



## Minutes

### **Oregon Racing Commission Sept. 17, 2015**

#### **Meeting Detail**

The Oregon Racing Commission (ORC) met on Thursday, Sept. 17, 2015, in Room 1A of the Portland State Office Building (PSOB), 800 N.E. Oregon St., Portland, OR.

#### **Call to Order**

Vice-Chair Charlie Williamson called the meeting to order at 1:33 p.m.

#### **In Attendance**

**Commissioners:** Commissioner Michael Huber, DVM; Commissioner Jan Palmer, DVM

#### **Staff**

Jack McGrail, Executive Director; Catriona McCracken, Department of Justice

#### **Excused**

Chair Chris Dudley; Commissioner Angel Baez

## **AGENDA ITEMS**

#### **Approvals:**

##### **Sept. 17, 2015, Meeting Agenda**

Vice-Chair Charlie Williamson added an item to the agenda, Approval of Purse Structure for Portland Meadows, pursuant to ORS 462.417.

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

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

**Seconded:** Commissioner Jan Palmer, DVM

**Vote:** Vice-Chair Charlie Williamson took roll and the results were unanimous with 3 Ayes, 0 Nays

##### **Aug. 20, 2015, Meeting Minutes**

**Action:** Motion to approve the Aug. 20, 2015, Commission Meeting Minutes as submitted.

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

**Seconded:** Commissioner Jan Palmer, DVM

**Vote:** Vice-Chair Charlie Williamson took roll and the results were unanimous with 3 Ayes, 0 Nays

**Old Business:**

**Sub-Committee Update Reports:**

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

Vice-Chair Charlie Williamson welcomed ADW representatives from around the country who came to Portland to meet Sept. 16 with ADW Supervisor Connie Winn and Executive Director Jack McGrail and members of the ADW committee. ADW representatives present included Gene Chabrier of XpressBet; Frank Chesky of Sportech; Micah Lloyd of eBet Technologies; Steve Hlas and Deb Trickel of US Off-Track, Nelson Clemmens and Randy Boden of AmWest Entertainment, Todd Bowker of Premier Turf Club, Cameron Benjamin of Game Play Network and Roger Nyquist of TVG.

ADW Supervisor Winn expressed appreciation for the ADWs' commitment to Oregon. She called the meeting productive and said it addressed topics such as how the Commission and ADWs can improve collaboration on issues including fraud, tax rates and standardization of the tote system. Supervisor Winn said she provided an overview of her auditing process, and Executive Director McGrail gave an overview of best practices.

Vice-Chair Williamson said the three largest ADWs had asked for relief from the 7.5 percent increase they pay annually in taxes. He said Executive Director McGrail was expected next month to propose to the Commission that starting in the next biennium (2017), the amount of the annual increase be changed to 2.5 percent.

**b. Best Practices**

No report

**c. Budget and Hub Funds**

No report

**d. Medication and Horse Welfare**

Commissioner Michael Huber, DVM, said the sub-committee discussed three items: rules of racing, banned substances and lab accuracy. Commissioner Huber noted that the sub-committee has been talking for more than a year about uniform rules for racing and whether to adopt them. He asked that the Executive Director begin a formal review of controlled therapeutic medications and substances. Commissioner Huber clarified that he was not asking the Commission to adopt or vote on the matter, but to appoint a committee of stakeholders, composed of members of the commission and others, to begin a formal review.

**Action:** Motion to direct the Executive Director to begin a review of the uniform rules regarding medication.

**Moved:** Commissioner Michael Huber, DVM

**Seconded:** Commission Jan Palmer, DVM

**Discussion:** Executive Director McGrail said the uniform rules were being adopted across the country, and it was important for Oregon to stay in step, but the adoption was

not *a fait accompli*. He noted the proposed committee was part of the rule-making process. Commissioner Huber further clarified that after the committee was formed, more general stakeholders meetings would be held.

**Vote:** Vice-Chair Charlie Williamson took the role and the vote was unanimous with 3 Ayes and 0 Nays.

e. **Executive Director's Report**

Executive Director Jack McGrail reported that results were mixed at the Harney County Fair meet. The starting gate malfunctioned during opening night's first race, resulting in a "no race" declaration. The crew worked for an hour on the gate, but the gate malfunctioned again during the second race. The stewards consulted with the track crew and cancelled the rest of the night's card (three races). Because horse owners had brought horses to the meet and then were unable to run them, the Commission decided to distribute the purse money evenly among all starters in each race. Saturday's card went better, Executive Director McGrail said, although there was too much time between the races, perhaps due to difficulties coordinating with the rodeo. The final day of the meet, Sunday, improved. Handle was low Saturday and worse Sunday, a 25 percent decline from last year, not including Friday's card. Executive Director McGrail did note positives: The track surface progressively improved over the three days; no horses or jockeys were injured; and crowds were enthusiastic, even if reserved in their wagering. Executive Director McGrail added that a FROG committee is exploring how to turn watchers into wagerers.

