



MINUTES

Oregon Racing Commission March 19, 2015

Meeting Detail

The Oregon Racing Commission (ORC) met on Thursday, March 19, 2015, in Room 1A of the Portland State Office Building (PSOB), 800 N.E. Oregon St., Portland, Oregon.

Call to Order

Commission Chair Chris Dudley called the meeting to order at 1:30 p.m.

In Attendance

Commissioners: Chair Chris Dudley, 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

AGENDA ITEMS

Approvals:

March 19, 2015, Meeting Agenda

Action: Motion to approve the agenda as submitted.

Moved by: Vice-Chair Charlie Williamson

Seconded: Commissioner Angel Baez

Vote: Chair Chris Dudley took roll and the results were unanimous with 5 Ayes, 0 Nays

February 19, 2015, Meeting Minutes

Action: Motion to approve the February 19, 2015, Commission Meeting Minutes as submitted.

Moved by: Vice-Chair Charlie Williamson

Seconded: Commissioner Angel Baez

Vote: Chair Chris Dudley took roll and the results were unanimous with 5 Ayes, 0 Nays

Old Business:

Sub-Committee Update Reports:

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

Vice-Chair Williamson reported that the sub-committee met this morning and heard a report from ADW Supervisor Connie Winn, who has been doing the annual audits. He stated that substantially more ADW income should come in this year versus last year. The subcommittee talked about having the staff investigate better privacy and protection and possibly new rules.

b. Best Practices

No Report

c. Budget and Hub Funds

Commissioner Palmer reported that the budget sub-committee met today. She stated that the ORC has received hub fund requests from the fairs but not from horsemen's groups or Portland Meadows. The sub-committee did an overview and has decided to meet again next month for additional review. The sub-committee plans to make a recommendation at the April ORC meeting to the full Commission for consideration.

d. Medication and Horse Welfare

Commissioner Huber reported that the Medication sub-committee met this morning. The committee discussed model rules for racing and the possibility of holding a stakeholders meeting in Grants Pass during the summer meet but has not been confirmed. The sub-committee also discussed the regulation of Clenbuterol in racing and how the prevalence of the substance's use in Oregon horse racing might be assessed.

Commissioner Huber noted that the catastrophic breakdown rate was 0.37 per 1,000 starts, based on Portland Meadows alone, down from 1.67 per 1,000 starts last year. He stated that this might be interpreted as PM being the safest racetrack in the continental U.S., he added.

e. Executive Director's Report

Executive Director Jack McGrail reported that the fairs have submitted their Forms B and C. He stated that there has been a substantial increase in jockey insurance; the budget sub-committee discussed the increase and how it would affect allocations.

Executive Director McGrail congratulated State Veterinarian Dr. Stacy Katler and stewards Mike Twiggs and Marty Hamilton. The Jockey Club recognized the trainers' test study guide promulgated by the three as a model for what the Jockey Club wants to do nationally.

In the Legislature, Executive Director McGrail said, a bill establishing a refundable \$50 fee to file an appeal moved on March 9 to the Business and Transportation sub-committee. No vote was taken following a meeting March 9 on a bill prohibiting greyhound racing. A bill to increase the percentage of funds to the Oregon Racing

Commission for disbursement to the industry moved to the Ways and Means subcommittee on March 5.

The Racing Commission has decided to eliminate one investigator position and continue at the staffing level it has had since the retirement of Steve Brewster 15 months ago. The ORC is hoping to fill the chief investigator position with an inter-agency recruitment. The recruitment process for this position has begun. The ORC will continue to have two investigators.

The ORC has a new Policy Advisor, Heidi Moawad, who has replaced Steve Powers. Executive Director McGrail thanked Mr. Powers for his work and for supporting the industry.

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

Commissioner Palmer stated that the FROG met last week. The group discussed the budget, the FROG account and the plan for hub fund allocations. A budget subcommittee went over last year's budget and goals.

g. Vote regarding holding ORC meeting on June 26 at the SOHRA race meet

Executive Director McGrail reported that costs were reasonable to hold an ORC meeting Friday, June 26, in Grants Pass, OR. This would be the second weekend of the SOHRA race meet. There is racing Saturday but not Friday.

Chair Dudley said he would not be able to attend a meeting on that date, but Vice-Chair Williamson would be present. Chair Dudley polled the commissioners to make certain a quorum would be available for a meeting June 26 in Grants Pass, and Commissioners Palmer, Huber and Baez affirmed they could attend.

Action: Motion to hold the June 26 ORC meeting during the SOHRA race meet in Grants Pass.

