



Minutes

Oregon Racing Commission

April 21, 2016

Meeting Detail

The Oregon Racing Commission (ORC) met on Thursday, April 21, 2016, in Room 1A of the Portland State Office Building (PSOB), 800 N.E. Oregon St., Portland, OR.

Call to Order

Chair Charles Williamson called the meeting to order at 1:30 p.m.

In Attendance

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

Excused

Commissioner Angel Baez

Staff

Jack McGrail, Executive Director, G. Catriona McCracken, Assistant Attorney General (AAG)

AGENDA ITEMS

Approvals:

April 21, 2016, Meeting Agenda

Action: Motion to approve the April 21, 2016, meeting agenda.

Moved by: Commissioner Christopher Dudley

Seconded: Commissioner Michael Huber, DVM

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

March 17, 2016, Meeting Minutes

Action: Motion to approve the March 17, 2016, Commission Meeting Minutes as submitted.

Moved by: Commissioner Christopher Dudley

Seconded: Commissioner Michael Huber, DVM

Vote: Chair 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

Commissioner Christopher Dudley noted that the sub-committee met this morning with representatives of an ADW seeking licensure, Tony Allevato and Jeff Franklin of NewCo Ventures North America LLC.

b. Best Practices

No report.

c. Budget and Hub Funds

No report.

d. Medication and Horse Welfare

Commissioner Michael Huber, DVM, reported that the sub-committee met and discussed three topics: the Racing Medication & Testing Consortium (RMTC) model rules; clenbuterol; and the potential impact of testing for Equine Infectious Anemia (EIA) on upcoming race meets.

Regarding RMTC, Commissioner Huber thanked members of the advisory committee. He stated that the medication sub-committee would consider the committee's recommendation that *if* model rules are adopted and *if* changes are made to those rules, there be a delay or adjustment period before the rules go into effect for Oregon racing. Commissioner Huber stated that the decision about adopting the model rules would be put on hold until after an ARCI (Association of Racing Commissioners International) town hall meeting to be held July 13 in Seattle. Principals involved in Oregon, Washington and Idaho racing are expected to attend that meeting.

Regarding clenbuterol, the sub-committee discussed a potential rule.

Lastly, the sub-committee discussed horsemen's concerns about the need and rationale for EIA testing within a 6-month period for the summer race meets.

Chair Charles Williamson asked if there was a time frame for rules on clenbuterol. Executive Director Jack McGrail responded that a hearing date on the clenbuterol rule, which was proposed by the Oregon Quarter Horse Racing Association (OQHRA) and Portland Meadows, is set for May 19. A public comment period is open until that date. Director McGrail encouraged interested parties to make a public record of their views – for or against – by May 19. People can also testify on that day at the rules hearing.

Commissioner Jan Palmer asked about the status of reviewing the testing lab.

Director McGrail explained that he met with the Department of Administrative Services (DAS) procurement analyst, who determined that the ORC did not have authority to put out an RFP; rather it must be produced by DAS. The process has started, Director McGrail stated. It is expected to take at least 6 weeks to produce the document, which then will be distributed to labs. Subsequently, the RFP is open for 30 days, he added.

Director McGrail stated the process should be completed before the Portland Meadows meet.

Regarding model rules, Chair Williamson stated that he didn't think the Commission could or should allow another entity to adopt rules that then become ORC rules; the Commission does not have the authority to delegate that. Counsel G. Catriona McCracken concurred that there should be an adoption process. Director McGrail explained that was always the intent: The ORC will not adopt the rules by reference, but will redo them to meet the local jurisdiction's needs.

Commissioner Huber asked if commissioners were permitted to testify during the model rules hearings. Chair Williamson responded that was permitted; commissioners also may attend the hearings and ask questions of other witnesses. Counsel McCracken indicated she would take a look at the rule.

e. **Executive Director's Report**

Executive Director Jack McGrail reported the Commission would employ a second vet tech in the test barn during the summer fair meets. Past practice has been for one ORC employee to be assisted by volunteers. The new policy ensures the test barn will always have a trained staff present to maintain the integrity of the test barn. He noted that volunteers assigned by fairs were not permitted to draw blood or complete some of the required paperwork. This change starts with the Eastern Oregon Livestock Show (EOLS) meet in Union.

