



## Minutes

### **Oregon Racing Commission October 15, 2015**

#### **Meeting Detail**

The Oregon Racing Commission (ORC) met on Thursday, October 15, 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 1:32 p.m.

#### **In Attendance**

**Commissioners:** Vice-Chair Charlie Williamson; Commissioner Angel Baez; Commissioner Jan Palmer, DVM

#### **Staff**

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

#### **Excused**

Commissioner Michael Huber, DVM

## **AGENDA ITEMS**

### **Approvals:**

#### **October 15, 2015, Meeting Agenda**

Chair Chris Dudley amended the agenda to combine items 8 (Portland Meadows – Discussion and Possible Approval of OTB License Application Pursuant to OAR 462-200-0370) and 9 (SEIU – Public Comment Regarding Automated Tellers at OTBs) under New Business.

**Action:** Motion to approve the amended agenda.

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

**Seconded:** Commissioner Jan Palmer, DVM

**Vote:** Chair Chris Dudley took roll and the results were unanimous with 4 Ayes, 0 Nays

#### **September 17, 2015, Meeting Minutes**

**Action:** Motion to approve the September. 17, 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 4 Ayes, 0 Nays

**Old Business:**

**Sub-Committee Update Reports:**

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

No report.

**b. Best Practices**

No report.

**c. Budget and Hub Funds**

Commissioner Palmer stated that the sub-committee met this morning. She reminded those present that the ORC was committed to allocating all funds available to support the racing industry, not to increasing its own coffers. She reviewed racing development allocations made in 2015-17 as follows:

- Oregon Horsemen's Benevolent & Protective Association (OHBPA), \$518,000
- Oregon Thoroughbred Owners & Breeders Association (OTOBA), \$222,000 (\$4,000 more than requested)
- Oregon Quarter Horse Racing Association (OQHRA), \$168,000 (\$16,000 more than requested)
- Portland Meadows, \$400,000
- Eastern Oregon Livestock Show (EOLS), \$125,000
- Grants Pass, \$432,000
- Crooked River Roundup (CRRU), \$185,000
- Tillamook County Fair, \$180,000
- Harney County Fair, \$116,000
- Jockey Incentive Fund, \$70,000
- Jockey insurance for summer meets, \$235,120
- Racing Secretary, \$31,050

Commissioner Palmer noted there had been an increase in the percentage of the hub fund tax retained by the commission, from 66-2/3 percent to 75 percent, which increases funds to racing development. However, the gain is offset by some of the ADW licensees not performing as expected. In sum, the ORC has an additional \$130,000 to distribute in the 2015-16 racing season.

The sub-committee proposed that \$115,000 be allocated to the purse account, with stakeholders and the Executive Director meeting prior to distribution to decide how it will be allocated. The sub-committee recommends that \$15,000 be allocated to the OTOBA to reimburse 2016 foal registrations, which are estimated at \$250 per foal. The sub-committee could not justify \$60,000 for the breeders' program, she said, although members appreciated the numbers previously presented by the group. Sub-committee members were not convinced that data supported cause and effect between a 1997 state grant and subsequent increase in number of foals born. The bottom line, Commissioner Palmer said, is the ORC does not have the funds, and putting the funds it does have into the purse account will make the most impact.

**Motion:** Approve allocation, from racing development funds, of \$115,000 to the purse account and \$15,000 to OTOBA for foal registrations.

**Moved:** Commissioner Jan Palmer, DVM

**Seconded:** Vice-Chair Charlie Williamson

**Discussion:** Chair Dudley asked if the motion included calling for the Executive Director to meet with stakeholders to determine how the purse-account funds would be spent, and Commissioner Palmer confirmed such a meeting would happen before distribution of the funds.

**Vote:** Chair Dudley took the role and the vote was unanimous with 4 Ayes and 0 Nays.

**d. Medication and Horse Welfare**

No report.

**e. Executive Director's Report**

Executive Director Jack McGrail reported that Portland Meadows (PM) opened October 4<sup>th</sup> with a good crowd. However, racing was cancelled on October 6<sup>th</sup> after a horse on the grounds was found to have Equine Infectious Anemia (EIA). To prevent the disease from spreading and time to evaluate the situation, the state Department of Agriculture issued a precautionary quarantine, which was lifted October 8<sup>th</sup>. ORC staff, led by Presiding Steward Mike Twiggs and State Veterinarian Stacy Katler, worked to identify at-risk horses, with the help of the horsemen, track veterinarians and PM officials. The ORC and PM both instituted sanitation protocols. The ORC and Department of Agriculture are continuing to monitor the situation and a report will be forthcoming. Twenty-four horses were tested, with one additional positive, with results pending on another 27.

The Commission's recruitment for a deputy steward was scheduled to be posted October 17.

Jim Smith is holding the position on an interim basis.

