



## Minutes

### **Oregon Racing Commission November 19, 2015**

#### **Meeting Detail**

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

#### **Call to Order**

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

#### **In Attendance**

**Commissioners:** Chair Christopher Dudley, Vice-Chair Charles Williamson; Commissioner Angel Baez; Commissioner Michael Huber, DVM; Commissioner Jan Palmer, DVM

#### **Staff**

Jack McGrail, Executive Director; Catriona McCracken, Sr. Assistant Attorney General

## **AGENDA ITEMS**

#### **Approvals:**

##### **November 19, 2015, Meeting Agenda**

**Action:** Motion to approve the November 19, 2015, meeting agenda.

**Moved by:** Vice-Chair Williamson

**Seconded:** Commissioner Baez

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

##### **October 15, 2015, Meeting Minutes**

**Action:** Motion to approve the October 15, 2015, Commission Meeting Minutes as submitted.

**Moved by:** Vice-Chair Williamson

**Seconded:** Commissioner Baez

**Vote:** Chair Dudley took roll and the results were 4 Ayes, 0 Nays. Commissioner Michael Huber, DVM, abstained.

**Old Business:**

**Sub-Committee Update Reports:**

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

No report.

**b. Best Practices**

Chair Dudley noted that on the Best Practices Performance Measures for 2014-15 Proposed Assessment Score Cards, four of five Commissioners previously had answered “yes” to all of the 15 criteria except for the question about the Executive Director’s performance evaluation being completed. Since those score cards were last worked on, Chair Dudley stated that the Director’s performance evaluation has been completed. He reported that the two Commissioners who raised the question have agreed to answer “yes” on that item.

**Action:** The Commission accepts the Best Practices Assessment Score Card Report for 2014-15.

**Moved by:** Commissioner Michael Huber, DVM

**Seconded:** Commissioner Angel Baez

**Discussion:** Vice-Chair Charles Williamson moved to amend the report by changing “Christopher L. Dudley” in the title to “Chair.” The Commission agreed to the proposed amendment.

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

**c. Budget and Hub Funds**

No report.

**d. Medication and Horse Welfare**

No report.

**e. Executive Director’s Report**

Executive Director Jack McGrail reported that the Commission had voted to allocate an additional \$115,000 of racing development funds to the Portland Meadows purse account. That sum will add \$400 in purse money per race at Portland Meadows, beginning Oct. 26 and continuing through the meet. He thanked Lynnelle Smith of the Oregon Thoroughbred Owners and Breeders Association (OTOBA) for putting together a foal registration incentive program. The ORC allocated \$15,000.00 last month to the OTOBA for this program. In other Oregon breeding news, Executive Director McGrail said Stronach stallion Giacomo, winner of the 2005 Kentucky Derby, will stand in Oregon at Dr. Jack Root’s farm. That will give Oregon as many resident Derby winners as any state except Kentucky.

The Executive Director said Portland Meadows is working with AmTote to develop Instant Racing products. GLI has completed its certification process, the Commission has tested its compliance and performed an inspection and requested that machines for a number of games be turned back on. After briefly shutting down Instant Racing, the Wyoming Pari-mutuel Commission has approved two companies and several games,

Executive Director McGrail said. In Idaho, however, Treasure Valley Racing and Le Bois Park will not offer live racing in 2016.

The AQHA has announced that it will hair test for clenbuterol for all Bank of America championships, including trials, and has recommended a 6-month withdrawal time. The Oregon Quarter Horse Racing Association and Portland Meadows, facilitated by the Commission, will conduct a hair-test study beginning next week to determine the extent of the clenbuterol problem locally.

The ORC completed its study of the EIA outbreak at Portland Meadows (PM) that caused the cancellation of the Oct. 6 race card. Stewards are conducting a hearing on possible rule violations, the Executive Director reported. Three horses were euthanized at PM, one at Emerald Downs, and about six at a farm. Both the Washington and Oregon Departments of Agriculture are investigating, with reports expected in late January or February. ORC's medication safety committee will review those reports and re-evaluate the policy that allows horses to be transported from Washington without an unexpired negative Coggins test.

Executive Director McGrail said the track at PM was continuing to hold up well. Oregon-breds are looking to fill a few more races in preparation for championship day and the stallion stakes.

Commissioner Huber asked for a summary of the EIA situation and the movement of horses to Portland Meadows, but Counsel McCracken said that could not be discussed pending the hearing. Executive Director McGrail clarified that the hearing was related to individuals who transported horses and what they did or did not know. Any potential legal actions would not be involving officials, but owners and trainers.