Director McGrail stated that the Commission is reviewing the updated uniform classification guidelines issued April 8 and continuing to discuss the national uniform medication program. However, he added, it seemed clear that there remained reluctance to go forward with the rules. He stated that he hoped the town hall meeting in Washington would push the issue to the forefront.

The OQHRA and Portland Meadows have submitted a joint petition, Director McGrail reported, regarding clenbuterol. The rule calls for zero tolerance and hair testing to enforce the ban. Director McGrail noted that discussions were ongoing about who would fund the testing, which is more expensive than tests currently done for the ORC and what lab would perform them. The comment period for the rule is open until May 19.

The same public comment period is open for another rule, initiated by the Commission, regarding Racing Roulette, Director McGrail added.

Director McGrail stated that the seriousness of the EIA outbreak last fall, as well as recommendations from sources including the Department of Agriculture, had led to the requirement for a 6-month Coggins test. He acknowledged that this may be a hardship for some horsemen whose animals would require retesting.

Director McGrail announced that the Oregon Horsemen's Benevolent & Protective Association (OHBPA) will contribute \$350 in purse money to each Thoroughbred race at the fair meets. In addition, the Oregon Thoroughbred Owners and Breeders Association (OTOBA) plans to contribute \$500 for Oregon-bred maiden special weight and allowance races. These significant contributions will help horsemen and lead to fuller fields, he stated.

Director McGrail stated that the Commission had contacted Steve Woods regarding his fees, services and availability as a track-surface consultant for the fair meets. He would potentially be paid from savings made in jockey insurance and other allocated funds.

In response to a question from Chair Williamson about when notice of the new Coggins requirements would be sent out, Director McGrail explained that would be a month to 6 weeks before each race meet.

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

Commissioner Jan Palmer, DVM, said the group met and discussed fair meets, FROG's list of recommendations, funding someone to help with social media for Portland Meadows and the fair, and Coggins.

New Business:

Discussion and Possible Approval of Advance Deposit Wagering (ADW) License:

❖ NewCo Ventures North America LLC

Director McGrail stated that Tony Allevato, President, and Jeff Franklin, Vice President, of NewCo Ventures North America LLC had met with the Commission earlier in the day. He stated that the license application had been fully reviewed by Connie Winn, ADW Supervisor for the ORC. Ms. Winn found the application to be in compliance with ORS 462.725 and the Administrative Rules governing ADW licensing. Director McGrail stated that NewCo has met all requirements, including background checks, licensing, technology, financial criteria and has established an Oregon presence. Ms. Winn confirmed that all documentation provided had been verified.

Action: Approve application from NewCo Ventures North America LLC for a 5-year ADW license.

Moved by: Commissioner Michael Huber, DVM

Seconded: Commissioner Christopher Dudley

Vote: Chair Williamson took roll and results were unanimous with 4 Ayes and 0 Nays.

Discussion and Possible Approval of Forms B and C for Fair Meets:

Director McGrail stated that Form C, medications, for the Grants Pass meet had been redrafted in accordance with OAR 462-160-0130. He stated that this was the only amendment to the Grants Pass application.

Action: Approval of Forms B and C for the Grants Pass Downs race meet.

Moved by: Commissioner Chris Dudley

Seconded: Commissioner Michael Huber, DVM

Vote: Chair Williamson took roll and results were unanimous with 4 Ayes and 0 Nays.

Director McGrail stated that the Commission had received a letter of amendment to Form A for the Eastern Oregon Livestock Show (EOLS). The letter requested to amend the betting format by removing exacta wagering and keeping quinella wagering. This request followed the recommendation by the summer fair meet committee. The bets are similar, Director McGrail explained, and the committee felt that the pools are not big enough to support both. The betting format also calls for a \$2 wager, \$1 for quinella and trifecta boxes. Forms B and C comply with ORC rules.

Action: Approval of amendments to Form A and approval of Forms B and C for the Eastern Oregon Livestock summer meet.

Moved by: Commissioner Chris Dudley

Seconded: Commissioner Michael Huber, DVM

Discussion: Regarding a reference in the application to improvements being made to the jockeys' room and the horse barn, Commissioner Huber asked if these areas currently meet standards. Chief Steward Mike Twiggs responded that the improvements are ongoing, and the facilities are adequate, which he will confirm during the pre-meet inspection.

