charles Williamson, called the meeting to order at 1:30 pm

In Attendance

Commissioners: Vice-Chair Charlie Williamson, Commissioner Jan Palmer, DVM, Commissioner Michael Huber, DVM and Commissioner Angel Baez

Staff

Jack McGrail, Executive Director, and Raul Ramirez, Assistant Attorney General

Excused

Chair Chris Dudley

AGENDA ITEMS

Approvals:

January 23, 2015, Meeting Agenda

Action: Motion to approve the agenda as submitted.

Moved by: Commissioner Michael Huber, DVM

Seconded: Commissioner Angel Baez

Vote: Vice-Chair Charlie Williamson took roll and the results were unanimous with 4 Ayes, 0 Nays

November 17, 2014 Meeting Minutes

Action: Motion to approve the October 16, 2014, Commission Meeting Minutes as submitted.

Moved by: Commissioner Michael Huber, DVM

Seconded: Commissioner Angel Baez

Vote: Vice-Chair Charlie Williamson took roll and the results were unanimous with 4 Ayes, 0 Nays

Old Business:

Sub-Committee Update Reports:

a. Advanced Deposit Wagering (ADW) and Multi-Jurisdictional Hubs

Connie Winn, new ADW Hub supervisor, reported that in the past 2 months, she had been orienting herself and learning licensees, reviewing audit processes and procedures, refining them and creating new auditing tools. Especially important to licensees are security and IT concerns in light of recent breaches. To date she has conducted file audits of all ADWs and one full on-site audit.

Commissioner Huber asked where the on-site audit was. Ms. Winn stated that it was completed for the Racing Channel.

b. Best Practices

No Report

c. Budget and Hub Funds

No Report

d. Medication and Horse Welfare

Commissioner Huber reported that the sub-committee met this morning. The group discussed the model rules proposed by the Racing Medication Testing Consortium (RMTC). They reviewed information from ORC state Veterinarian, Dr. Stacy Katler, DVM regarding possible recommended withdrawal times if the rules are adopted and possible changes to the current schedule being used by horsemen. The meeting finished with open discussion about the use of Clenbuterol and the potential for a zero tolerance policy.

e. Executive Director's Report

Executive Director Jack McGrail stated that Chair Dudley and Commissioner Palmer attended the Oregon Fairs Association Committee meeting held Jan. 10 in Salem. Emphasized was that Racing Commission staff would be on site earlier than in the past to ensure the track, security and test barn are reviewed in advance of the first day of racing to ensure the meet proceeds smoothly. The ORC provides oversight and advice that is not overreaching, but rather points the many volunteers involved at the meets in the right direction. The ORC provides a supervisory role to coordinate all those facets.

Director McGrail stated that Eastern Oregon Livestock Show in Union and Southern Oregon Horse Racing Association (SOHRA) in Grants Pass have submitted overlapping dates. He stated that it is not possible to run the two meets at the same time, so some compromise or accommodation would have to be reached. The dates in question are June 13 and 14.

Regarding ADW, Director McGrail reported that Connie Winn, in addition to refining the audit and compliance process to better regulate and service licensees, is a member of the Information Systems Audit & Control Association, which certifies information systems auditors. This provides ORC ADW licensees the ability to work with vendors who are looking to fund bettors the audit process gravitas that has become necessary. ADW companies are dominated by online wagering. The need to resolve IT issues quickly has become very important.

Director McGrail stated that both he and Ms. Winn attended the Race Track Industry Program (RTIP) Symposium in Tucson in December. The common theme was technology: licensing, compliance, account funding and security. Audits will help ADW licensees achieve maximum productivity.

Director McGrail stated that the safety record currently for the 2014-2015 Portland Meadows race meet has been outstanding. He stated this a testament that speaks for itself on behalf of horsemen, race track and staff. The switch from Wednesdays to Tuesdays has produced positive results, including Dec. 9 when the handle was almost \$900,000.00. Racing was cancelled Dec. 30 due to frigid conditions and will be made up Feb. 9.