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

Commissioner Jan Palmer, DVM, reported that FROG met last week. The main topic was summer fair meets. Randy Evers, chairman of the fair review committee, said the committee had met three times and categorized concerns into seven areas: number of jockeys, jockey insurance, marketing and advertising for races, increasing the horse population, better purses, race track facilities and race meet schedules. The committee is starting to formalize recommendations, which will then go to the ORC, the fairs or the horse associations. Items being discussed include the jockey incentive, which is not working as well as in the past; keeping money in an all-meets bonus pool and giving some to the fairs so they can partner with local hotels and restaurants; investigating whether insurance can be secured on a per-race basis; hiring an intern to be responsible for a marketing plan to partner PM with the fair meets; asking horse associations to contribute to purses. The committee plans to meet once more before putting together a report to present to the Commission, the fair meets and horse association boards.

Commission Palmer added that the Commission's role could be to assign a steward to make sure that everything is in order before each fair meet.

**g. Portland Meadows Report**

General Manager Karsten Hennze reported that over 13 days of racing to date, the average daily handle was up from last year, \$480,000 vs. \$430,000, noting that last year's initial race days of Sunday/Wednesday were switched to Sunday/Tuesday. He said this year's Monday/Tuesday schedule has been successful in terms of handle and export

signal, with the strongest part of the meet to come. There are 633 horses on the grounds, more than last year, but a number of them are not racing.

On the negative side, average field size is down, 7.3 horses compared to 8 last year, and there have been a significant number of scratches – five a day, compared to three last year – for various reasons. Breeders Cup Saturday was not a good day from the business side, though good in terms of people being at the track. Handle that day was \$208,000 on live races, about half of a Monday.

Mr. Hennze said PM had an application in with the Executive Director for its second new OTB, in Tillamook. PM intends to re-open its Instant Racing floor with 40 terminals in the next week or so. And it is beginning discussions with horsemen on the next contract.

In response to a question from Commissioner Huber, Mr. Hennze said match races are not conducted at PM, nor had the track been approached about them.

Commissioner Palmer asked how the Commission could help PM upgrade its signal to HD. Mr. Hennze explained that Roberts Communications provides the signal for the racetrack industry and has been upgrading capacity for HD in the past year. While noting that horse racing looks good in HD, Mr. Hennze said he could not correlate having an HD signal with an increase in handle. PM has removed all the old, tube TVs on the main floor, he said. Mr. Hennze said PM was looking for value ways to move toward HD, but if it were done in the same way as at other tracks, PM could not afford it. He added that PM had had some hiccups with its signal, resulting in the appearance of random characters that could be discouraging to bettors. PM is working with AmTote and its TV production facility to resolve this.

Vice-Chair Williamson asked Mr. Hennze to begin providing a written report, as PM has done previously.

In response to a question from Executive Director McGrail about what HD would cost, Mr. Hennze said a facilities upgrade would be more than \$100,000, with camera lens among the most expensive items. When he was working with Santa Anita, Mr. Hennze said, it was about four times more expensive to send an HD signal to all broadcasters. Because not everyone can receive HD signals, an SD signal also needs to be sent; the result is four times as much data being sent through the satellite system. The cost may be minimal, if there is satellite space, but it's very expensive if the space is full.

### **New Business:**

#### **Oregon Thoroughbred Owners and Breeders Association:**

Lynnelle Smith, executive director of the OTOBA, thanked the Commission for supporting the foal registration incentive program, which will begin in 2016. The breeder of any registered foal will receive a \$225 reimbursement from the OTOBA, an amount equal to the Jockey Club registration fee. She asked the Commission to approve the program with its rules and regulations as outlined in their packets.

**Action:** Approve OTOBA foal registration incentive program, to begin January 2016.

**Moved by:** Vice-Chair Charles Williamson

**Second:** Commissioner Jan Palmer, DVM

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

Ms. Smith also distributed the racing issue of Oregon Horse magazine, and reminded the Commission that Oregon Championship Day is Dec. 27.