Director McGrail stated that Mutuels Auditor Josh Dieringer represented the Commission at a simulcast conference in Clearwater, FL. Suggestions for initiatives that could be adopted to increase pari-mutuel handle include syndicates to get more people involved in horse ownership and excited about horse racing.

Director McGrail concluded his report by encouraging everyone to support Portland Meadows.

Commissioner Palmer asked if all the EIA-positive horses had been euthanized. Director McGrail responded that as of October 14, three had been euthanized at the track.

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

Commissioner Palmer reported that FROG met October 8<sup>th</sup> and reviewed several projects, including the Welcome Back celebration on the PM backside, which was well attended. Other items discussed were opening day, the fair meets sub-committee group, drug-free racing and EIA at PM.

**g. Portland Meadows Report**

General Manager Karsten Hennze reported that opening day was successful, with an on-track handle of \$50,000 and about the same amount for the off-track handle. These

handle figures were a little less than last year's numbers. He stated that field size was down. He reported that the lower field numbers may be due to a respiratory virus that has caused a number of horses to be rested. The VIP party in the Turf Club attracted more than 200 attendees. Mr. Hennze added that the Monday-Tuesday racing schedule is a significant change from last year and handle has been down slightly, but it is too early to draw conclusions.

### **New Business:**

#### **Summer Race Meet Directors' Reports:**

Chair Dudley noted that under its new Best Practices, the Commission is asking a representative of each summer race meet to present an oral report at a Commission meeting, in addition to the written end of the meet report submitted each year.

**Crooked River Roundup:** Dean Noyes, Director of Racing for the Crooked River Roundup (CRRU), reported his meet had a great year despite a couple of shortfalls. A couple of races were cancelled due to a shortage of horses early in the meet. Wednesday's crowd was outstanding, he said, and the handle phenomenal, progressing each day. On Friday and Saturday, the handle set a record – it was the best in 10 years. Track condition led to an accident Wednesday night, but the problem was fixed Thursday and reviews for the rest of the meet were complimentary. The meet had enough jockeys and horses, Mr. Noyes said, and the crowd, especially, was fantastic. That leads to additional sponsorship dollars from the community, which in turn sparked new interest for 2016, when people found out they could get involved with sponsoring and naming races. Mr. Noyes said the CRRU was faced with making room for the newcomers by bumping traditional names, “a good problem for us to have.”

In response to a question from Chair Dudley about the track issue, Mr. Noyes said there was a “hole in the track” just past the finish line, due to ground compression. The horse that slipped was past this point, but may have been trying to dodge it. Executive Director McGrail clarified that it was not a catastrophic injury to the horse; Mr. Noyes confirmed that, adding that the jockey suffered a broken clavicle. The CRRU team hit the track “full force” on Thursday, Mr. Noyes said, and the track was fine the rest of the week.

Vice-Chair Williamson noted that the insurance claim of \$11,000 for the jockey to go to the hospital for observation seemed like a lot of money. Mr. Noyes responded that Bolton was the insurance coordinator and Zurich owns the policy. He said he was not privy to the care provided to jockeys. He did note that jockey insurance, at \$8,000 a day, is one of the meet's most expensive costs and was an ongoing issue for the fairs. He gave an example of an injury last year at Union that resulted in an \$180,000 reserve that later topped out at about \$130,000. This year, the trend is better, so the fairs hope to negotiate better rates. In response to a question from Vice-Chair Williamson about seeking better rates, Mr. Noyes noted that Zurich is the only company that will insure the fair meets because of their historical claim rates.

**Harney County Fair:** Chair Dudley stated that Don Slone, Fair Manager of the Harney County Fair, was not present due to illness.

**Tillamook County Fair:** Don Averill, Director of Racing for the Tillamook County Fair, stated that his meet had a successful four-day run. There were no problems on the track; after a minor problem the first day, the gate was repaired and performed well after that. He stated that there were two minor jockey incidents that involved the same jockey. The meet's biggest problem was lack of jockeys – He reported that they couldn't keep races filled, because there were not enough jockeys. Mr. Averill reported that because of fears that Portland Meadows wouldn't open, horses came to Tillamook early. Some of them stayed 6 weeks, resulting in extra costs and labor for fair personnel. Mr. Averill stated that the handle was

good, about 2 percent above last year's handle. He stated that it is likely to have been 10 percent if the last day's races had been full. Bettors do not respond to three- and four-horse fields.