Director McGrail reported that the ORC's budget presentation before the Ways and Means sub-committee in Salem is scheduled for Feb. 9.

Like most of the country, Oregon has experienced a downward trend in handle. In calendar year 2014, it went down \$26,000 or \$27,000 from 2013 numbers or roughly a 10 percent decline.

f. Future of Racing in Oregon Group (FROG) update

Commissioner Palmer stated that the group held the monthly meeting at the same location of the Association of Fairs meeting. She stated that Director McGrail covered the information in his report and there was nothing more to add.

g. Portland Meadows Report

Will Alempijevic, General Manager of Portland Meadows, gave a report on live racing and wagering. He stated that the EquiBase data shows that \$10.55 billion was wagered in 2014 vs. \$10.86 billion in 2013, a drop of 3 percent nationwide. The Portland Meadows (PM) network was down 9.29 percent year over year. PM processed \$27.5 million in wagers in 2014 vs. \$30.3 million in 2013. Factors included closing one off-track betting site (OTBs) that opened in early 2013; fewer live race days; continuing declines in OTB numbers. Mr. Alempijevic noted that in Oregon OTBs are small and have a hard time growing. PM is evaluating ways to increase OTB sites and make existing sites more viable.

Mr. Alempijevic stated that this year, PM has run 28 race days vs. 46 race days by this time last year. The reduction is the result of less revenue, less purse money available and working with the industry to offer a minimum purse of \$4,500. He stated that average field size has been 7.82 runners per race this year vs. 7.53 last year. The average daily total paid in purses this year is \$55,782 vs. \$56,860 last year. Despite national and state trends, the handle on PM races is up across the board. Live on-track wagers average \$36,108 vs. \$34,600 for the previous meet. He stated that the OTB network is processing on average \$6,100 in daily wagers vs. \$5,200 last year. The total in-state numbers are

\$42,200 this year vs. \$39,800 last year which is an increase of 6 percent. Export sales have been stronger, averaging \$458,091.00, an increase of 8.4 percent over last year's \$422,320.00. Numbers would have been significantly worse had PM not shifted Wednesday racing to Tuesday.

Mr. Alempijevic added that the projected reduction in ORC revenues of \$28,000, at a 20 percent takeout rate, translates into \$560,000 to the racing industry. It's a significant and serious matter. Instant Racing, looking at the OTB network and looking at the facility with decent purses, a race meet horsemen and women will support and a decent barn area will help. But losing \$560,000 in revenue is tough.

Oregon Championship Day in December was a success with a great turnout. The 47th running of the Portland Mile is Sunday, February 8. There has been a lot of advertising: print, internet, radio and TV. There are only 7 horses entered in the race, less than PM would like. The Oregon Derby is the last big event day. There is no racing scheduled for February 1st because PM didn't want to compete with the Super Bowl.

h. Discussion and Possible Adoption of Proposed Rule for Instant Racing:

Discussion: Vice-Chair Charles Williamson stated that he served as the hearing officer for both hearings on proposed rule OAR 462-200-0700. Testimony in favor was received from Randy Evers, Lynnelle Smith and Dave Nelson, representing their organizations, and Mike Dewey on behalf of Portland Meadows. Also submitting testimony were Mr. Scott Mickelson of the Coquille tribe, Mr. Craig Dorsay from the Siletz tribe, Mr. Lee Shannon of the Klamath tribe, Mr. C. Robert Steringer from the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians, Mr. Scott Crowell from the Coquille Gaming Commission and Mr. Gary George from the Confederated Tribes of the Umatilla. No testimony was received from the Grande Ronde.