#### **2016 Summer Race Meet Directors Report:**

**Southern Oregon Horse Racing Association:** Rod Lowe, director of racing at Grants Pass Downs, introduced Sheri Morin, recently elected member of the SOHRA board of directors. Mr. Lowe said the 9-day race meet's handle was \$310,759, for a daily average of \$34,329, and a race average of \$4,504. Of 72 scheduled races, 69 were run; the others could not be filled. Many of the meet's issues were heat related. On days when the temperature was under 100 degrees, average handle was \$52,085; if the heat was above 100 degrees, that amount dropped to \$3,800. Total handle was down from last year's \$365,101 (72 races) to \$310,759 this year. To deal with the heat, SOHRA put misters up and installed air conditioners in the jockeys' room, among other measures. The meet did not suffer a financial loss; the bottom line was \$299.28. Mr. Lowe said this points up the volatility of the meet and of horse racing in general. For the next biennium, SOHRA might need extra help from the Commission, he said.

Mr. Lowe reported that Grants Pass did hair-testing for clenbuterol on eight horses that qualified for the Firecracker Futurity. Three of the eight, or 33.33 percent, tested positive for clenbuterol, and two of the top three finishers tested positive.

Executive Director McGrail asked if there was any quantification of whether the clenbuterol positives were over or under the ORC thresholds. Mr. Lowe said the testing only determined whether clenbuterol was present in the horses' systems, noting that many states have zero tolerance. He encouraged the Commission to adopt a zero-tolerance policy, noting that is the industry trend.

Commissioner Palmer asked whether the unfilled races had been for Quarter Horses or Thoroughbreds. Mr. Lowe and Ms. Morin were not sure, but Ms. Morin said the problem was just fewer horses overall.

For the races that were not run, Commissioner Palmer asked, what happened to the purse money from the Commission? Executive Director McGrail said that undistributed purse money should either be returned to the Commission or go into next year's purse account. Mutuels auditor Josh Dieringer said not all the purse money was distributed, because only 69 races were run. The Executive Director added that sometimes the Commission would authorize unused purse money to be added to other races. Mr. Lowe said last year the Commission allowed SOHRA to put unused purse money toward operating expenses. The Executive Director acknowledged that was so, but he did not recall that a request had been made to do so this year, and Mr. Lowe said a formal request had not been made. After some discussion about purse distribution and fundraising, Commissioner Palmer noted that with many groups seeking funds, the Commission wanted to be sure it was accounting for all the money it distributes.

(Commissioner Huber asked if Portland Meadows had made a rule about clenbuterol. PM General Manager Hennze responded that the track had put in its condition book that it supported moving toward limiting clenbuterol. PM is working with Quarter Horse representatives to determine what is most effective. Commissioner Huber explained that the ORC had a temporary rule in place that calls for a lower threshold. The Commission supports the substance's use only as a therapeutic and not as a performance-enhancing medication. He said a hair-sample detection window of 6 months eliminated the option of using the drug as a therapeutic. Calling for the Commission to be cautious in how it proceeds, Commissioner Huber noted that the RMTC rules for uniform levels of medication call for acceptance levels much higher than those in the ORC's rules.)

Back to the issue of purses, Commissioner Huber asked if the ORC purse allocation was set per race. Executive Director McGrail said that was spelled out in the race meet application. Fairs generate their own money, which they add to Commission funds to increase purses. Money the ORC allocates to purses

should be spent only on purses. Last year, SOHRA made a request to keep some of the money not spent on purses, due to its financial situation. The ORC approved that request and could do so again. Mr. Lowe pointed out that the last two years, SOHRA used all its allocations because it ran all 72 races.

**Harney County Fair:** Don Slone of the Harney County Fair said the 91<sup>st</sup> fair was held Sept. 8-13, with outstanding weather, no rain or wind. Mr. Slone said he distributes his condition book widely, taking it to the Eastern Oregon Livestock Show and posting it on horse association websites several months in advance of the Harney County meet. Last year, 181 racehorses came to the fairgrounds, this year that number was just over 100, or 60 percent of 2014's population. In 2013, the number was 148. Jockey numbers were adequate, Mr. Slone said, with five men and three women (the first time in four years that a woman jockey has ridden at the meet). A gate malfunction on the first day of racing resulted in cancellation of the third, fourth and fifth races. Purse money was distributed evenly to all entries in those races. The second day of racing, Saturday, was slow with 45 or 50 minutes between races, he said. But Sunday's races went off without a hitch, with seven races run between noon and just after 3 p.m.

Mr. Slone said the fair provided shavings for the stalls, alfalfa and grass hay for horsemen; a barbecue lunch and steak dinner for everyone; and beverages and snacks at the paddock for racing personnel. He said the ORC provided a stipend for every starting horse, and this year that sum was about \$31 a horse.