**Eastern Oregon Livestock Show:** Nate Jacob, Co-Race Director and Mutuel Manager of the Eastern Oregon Livestock Show, said that over the Union meet's three days, the handle was down about \$1,800, probably because the weather was too good. The meet relies on locals for volunteer help and with the weather so good the farmers were haying and planting. The meet had trouble filling seven-horse fields with over half the races having five or fewer horses. Mr. Jacob reported that this was one of the lowest fills in his memory, Mr. Jacob stated that nine jockeys rode, which was enough for all horses entered. There were two injuries: a horse fell Saturday and was euthanized and its rider was injured. Another rider was injured later that day. Mr. Jacob said he did not have many details except that the first horse broke a front leg. One jockey was cleared to ride the next day, the other had been given too much medication to ride the next day.

Purses were higher than in the past, totaling \$54,500. Mr. Jacob noted that the fair runs a race meet, rodeo, 4-H/FFA livestock show and an auction at the same time. They rely almost entirely on volunteers. In 2014-15, the fair upgraded the jockey room and purchased equipment to work the track. This was done with racing funds and with the help of the livestock show foundation. He added that the dates for 2016 are June 10-12, which is the first full weekend in June.

Mr. Jacob said his meet pays purses to the first five places, but he thinks it would help the meet if all entries received some purse money. He added that the Harney County Fair pays all entries. Vice-Chair Williamson said there was nothing the Commission needed to do in order for the meet to change its purse structure.

Commissioner Palmer addressed a question to all the fair meet representatives by asking what is your perception of the impact that racing has on your community? All three agreed it was significant. Mr. Jacob stated that it is the biggest event in Union, drawing 3,500 people. Mr. Averill stated that their fair is the biggest event of the year in Tillamook. In 2014, 77,000 attended over four days and this year's attendance was 76,000. He noted that motels up and down the coast are filled during the fair. He added that 25 percent of the fair budget comes from horse racing. Mr. Noyes said 12,000 to 15,000 people come to Prineville for four days of racing. The grandstands are standing room only. He noted that Pendleton Whisky sponsors only two events in Oregon: the Pendleton Roundup and Crooked River Roundup, because the latter moves so much of the whisky. The event's biggest obstacle is finding more space for people in terms of lodging and campsites. The horsemen support local feed dealers. Mr. Noyes summed up that the races are a huge macro-economic draw and stimulus for the community. Also in the works for 2016, to address a shortage of parking, is a shuttle service to bring patrons from Bend to Prineville.

**2016 Summer Race Meet Calendar:**

Dean Noyes, Director of Racing, said the Crooked River Roundup would be working with Crook County, which owns the fairgrounds, to move the event back a week.

Executive Director McGrail stated that July 20 is the optimal date, according to horsemen and ORC stewards. This would provide a 10-day gap between the end of the Grants Pass meet and the start of Prineville, which could result in more horses available and better fields. Mr. Noyes stated that CRRU is shooting for that date.

**Discussion and Possible Appointment of ORC Presiding Steward:**

Executive Director McGrail stated that Mike Twiggs was the only candidate the Commission interviewed for the position of Presiding Steward. Mr. Twiggs has demonstrated he has the acumen, judgment and temperament to fill the position and a commitment to working hard to improve racing, Director McGrail

reported that Randy Evers, Executive Director of the HBPA, had expressed his support for the appointment. Chair Dudley explained that by statute, the Executive Director identifies a candidate and the Commission approves the appointment.

**Action:** Approve appointment of Mike Twiggs to the position of Presiding Steward.

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

**Seconded:** Commissioner Jan Palmer, DVM

**Vote:** Chair Chris Dudley took roll and the results were unanimous with 4 Ayes, 0 Nays

**Discussion -- Tax Cap for Advance Deposit Wagering Companies:**

Director McGrail stated that the Commission was reviewing the tax-cap rule following a recommendation made last month by ADW representatives. He stated that the best time to do so is before the biennium starts. This would provide plenty of time for him and counsel to work on provisions of the rule change.

Chair Dudley clarified that the annual maximum incremental increase in taxes would change from 7.5 percent to 2.5 percent. The ADWs pay a certain percentage, up to the cap. Vice-Chair Williamson added that any change would not start until the following biennium, beginning in 2017.

**Portland Meadows – Discussion and Possible Approval of OTB License Application Pursuant to OAR 462-200-0370 and SEIU – Public Comment Regarding Automated Tellers at OTBs:**

Karsten Hennze, General Manager of Portland Meadows, appeared before the Commission with J.T. Corrales, PM Director of Operations, in support of the track's application to expand its off-track betting network. Mr. Hennze cited decreasing handle over the past decade in PM's OTB network: 10 years ago it was \$28 million, currently its \$12 million. Noting that only a few OTBs have opened nationwide, he characterized PM's investment as high risk. Mr. Hennze stated that PM is allowed to open 20 OTBs; it believes adding OTBs to fill its quota will expand its revenue base. He stated that doing so requires finding retail partners, such as bars, billiard rooms and bowling alleys. He reported that PM has come up with a new business arrangement with potential retailers, "profit-sharing" equally among the business, the horsemen and PM. The owner of Black Dog Billiards in Klamath Falls is interested in partnering with PM on this new model for a "tellerless" OTB. The application before the Commission is for this enterprise, which would comprise three betting machines and eight TVs.