Vice-Chair Williamson recommended that the Commission adopt the rules. He reported that most of the opposition had been to the statute, not to the rule specifically. He stated that the Opposition is largely based on fear. The collective concern of the tribes is that additional Class A racetracks, offering Instant Racing, could be built near their casinos and this would compete with wagering dollars. Vice-Chair Williamson asked Executive Director McGrail whether that was likely.

Director McGrail stated that the statute specifically provided that, in order to conduct Instant Racing, a Class A license is required. In Ohio, a small, \$250 million racetrack was built, and it was built because it had a casino in it. In Oregon, there are no casinos in racetracks. He noted that the likelihood of someone spending that kind of money to acquire hundreds of acres, build stabling barns, race track, facilities and grandstands, utilities, security, etc., defies logic.

Director McGrail reported that the other repeated concern was regarding the location of terminals. The statute dictates that the terminals are to be placed on the premises of the Class "A" licensee. The statute is very clear that they cannot be placed in OTB facilities.

The Lottery stated that as long as the terminals placed at Portland Meadows, they do not have a problem instant racing.

Director McGrail reiterated that there should not be any concern over someone building a racetrack in Oregon.

Vice-Chair Williamson raised the question, if someone were to build a track, what would our attitude be?"

Director McGrail responded that first the track itself would have to meet criteria set by the ORC for a Class "A" facility: They would be required to apply for 720 races per year, they would have to build a one-mile oval track, patron's facilities and barn facilities. The ability to conduct Instant Racing is separate from building a racetrack, and the Commission is not required to give Instant Racing to every Class A licensee.

Vice-Chair Williamson noted that racetracks have been closing in other areas of the country and the odds of someone investing \$100 million in a new racetrack in Oregon were zero. Regarding the opponents concerns that the rule would turn the track into a casino, Williamson noted that the track already was primarily a place where bets were placed via pari-mutuel wagering. The Legislature has designated the machines be pari-mutuel and has determined what constitutes a casino. It is the Legislature that has authorized this to happen and the ORC has been charged with implementing statute.

Action: Motion to adopt proposed rule for Instant Racing 1-2-3 with Pick N, OAR 462-200-0700

Moved by: Vice-Chair Williamson

Seconded: Commissioner Huber

Vote: Role call, 4 Ayes, 0 Nays

New Business:

Oregon Quarter Horse Racing Association:

Dave Nelson, a member of the Oregon Quarter Horse Racing Association (OQHRA), accompanied by Rod Lowe, board member of the OQHRA, presented a letter from the OQHRA board of directions unanimously requesting that the ORC ban Clenbuterol, Mexican Clenbuterol, Albuterol and similar beta-agonists in Oregon Quarter Horse racing. The rule, which would apply only to Quarter Horse racing, would establish a zero tolerance for Clenbuterol. The rule would be enforced through hair testing, in addition to urine and blood tests and would be effective at the start of the 2015-16 meet at Portland Meadows. Mr. Nelson stated that these are performance-enhancing drugs with an anabolic effect in horses. He noted that a 30-day withdrawal for Clenbuterol established by the ORC, as well as other states, has failed to curb abuse of the substance. These substances do not test in blood and urine 4 to 7 days after administration, but the anabolic effect extends beyond that.

The OQHRA letter was accompanied by a multi-tab report, followed by a slide presentation by Dr. Morrie Craig, DVM, a toxicologist and head of drug testing on the Iditarod sled dog race. Dr. Craig gave a report via telephone on detection and drug use in sporting animals.

Commissioner Huber noted that Clenbuterol was useful for treating respiratory problems and asked Dr. Craig about the accuracy of checking hair growth to determine the presence of Clenbuterol. Dr. Craig replied that the hair-length test was still being worked out, because growth rates vary depending on factors such as diet. Testing labs take the hair off at, approximately 5mm a week, they take a measurement equal to several weeks, test it and if they confirm the presence of Clenbuterol, call it a positive.