Mr. Slone said the fair had almost 700 volunteers this year. He expressed gratitude to the Commission and horsemen's groups for their assistance. The fair budgeted \$94,000 for horse racing, before the cost of jockey insurance was determined. To date, expenses have been about \$89,000, with Harney County's share of jockey insurance less than anticipated.

Vice-Chair Williamson asked if cutting a day of racing would reduce the expense of jockey insurance. Mr. Slone said he did a financial analysis a few years ago, and if he had his way, he would eliminate Friday racing and add races to the Saturday and Sunday cards. He said Dean Noyes of the Crooked River Roundup handles jockey insurance for all the fair meets and would check into whether eliminating a day of racing at the fair meets would affect insurance substantially.

In response to a question from Vice-Chair Williamson about the gate, Mr. Slone said major repair was planned for the gate, and discussions may be reopened about a new gate to travel among the fair meets.

Commissioner Palmer asked who determined whether the meet was three or two days. Mr. Slone said that fell to the seven-member fair board, which is appointed by the county commission. The current fair board has not discussed the length of the meet. Mr. Slone said several years ago, he recommended cancelling Friday races for economic reasons, but because of wider impacts it was decided not to do that. Historically, Mr. Slone said he became involved in the fair in 1985, when there were three days of racing. A shortage of horses from the mid-1990s to 2008 led to the fair cutting back to two race days, then horse numbers came back and racing returned to three days.

In regard to questions about track condition, Executive Director McGrail said the track was in good shape, and the starting gate was the main concern.

Commissioner Huber asked how losing most of a day's racing affected the handle. Mr. Slone said the meet's handle was less than 50 percent of last year: \$4,000 compared to \$11,000. Total bets last year were in the low \$30,000s, this year that was \$15,000, or 50 percent.

#### **Discussion and Possible Approval of 2016 ORC Meeting Dates:**

Chair Dudley noted that there was a problem with the October meeting date because of room availability. The Commission decided to tentatively schedule that month's meeting for October 20. Commission

members discussed whether they would meet at a fair this year and decided to postpone that discussion until fair-meet dates were set.

**Action:** Approve 2016 meeting date schedule with condition that it may be adjusted when the fair meets are set.

**Moved by:** Vice-Chair Charles Williamson

**Seconded:** Commissioner Michael Huber, DVM

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

#### **ORC Officer Elections:**

Chair Dudley said ORC officers are supposed to be elected on the last scheduled meeting of the year, and it is uncertain whether the Commission will meet in December. The two-year terms begin in January. Executive Director McGrail noted if there is no December meeting, a special meeting may be needed to vote on an application from a Tillamook OTB.

Commissioner Huber nominated Vice-Chair Williamson as chair, and Commissioner Palmer as vice-chair. Both accepted the nominations. Chair Dudley noted that technically, Vice-Chair Williamson's Commission term expires at the end of this year and a successor has not been nominated by the governor's office.

**Action:** Place in nomination Charles Williamson for the position of ORC chair and Jan Palmer, DVM, for the position of vice-chair for 2016-18

**Moved by:** Commissioner Michael Huber, DVM

**No second required**

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

#### **Contested Cases:**

None

#### **Other Business As May Properly Come Before the Commission:**

None

#### **Public Comment:**

Roger Nyquist, speaking as a former OTB operator, noted that in the past the Commission has delegated authority to the Executive Director to approve OTB applications once the necessary paperwork is in. He suggested the Commission could pursue that option in regard to the Tillamook OTB. Executive Director McGrail said that was correct, the ORC rules permit the Commission to delegate that authority.

**Action:** Delegate the authority to the Executive Director to approve the Tillamook application for an OTB, provided it meets all requirements of the law.

**Moved by:** Vice-Chair Charles Williamson

**Seconded:** Commissioner Michael Huber, DVM

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

#### **Confirmation of the Next Commission Meeting:**

The next ORC meeting – if it is needed – will be at 1:30 p.m. Thursday, December 17, 2015, in Room 1D of the Portland State Office Building, 800 N.E. Oregon St., Portland, OR.

**Action:** Motion to cancel the December meeting and hold the next meeting in January.

**Moved by:** Vice-Chair Williamson

**Seconded:** Commissioner Baez

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

**Adjournment:**

There being no further business, the meeting was adjourned at 2:48 p.m.

**Action:** Motion to adjourn.

**Moved by:** Vice-Chair Williamson

**Seconded:** Commissioner Baez

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