Regarding Instant Racing, Executive Director McGrail reported that in Idaho, the state Supreme Court had agreed that the governor's veto of the measure banning Instant Racing was not timely. Therefore, legislation banning Instant Racing is effective. As a result, Executive Director McGrail said, Le Bois Park immediately laid off 80 percent of its staff, and the future of live racing in Idaho is in doubt. However, in Wyoming, terminals at six locations seem to be doing well and helping the horse racing industry there. Executive Director McGrail said the ORC remained hopeful that Portland Meadows would find the right combination of terminals to make Instant Racing a viable option for that track and Oregon racing.

Executive Director McGrail said the previous day's ADW conference was well attended and a good forum for discussion and commended ADW Supervisor Connie Winn for putting it together. He said the conference generated some exciting new ideas for ways to generate more business and business development. Follow-up discussions are scheduled in October, and at the December ASC conference in Tucson. Executive Director McGrail said the ADWs' request that the annual tax increase be capped at 2.5 percent was reasonable and the Commission would look at putting that on the next agenda.

Executive Director McGrail noted that the barns at Portland Meadows are open, with about 130 horses on the grounds and 700 expected. Opening day is Oct. 4.

The Commission hopes to conclude its recruitment for a presiding steward in the next week. Executive Director McGrail said the deputy steward position cannot be filled until the presiding steward position is. Because of state hiring requirements, there is no quick way to fill the positions, he said, meaning that a temporary hire will be necessary at Portland Meadows.

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

Commissioner Jan Palmer reported that FROG's meeting last week was well attended, with the main topic of discussion being a drug-free race day. FROG is hoping to secure one or two drug-free (Lasix-free) races this season.

**New Business:**

**Oregon Thoroughbred Owners & Breeders Association:**

OTOBA Executive Director Lynnelle Smith and President Gay Welliver presented the Commission with a packet in response to questions the Commission had at its last meeting and summarized the contents. Ms. Smith referred to an article in a past issue of the association's Oregon Horse magazine that explained the Agricultural Development funds received by the breeders' group in 1994. The total, \$150,000, was paid out in breeders' and stallion awards over two years, and resulted in an increase in Thoroughbred foals bred in Oregon in subsequent years, she said. Citing an online source, Ms. Smith said \$150,000 in today's dollars would amount to \$242,000.

Ms. Smith said during the last Portland Meadows race meet, OTOBA paid out an owners' bonus of \$183,711, which comes from the 7.75 percent of Thoroughbred handle awarded to the OTOBA by statute. All of the funds are paid to owners of first- through fifth-place horses at Portland Meadows. Ms. Smith provided a 15-year chart of owners' and breeders' bonuses paid by OTOBA and said the sums correlated directly to the number of Thoroughbred foals born, which has been in steady decline. Furthermore, she said, the OTOBA has forfeited 25 percent of its owners' bonuses over the past 10 years, and that had affected what was paid out.

Vice-Chair Williamson asked for clarification regarding the 25 percent decrease to the owners' bonuses and where it had been channeled to. Ms. Smith stated that it goes to the general purse account verses the Oregon Bred purse account which means that OTOBA is subsidizing purse money for races that include out-of-state horses. Both Ms. Welliver and Ms. Smith stated that they were unsure whether Quarter Horses benefit from the general purse account.

Commissioner Palmer asked if the statute could be changed. Ms. Welliver said it could, but that would be unpopular. Doing so would require action by the Legislature.

Ms. Welliver explained that the OTOBA was requesting breeders' awards for first through fifth places, which would be comparable to the owners' bonuses paid now, except they would be 10 percent (owners' bonuses are higher). Noting that horses can place consistently without winning, she said the across-the-board breeders' awards were critical to encouraging people to continue breeding horses in Oregon.

In response to a question from Commissioner Huber, Ms. Smith said foal numbers jumped by about 50 percent, to 358 in 1997, following the Agricultural Development grant.

Regarding hub funds, expenditures and the upcoming hub budget, Ms. Smith said last year OTOBA had requested permission to withhold a 10 percent administrative fee from the bonuses to cover increases in administrative expenses. However, she said, the association felt it was more important to get that money to the horsemen, and so adjusted its budget and spending and withheld only 5 percent, as allowed by statute.