Moved by: Vice-Chair Charlie Williamson

Seconded: Commissioner Michael Huber, DVM

Vote: Chair Chris Dudley took roll and the results were unanimous with 5 Ayes, 0 Nays

New Business:

Discussion and Possible Approval of Fair Race Meet Application Forms B and C:

Executive Director McGrail recommended clarifying medications listed by adding the phrase "and all such other medications as authorized and approved under ORC rules" to eliminate confusion. He noted that some applications did not include medications commonly used by horsemen, such as Banamine, that are authorized. The clarification would put horsemen under the same rules they are accustomed to and stay in accordance with Commission guidelines. The fair managers agreed this would be an appropriate amendment to Form C.

A couple of wagering formats on Form C are different from what was submitted on Form A. Executive Director McGrail suggested he would consider those as amendments to the original filings.

Commission Huber asked why the takeout at Grants Pass was different from that at other race meets. Executive Director McGrail explained that the statute and rule allows a range, and Rod Lowe of SOHRA had made the decision within that range. Executive Director McGrail added that an 18 percent takeout might increase wagering and ultimately be beneficial.

Action: Motion to approve application forms B and C from the Tillamook County Fair, Harney County Fair, Eastern Oregon Livestock Show, Southern Oregon Horse Racing Association and Crooked River Round-Up, subject to changes described by the Executive Director.

Moved by: Vice-Chair Charlie Williamson

Seconded: Commissioner Michael Huber, DVM

Vote: Chair Chris Dudley took roll and the results were unanimous with 5 Ayes, 0 Nays

Oregon Thoroughbred Owners and Breeders Association (OTOBA):

Lynnelle Smith, Executive Director of the OTOBA, noted that the OTOBA receives a small percentage of gross pari-mutuel handle from wagering at Portland Meadows that is distributed to owners as a bonus. Typically, that is done after all funds are gathered, July 1 to June 30, but the past few years the OTOBA board has found that it benefits owners to receive a partial payment earlier, when the race meet ends, so they have funds to carry them through to the next meet. Director Smith asked the Commission to approve the OTOBA to again issue a payment in March and a remaining payment in July when the funds are received.

Action: Motion to distribute Commission funds as proposed by OTOBA Executive Director Lynnelle Smith.

Moved by: Vice-Chair Charlie Williamson

Seconded: Commissioner Jan Palmer, DVM

Discussion: Commissioner Huber asked about the initial purpose of the distributing funds. Director Smith said statute requires OTOBA to distribute the money to owners of Oregon-bred Thoroughbreds that race at Portland Meadows. The past two years, when the meet has ended earlier, the OTOBA has felt it beneficial to split the distribution into two payments. Vice-Chair Williamson noted that the statute's purpose was to encourage and support breeding in Oregon.

Vote: Chair Chris Dudley took roll and the results were unanimous with 5 Ayes, 0 Nays

Director Smith provided the 2015 Jockey Club report for Oregon. The report shows that Jockey Club registered the birth of 58 Thoroughbreds in Oregon in 2013, not 63 as she had reported last fall. "The Thoroughbred breeding industry in Oregon is dying," Director Smith summed up.

Commissioner Huber said that figures showed that 160 mares were bred that year. Did that mean there was a less than 50 percent "drop" rate? Director Smith said that was possible, the Jockey Club numbers reflect the number of foals actually registered. Commissioner Huber asked if that could mean mares move out of state. Director Smith stated that could be, or foals are not destined to be racehorses, or they might be lost, or – as Commissioner Huber suggested – the mares may come from out of state, be bred to Oregon stallions, and go back home.

Chair Dudley noted the trend was nationwide.

Discussion and Possible Approval of Proposed Rule Amendment (Sub-Chapter S Corp.):

Chair Dudley served as Hearings Officer earlier in the day for the rule hearing. He stated in his report that there were no comments for or against. Vice-Chair Williamson explained the rule. He said some people form a single-member LLC and are allowed to bet on ADWs as an LLC. The Commission has been requested to have the same rule for Sub-Chapter S corporations and adopted an emergency rule allowing that. Today's hearing was on making that permanent. Nelson Clemmens of AmWest has customers using the emergency rule and betting as Sub-Chapter S corporations. Vice-Chair Williamson stated that if the Commission is allowing it for an LLC, then it should also allow it for a Sub-Chapter S.

Action: Motion to adopt a permanent rule allowing Sub-Chapter S Corp.