Vote: Chair Williamson took roll and results were unanimous with 4 Ayes and 0 Nays.

Director McGrail stated that a clerical change needed to be made to the application from the Prineville race meet, which incorrectly listed the name of the former racing secretary. Shorty Martin has been hired to be racing secretary. Dean Noyes, Director of Racing for the Crooked River Roundup was present and confirmed the change. The form also contained an incorrect reference to an Oregon Administrative Rule. The Commission corrected the reference to OAR 462-160-0130 and Mr. Noyes initialed the correction.

Action: Approval of Forms B and C for the Crooked River Roundup race meet, with the amendments discussed.

Moved by: Commissioner Chris Dudley

Seconded: Commissioner Michael Huber, DVM

Vote: Chair Williamson took roll and results were unanimous with 4 Ayes and 0 Nays.

Discussion and Possible Adoption on Amendment to ADW Tax Cap Rule:

Chair Williamson explained that when the statute was passed regulating ADWs in Oregon, a cap was placed on the amount of taxes the ADWs would pay, with that amount increasing annually by 7.5 percent. Because of the competitiveness of keeping ADWs in Oregon, the ADW committee recommended the ORC decrease the increase from 7.5 percent to 2.5 percent. Chair Williamson stated that the ORC has authority to amend the rate when change is needed. He noted that only one person testified at a hearing earlier in the day, and the testimony was in favor.

Action: Approval of adoption of the amendment to OAR 462-220-0040(3)(b)(B) to reduce the annual tax cap increase from 7.5 percent to 2.5 percent, beginning fiscal year 2018.

Moved by: Commissioner Chris Dudley

Seconded: Commissioner Michael Huber, DVM

Vote: Chair Williamson took roll and results were unanimous with 4 Ayes and 0 Nays.

Contested Cases:

The Commission went into Executive Session at 2:12 p.m., pursuant to ORS 192.660(2) and ORS 192.690(1) to deliberate and consult with counsel regarding the ALJ proposed order issued in Agency Case 862 PM15-078. Chair Williamson declared a potential conflict of interest in that Mr. Dronen's attorney is an associate at his former firm.

The Commission reconvened in open session at 2:23 p.m.

Action: Approval of the adoption of the ALJ's proposed order as defined by the final order.

Moved by: Commissioner Michael Huber, DVM

Seconded: Commissioner Jan Palmer, DVM

Vote: Chair Williamson took roll and results were unanimous with 4 Ayes and 0 Nays.

Other Business As May Properly Come Before the Commission:

Oregon Horsemen's Benevolent & Protective Association (OHBPA):

Randy Evers, Executive Director of the OHBPA, noted that FROG had done a good job of evaluating concerns about the fair meets. He praised Dean Noyes of the Crooked River Roundup for finding ways to save money on jockey insurance and Chief Steward Mike Twiggs for his work on the jockey incentive program.

Mr. Evers stated that horsemen say the summer fair meets are not as much fun as they used to be; in response, the OHBPA is launching two programs aimed at putting fun back into the summer fairs. He stated that the group is adding \$50,000 to purses at the meets, or about \$350 for every Thoroughbred race. Mixed-breed races that have at least one Thoroughbred starter will also receive the additional \$350 in purse money. He noted that will bring many purses up to \$2,500 to \$3,000. Also in the spirit of fun, Mr. Evers stated that the OHBPA will also sponsor a "Trainer of the Day" appreciation award. Every day, one trainer will receive \$100 from the OHBPA. Trainers will be eligible to win only once, so at the end of the summer meets, 23 different trainers will have received \$100 each. The winner will be chosen by draw.

Mr. Evers stated that many horsemen had concerns about the new Coggins requirement. He noted that the horsemen wanted their horses protected, but the new policy requiring a Coggins every six months would be expensive, particularly when it involves farm calls. Many horses will be due for a Coggins test before the Tillamook meet. One suggestion to bring down costs is to negotiate with a Veterinarian who would be willing to attend the Grants Pass and Prineville meets to draw the blood, complete the required documentation and obtain lab fees at a discount in exchange for large group services. Such a program would help the horsemen through the summer and into the start of the Portland Meadows meet. On behalf of the OHBPA, the OQHRA and the OTOBA, Mr. Evers asked that the Commission fund \$10,000 to support such a program.