Mr. Hennze stated that all PM's current OTBs have tellers. The tellerless OTB is modeled on video lottery terminals. In response to a request by ORC Director McGrail, Mr. Hennze spelled out how a bettor would place a bet at a self-service machine and cash a winning ticket by taking a voucher to a bartender or other designated person instead of working through a teller. Additional technology is available to cash tickets, which would eliminate the need for any human interaction.

Mr. Hennze acknowledged that manned tellers are valuable, and some of PM's existing partners have no interest in going to a tellerless model because they would lose many of their clients. This model is a way for PM to expand its network and serve people who are comfortable with the technology.

In response to questions from the Commission, Mr. Hennze stated that approval would affect only this application and PM employs about 29 pari-mutuel clerks around the state. If a new vendor approached PM to open an OTB, the two would work out whether it would be with or without tellers. He added that not a lot of people are making that overture.

Counsel Catriona McCracken clarified that approval of PM's application does not involve a rule change.

Sandi Morrell, Nicole Knudsen and Anna Roberts, members of SEIU Local 49 representing pari-mutuel clerks, presented public comment regarding PM's application. They presented letters from customers and

other clerks as public comment. The SEIU representatives argued that Mutuel clerks performed duties that could not be done by a machine or a bartender and that clerks have a unique rapport with their customers. Ms. Morrell, OTB manager in Springfield, walked the Commission through a typical work day, from picking up the Racing Form, to trouble-shooting problems, keeping the wagering area tidy and resolving disputes among customers. “Mutuel clerks understand the world of horse and dog racing customers,” she said, adding that the experience is much more than pushing a button.

Ms. Roberts, SEIU organizer, read a letter from Jerry Rickles, an employee of PM for 35 years. In asking the Commission to deny the application, Mr. Rickles outlined tasks performed by Mutuel clerks, many not in the job description, and summed up that clerks are integral to a positive customer experience.

Ms. Knutson, SEIU researcher, stated that California had passed a rule prohibiting tellerless operations. She further noted that Oregon Mutuel clerks had made significant concessions since 2011 to help PM remain viable. She asked that the Commission delay voting on the application. If the Commission approved it, she asked that tellerless operations be limited to locations a “sufficient” distance from existing OTBs so that they would not endanger jobs. And, approvals be limited to one year, so the effect of tellerless OTBs on the industry and community could be evaluated.

Director McGrail thanked the witnesses for their testimony and expressed appreciation for their sentiments. He stated that OAR 462-200-0370 specifically authorizes this OTB model. The application from PM has been reviewed by the Commission’s investigator and Mutuels Auditor, found to be complete and comprehensive, and issues with customer-problem resolution, security, etc., have been addressed. The application fulfills requirements of the state rule. Therefore, he recommends approval pending completion of two items prior to the OTB’s becoming operational. The two items consist of a letter from Klamath Falls indicating the city’s support of the operation and a site review by an ORC investigator upon installation of the terminals to be sure the machines function properly and security plan is in place.

- Action:** Approve application for tellerless OTB in Klamath Falls pending receipt of a letter of conformation from the city and site review by an ORC investigator.
- Moved:** Vice-Chair Charlie Williamson
- Seconded:** Commissioner Jan Palmer, DVM
- Discussion:** Vice-Chair Williamson noted that it seemed that the Commission was in the middle of a collective-bargaining session, but it was not the role of the ORC to tell people how to do business. If the tellerless OTB does not work as forecast, the Commission can close it down.
- Vote:** Chair Chris Dudley took roll and the motion passed with 3 Aye votes. Commissioner Angel Baez voted Nay.

**Contested Cases:**

None

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

None

**Public Comment:**

Dave Nelson, representing the OQHRA, expressed the organization’s appreciation of the ORC’s contribution to the purse account, which will benefit Quarter Horse as well as Thoroughbred races.

**Confirmation of the Next Commission Meeting:**

The next ORC meeting will be at 1:30 p.m. Thursday, Nov. 19, 2015, in Room 1A of the Portland State Office Building, 800 N.E. Oregon St., Portland, OR.

**Action:** Motion to approve confirming the next meeting on Nov. 19 as scheduled.

**Vote:** Chair Chris Dudley took roll and the results were unanimous with 4 Ayes, 0 Nays

**Executive Session:**

The Commission went into Executive Session at 3:17 p.m. pursuant to ORS 192.660(2)(h) and ORS 192.660 (2)(f). It emerged from Executive Session at 3:58 p.m.

**Adjournment:**

There being no further business, the meeting was adjourned at 3:59 p.m.