Motion by: Vice-Chair Charlie Williamson

Seconded: Commissioner Michael Huber, DVM

Vote: Chair Chris Dudley took roll and the results were unanimous with 5 Ayes, 0 Nays

Chair Dudley said the rule would be filed at the Secretary of State's office next week.

Contested Cases:

None

Other Business As May Properly Come Before the Commission:

None

Public Comment:

Will Alempijevic, General Manager of Portland Meadows (PM), said PM would like to participate in any stakeholder meeting on medication and model rules, as uniformity is important to PM and to the Stronach Group. Commissioner Huber asked if Grants Pass was a reasonable location to expect PM participation. Mr. Alempijevic stated that it is for him, and he would find out if senior executives from his parent company would like to participate as well.

Mr. Alempijevic reported that two weeks ago PM changed its plans on Instant Racing and submitted a letter to Executive Director McGrail to temporarily suspending Instant Racing operations. In a competitive landscape, PM did not get the desired response to the games from the first rule that had been adopted. Mr. Alempijevic stated that PM is regrouping. The solution could be as simple as using the same rule and changing graphic elements, which included a hockey-themed and a veggie-themed game. The response to graphic elements was not what PM had hoped for. PM is evaluating changing the "skins" or graphic elements or submitting different rules for different types of wagers. Mr. Alempijevic said he did not know when Instant Racing might be restarted.

Vice-Chair Williamson noted that the ORC would be glad to adopt further rules to make Instant Racing successful, subject to approval by the Attorney General.

Mr. Alempijevic added that PM was evaluating this aggressively. He stated that PM recognizes that it was a "big thing" for PM, the horse-racing industry in Oregon and the ORC to get Instant Racing approved legislatively and to get the first rule passed. He added that PM does not take that lightly. Instant Racing is desperately needed by PM, Mr. Alempijevic said, repeating OTOBA Director Smith's assertion that breeding is dying. "We want breeding to be strong," he said, "and for breeding to be strong, we need strong race meets, and we want racing to be strong." Instant Racing is the tool to get there.

In response to a question from Chair Dudley about the facility facelift, Mr. Alempijevic said all improvements in conjunction with Instant Racing had been contracted and were proceeding. There is a new ramp in place of a staircase, a new restaurant/bar and grill, with additional seating that will open, hopefully in time for Kentucky Derby Day. Mr. Alempijevic added that a huge Kentucky Derby party is planned, building on the success of recent years' events and the recent race meet.

Tom Speakman of Hillsboro, OR addressed the Commission with questions about hubs and that he would like to see the horsemen receive more money. Mr. Speakman asked if the Commission had sole authority to raise or change the takeout percentage, if each hub had its own contract or if all were subject to the same contract, and when the contracts expired.

Executive Director McGrail responded to Mr. Speakman by stating that the hubs are highly regulated and subject to the ORC's statutes and rules. He explained that the Commission's duty is to regulate the hubs. Each company contracts with their content providers. Executive Director McGrail explained that Oregon horsemen receive funds from the ORC which are distributed to them out of the taxes paid to the ORC by the hubs. The horsemen complete and submit hub fund allocation request forms. What the horsemen receive is based on the amount of tax revenue collected by the ORC from the hubs each biennium.

Vice-Chair Williamson noted that other states are competing fiercely with Oregon to license ADW companies; if the state arbitrarily raised taxes for ADWs, it could risk losing them. He said the ORC received about \$2 million in tax revenue this year, according to preliminary figures, which is up approximately \$100,000 from last year. Vice-Chair Williamson characterized that this revenue is a big help to the racing industry in Oregon that other states don't have.

Mr. Speakman noted that with third-quarter figures of \$260 million, 0.005 percent to the breeders association at Portland Meadows would boost racing. Mr. Speakman asked where he could access information from hub contracts.

Executive Director McGrail informed Mr. Speakman that he would have to file a public records request with the ORC office. Vice-Chair Williamson added that much of the ADW (hub) licensing application information is confidential in part because the companies compete for business. He informed Mr. Speakman that he would have the right to the information that is considered public.

Confirmation of the Next Commission Meeting:

The next ORC meeting will be Thursday, April 16, 2015, at 1:30 p.m. in Room 1A of the Portland State Office Building located at 800 N.E. Oregon St., Portland, OR 97232

Adjournment:

Action: There being no further business, the meeting was adjourned at 2:08 p.m.

Moved by: Vice-Chair Charlie Williamson

Seconded: Commissioner Michael Huber, DVM

Vote: Chair Dudley took roll and the results were unanimous with 5 Ayes,
0 Nays