The Commission and Mr. Evers discussed how many horses attended each fair meet. Mr. Evers stated that the number ranged from 200 to 300, adding that the goal was to help horsemen not only at the fairs, but also to re-enter Portland Meadows, which is likely to impose a negative Coggins rule this fall. He noted that the OHBPA would likely partner in such a program. Having the Commission and the OHBPA offer to help pay the cost would send a positive message to horsemen, he added.

Ron Sutton, President of the OHBPA, stated that the program had just been postulated two hours earlier, with a suggestion that a vet could be available two days each at Grants Pass and Prineville to conduct the services in order run a Coggins tests. He stated that as a rough draft, the OHBPA is asking for up to \$10,000, with whatever is not spent to be returned to the ORC. He added that the Coggins test itself was not the expense but if you have more than one horse that will need it and then add the cost of the farm call, it adds up quickly. Mr. Sutton noted that the OHBPA paid for Coggins tests for 500-plus horses, including pony horses and Quarter Horses, at Portland Meadows last season.

Commissioner Dudley asked if the meet vet would be asked to provide these services. Mr. Sutton stated the meet vet would be the first one approached.

Commissioner Huber agreed that the economy of scale made sense. He stated that the race meet vet should be given first option and might have some incentive to conduct these services at a reduced fee. He added that Portland Meadows' requirements could not be predicted.

Karsten Hennze, General Manager of Portland Meadows, stated that the track would have a Coggins policy but it has not yet been announced. He expected it would be 6 months. Track officials will review what happens at the fairs and how that will affect the policy.

Commissioner Huber stated that he did not expect the Coggins/EIA situation to be ongoing.

Commission Palmer suggested that the horsemen get an estimate of the testing fee and the number of horses involved, then submit a proposal to the Commission. Counsel McCracken stated she would investigate whether the Commission would face a liability issue if it were contracting with a vet to provide care for someone else's horses.

Chair Williamson stated that if the details were worked out, the matter could be put on next month's agenda.

Mr. Hennze noted that the infected horses last year came from out of state. He stated that was a significant concern for Portland Meadows. Anyone crossing state lines is required to have a Coggins test. Commissioners Huber and Palmer both noted that enforcement by authorities had been a problem.

Crooked River Round-Up (CRRU):

Mr. Noyes stated that CRRU and the Southern Oregon Horse Racing Association both rent facilities – stalls, jockey rooms -- for summer race meets. To make repairs to comply with ORC requirements, they have to work with county governments, which can be laborious. The Tillamook, Harney County and EOLS meets have more flexibility. Mr. Noyes explained that CRRU is starting work parties now. He expressed concern about facility use issues, such as horse stalls that don't meet a standard the group doesn't know about, and finding out about the standard a month before the event. Mr. Noyes stated that his group needs to know what it is expected to comply with and needs the checklist available sooner than later.

Director McGrail stated that the checklists are available now, and he could go over them with Mr. Noyes after the meeting. He extended the invitation to Sheri Morin of SOHRA as well. Director McGrail added that the checklist and schedule of inspections would be sent out shortly.

Mr. Noyes noted that the CRRU has an animal welfare committee that addresses both its rodeo and horse racing. He asked for clear, concise direction from the Commission that would enable the committee to establish animal welfare criteria it can communicate to the public. Chair Williamson stated that if Mr. Noyes has questions that he should ask the ORC or ORC Stewards.

Public Comment:

None

Confirmation of the Next Commission Meeting:

The next ORC meeting will be at 1:30 p.m. Thursday, May 19, 2016, in Room 1A of the Portland State Office Building, 800 N.E. Oregon St., Portland, OR. The meeting will be preceded by rule hearings at 11:30 a.m. and noon.

Adjournment:

There being no further business, the meeting was adjourned at 2:52 p.m.

Action: Motion to adjourn.

Moved by: Commissioner Christopher Dudley

Seconded: Commissioner Michael Huber, DVM

Vote: Chair Williamson took roll and results were unanimous with 4 Ayes, 0 Nays.