Commissioner Huber asked Mr. Nelson how the American Quarter Horse Association (AQHA), which has taken a zero tolerance stand by 2016 on Clenbuterol, would get results. Would racing commissions do the testing? How will AQHA ensure the identities of animals being tested? Nelson stated that he thought it would be based on individual state testing of animals, but a lot of questions had yet to be discussed, including the cost of litigation of contested penalties. There will be more discussion on March 5th at the AQHA convention and racing committee meeting.

Commissioner Huber asked if racing commissions continue to enforce at current levels, how will AQHA enforce this policy? Is AQHA prepared to do its own testing? Nelson replied he thought AQHA is prepared to pursue in order to clean up racing and to maintain confidence of the wagering public.

Commissioner Huber stated that what is needed is a way to accurately quantitate, to maintain therapeutic uses of the drug while preventing its abuse for performance enhancement.

Vice-Chair Williamson suggested referring the issue to the Medication and Horse Welfare Committee. Commissioner Huber stated that the committee would be happy to address it.

Commissioner Palmer asked why this was an issue only in Quarter Horses and if it was possible to have different rules for different breeds. Dr. Craig said 95 percent of the problem is in Quarter Horses. Commissioner Huber asked Will Alempijevic about his parent company the Stronach Group's policy on medication at its tracks. Mr. Alempijevic responded that discussion at the corporate level had focused on working with states to adopt uniform rules and going beyond that, to ban all race-day medications. Mr. Alempijevic stated that he believes PM is the only Stronach track with Quarter Horse racing.

Randy Evers, Executive Director of the Oregon Horsemen's Benevolent and Protective Association (HBPA), said that the group's board of directors had discussed this issue at the request of the Quarter Horse group. Noting that a lot of Thoroughbreds on the backside contract respiratory issues, the OHBPA is concerned that therapeutic uses of Albuterol, Clenbuterol and Zilpaterol should not be banned. He further noted that the Association of Racing Commissioners International (ARCI), of which the ORC is a member, had recently recommended a 14-day withdrawal time, rather than a ban, on Clenbuterol. Mr. Evers cited a recent study in the Horseman's Journal that found Clenbuterol to hurt performance. Finally, he stated that the OHBPA was concerned about whether it was wise strategically to have separate medication rules for different breeds. He summed up by stating that the OHBPA wanted to remain neutral and not take a position until certain questions had been worked out with the medication committee.

Vice-Chair Williamson said that the Commission would not usurp the medication committee.

Discussion and Possible Modification of ORC Monthly Meeting Schedule:

Executive Director McGrail stated that there are some months the Commission does not need to meet, but it is difficult to tell in advance which ones they are. He suggested that changes be made on an ad hoc basis, rather than modifying the approved schedule too far in advance.

Discussion and Possible Approval of Summer Fair Race Dates:

Executive Director McGrail suggested tabling the matter, unless the Commission wanted to approve three of the meets. Prineville has not formally submitted its dates, but said it plans to run July 8-11.

Vice-Chair Williamson asked if anyone was present from any of the fairs. Rod Lowe, Director of the Southern Oregon Horse Racing Association (SOHRA) of Grants Pass stated that he was present.

Director McGrail summarized the conflict: The Eastern Oregon Livestock Show (EOLS) has requested June 12-14 and SOHRA has requested June 13-14, 20-21, 27-28. Dates in conflict are June 12 and 13. McGrail said he had discussed with Nate Jacobs at EOLS about moving the race meet back to June 5-7, but Mr. Jacobs said schedules for that community's rodeo and 4-H shows made those dates impossible. Director McGrail stated that if Prineville moved back a week, SOHRA could continue past its July 5 finish date, and Prineville could go the next week.