Reporting on fair meets, Ms. Smith said OTOBA paid \$7,500 in purse supplements to Oregon-bred-restricted races, as follows: \$2,500 at Eastern Oregon Livestock Show; \$500 at Grants Pass; \$1,500 at Crooked River Roundup; \$1,000 at Tillamook County; and \$2,000 at Harney County.

Ms. Smith said OTOBA paid out \$4,147 in breeders' awards at the fair meets, to 17 breeders. She said 45 Oregon-breds ran, with 22 of them first-place finishers, making them eligible for the awards. Winners of the OTOBA's high-point challenge, designed to increase participation at the county fairs, especially at Union and Burns, were:

**Colts/Geldings:** Pinot man, owned by Don Young and bred by Ian Matthew Kinne

**Fillies/Mares:** Keepherrockin, owned by Tim Abraham and bred by Rolland and Debora Ferguson

Commissioner Palmer asked for clarification on how much money the OTOBA was requesting. The OTOBA representatives said they were asking for \$60,000 to continue their programs, including \$45,000 for breeders' awards, plus \$15,000 for a registration bonus, to offset the cost of micro chipping foals, as required under a new Jockey Club rule. They said that would effectively replace the 25 percent in owners' bonuses that had been redirected to purses over the past decade.

Ms. Smith also invited the Commission to attend FROG's Welcome Back barbecue on Oct. 1 at Cindie's Café on the Portland Meadows' backstretch, and Oregon Championship Day on Dec. 27.

**Discussion and Possible Adoption of Proposed Rule:**

Vice-Chair Charlie Williamson said no one attended a hearing held earlier in the day on a proposed rule, a betting jackpot proposed by Portland Meadows, OAR 462-200-0645.

Executive Director Jack McGrail explained the Pick 6 (or 5 or 4). The jackpot is awarded only if there is a single winning ticket. Multiple winners get a prize, but the jackpot is paid only to a unique individual ticket. If the jackpot carries over long enough, the track has the option of a mandatory payout to encourage more wagering. The wager has been successful in other states, he said.

As Hearings Officer, Vice-Chair Charlie Williamson recommended adoption of the rule.

**Action:** Motion to adopt OAR 462-200-0645 (Pick (n) Jackpot).

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

**Seconded:** Commissioner Jan Palmer, DVM

**Vote:** Vice-Chair Charlie Williamson took roll and the results were unanimous with 3 Ayes, 0 Nays

**Approval of Purse Structure for Portland Meadows (PM), pursuant to ORS 462.417, for 2015-16:**

Executive Director Jack McGrail said the purse structure agreed upon between Portland Meadows and the horsemen seemed fair and reasonable.

**Action:** Motion to adopt the proposed purse structure for Portland Meadows for 2015-16.

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

**Seconded:** Commissioner Jan Palmer, DVM

**Discussion:** After Commissioner Palmer asked about the minimum purse for a Thoroughbred race, Randy Evers, Executive Director of the Oregon Horsemen's Protective and Benevolent Society, looked at the document before the Commission and affirmed that it was the agreement reached by the HBPA and PM. He said the minimum purse was \$4,500. The minimum for Quarter Horses was \$3,400, said Leah Nelson of the Oregon Quarter Horse Racing Association.

**Vote:** Vice-Chair Charlie Williamson took roll and the results were unanimous with 3 Ayes, 0 Nays

**Contested Cases:**

None

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

None

**Public Comment:**

Randy Evers, Executive Director of the Oregon HBPA, thanked the ADW companies for their continued commitment to Oregon. He noted that the \$4.7 million in hub taxes paid biennially in Oregon make it possible for the five summer fair meets to continue. The HBPA also received \$518,000 in funds this biennium, all of which went to horsemen. Mr. Evers expressed his appreciation for the contribution the ADWs make to keeping horse racing in Oregon. Vice-Chair Charlie Williamson echoed that sentiment.

Vice-Chair Williamson introduced Catriona McCracken from the Department of Justice as the Commission's counsel.

**Confirmation of the Next Commission Meeting:**

The next ORC meeting will be at 1:30 p.m. Thursday, Oct. 15, 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 Oct. 15 as scheduled.

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

**Seconded:** Commissioner Jan Palmer, DVM

**Vote:** Vice-Chair Charlie Williamson took roll and the results were unanimous with 3 Ayes, 0 Nays

**Adjournment:**

There being no further business, the meeting was adjourned at 2:11 p.m.