Mr. Lowe reported that he had discussed the conflict with Mr. Jacobs of EOLS, who was steadfast in not moving that group's race dates. Mr. Lowe stated that Mr. Jacobs conveyed to him that EOLS has always run the first full week of June, and the full week begins on Sunday. Mr. Lowe stated that SOHRA has put in for 9 days, so its meet is caught in the middle between EOLS and Crooked River Round-Up (CRRU) Prineville. No one is moving and he cannot move, being in the middle. SOHRA wants its full 9 days. He proposed that if EOLS does not want a race meet, SOHRA would pick up two of those days, if the Commission approved, adding June 6 and 7. Mr. Lowe said the only other option was for the Commission to take two days from his meet, because he had nowhere to move in either direction.

Randy Evers, Executive Director of the OHBPA offered historical perspective. He noted the same issue came up five years ago. The EOLS race meet is tied to when school gets out, the fair and the 4-H auction. In certain years, if races ran the first week of June, participation would be low. Mr. Evers facilitated a series of meetings among Nate Jacobs of EOLS, Doug Smith of Prineville and Jackie McBee of Grants Pass that resulted in an agreement that EOLS would get preference and be able to run the weekend that meets the school schedule. Grants Pass agreed at the time, saying it wanted the next four weekends including July 4, and Prineville agreed to follow Grants Pass. Mr. Evers noted that Mr. Smith was concerned that it would hurt his meet's handle, but the first year, the handle was the best it had ever been. Mr. Evers added that EOLS was not being stubborn but was trying to ensure a successful event, and with a small population, the community needed to tie the fair, rodeo and races together.

Vice-Chair Williamson suggested tabling the matter until the Executive Director could negotiate with the meet leaders.

Mr. Lowe expressed concerns about the matter lingering too long, noting his meet was starting on advertising, posters, etc.

Vice-Chair Williamson noted that the next Commission meeting was Feb. 19. Mr. Lowe expressed that every day was too long. Vice-Chair Williamson suggested a special phone meeting once resolution was reached. He noted that the Commission could approve dates for the Tillamook and Harney county fairs today.

Commissioner Huber suggested instead that Director McGrail be given two weeks to try to come up with a solution, and vote following that.

Action: Motion to direct Executive Director McGrail to try to work out an agreement among the three meets and make a recommendation to the Commission, then hold a special telephone meeting two weeks from Jan. 23, 2015.

Motion by: Commissioner Huber, DVM

Seconded: Commissioner Baez

Clarification: Vice-Chair Williamson clarified that the Commission was tabling three meets – EOLS, SOHRA and CRRU.

Vote: 4 Ayes, 0 Nays Unanimously approved

Mr. Lowe added if the Commission pursues zero tolerance for Clenbuterol that SOHRA would be interested in running a test case for Clenbuterol at its first major futurity for Quarter Horses. The futurity would be the Firecracker Futurity and is in advance of the Portland Meadows meet.

Action: Motion to approve Tillamook County Fair application Form “A” for race dates of August 5-7 2015.

Motion by: Commissioner Huber, DVM

Seconded: Commissioner Baez

Vote: 4 Ayes, 0 Nays Unanimously approved

Action: Motion to approve Harney County Fair application Form “A” for race dates of September 11-13 2015.

Motion by: Commissioner Huber, DVM

Seconded: Commissioner Baez

Vote: 4 Ayes, 0 Nays Unanimously approved

Information, Materials and Approvals:

None

Contested Cases:

None

Other Business As May Properly Come Before the Commission:

None

Public Comment:

Ron Sutton, president of the OHBPA, said his group would be willing to help facilitate an agreement among the fair meets.

Dave Nelson asked about the time of the ORC budget hearing. Director McGrail stated that it was at 3:00 p.m.

Confirmation of the Next Commission Meeting:

The next ORC meeting will be Thursday, February 19, 2015, at 1:30 p.m. in Room 1A of the Portland State Office Building located at 800 NE Oregon Street, Portland, OR 97232

Adjournment:

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

Moved by: Commissioner Huber, DVM

Seconded: Commissioner Baez

Vote: Vice-Chair Charlie Williamson took roll and the results were unanimous with 4 Ayes, 0 Nays