



Minutes

Oregon Racing Commission May 19, 2016

Meeting Detail

The Oregon Racing Commission (ORC) met on Thursday, May 19, 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 1:32 p.m.

In Attendance

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

Staff

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

AGENDA ITEMS

Approvals:

May 19, 2016, Meeting Agenda

Action: Motion to approve the May 19, 2016, meeting agenda.

Moved by: Commissioner Christopher Dudley

Seconded: Vice Chair Jan Palmer, DVM

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

April 21, 2016, Meeting Minutes

Discussion: Counsel Catriona McCracken corrected the form of the ORS citation under "Contested Cases" on page 5 to read: 192.660(2) and 192.690(1).

Action: Motion to approve the April 21, 2016, Commission Meeting Minutes as amended by counsel.

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

No report.

b. Best Practices

No report.

c. Budget and Hub Funds

Vice Chair Jan Palmer, DVM, stated that the sub-committee, meeting via email, put forth two proposals:

- 1) The ORC help offset the cost of Coggins testing this year because of the medication sub-committee's new recommendation that testing be done every six months. That puts the onus on horsemen, who had to have their horses tested before they left Portland Meadows (PM) in February and will have to be retested before the Tillamook race meet or returning to PM. Vice Chair Palmer explained that Randy Evers, Executive Director of the Oregon Horsemen's Benevolent and Protective Association, had contacted Dr. Jack Root, DVM, who had agreed to do the testing at a reduced price on three or four "testing" dates. The OHBPA will offset the testing cost on these dates by one-third, and asked the Commission to contribute one-third of the cost, up to \$5,000. The horsemen will pay the final third. The budget sub-committee agreed to this proposal.
- 2) The ORC hire Steve Wood as a consultant to the fair meets to advise on track surfaces.

Action: Approve offsetting one-third the cost of Coggins testing, up to \$5,000, as proposed by OHBPA program, with OHBPA and horsemen each contributing one-third of the cost.

Moved by: Vice Chair Jan Palmer, DVM

Seconded: Commissioner Christopher Dudley

Discussion: Commissioner Michael Huber, DVM, pointed out that the Equine Infectious Anemia (EIA) virus was occurring in an area that never used to have it and was related to certain horsemen and practices. He added that in 35 years of practice in the area, he had never seen a positive until last year. Testing needs to be done, Commissioner Huber stated, and the ORC should be a partner in the effort, but practices and husbandry need to be brought under control so exposure to the virus does not spread to other breeds. He stated he did not want to see this become an endemic situation, as it is in the East. The situation in Oregon is related strictly to horse racing, he stated, and it is the responsibility of horsemen to get it cleaned up by minimizing practices that lead to EIA's spread, such as using needles more than once and multiple injections.

Vice Chair Palmer added that the "free border" between Oregon and Washington was part of the problem. She noted that the offset proposal was for this year only.

Commissioner Huber echoed the statement that the open border between the two states must become tighter.

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

Regarding Steve Woods, Executive Director Jack McGrail noted that Mr. Wood was a renowned track expert. The ORC has a verbal agreement with Mr. Wood to spend at least two days at each fair, maybe more at Grants Pass, to help support the track workers, who are mostly volunteers. Director McGrail stated this would be a wise and prudent use of ORC funds. Mr. Wood, he noted, is currently working in Australia, so contract details have not been finalized. In response to a question from Chair Williamson about what the total would be, Director McGrail said they were talking about a per diem fee, to cover rooms and meals, and he expected that would be less than \$5,000. Director McGrail said the Commission did have the funds available.

Action: Allocate up to \$5,000 for Steve Wood to provide track advice to the 2016 fair meets.

Moved by: Vice Chair Jan Palmer, DVM

Seconded: No second was taken

Discussion: Commissioner Huber asked if Mr. Wood had advised the Commission in the past. Director McGrail explained that Mr. Wood had provided his services at Grants Pass last year on a largely pro bono basis, and based on the success of his efforts, the ORC had enlisted him to go to the other fair meets as well. He noted that Mr. Wood is a “dedicated horseman” who retired from Santa Anita and Del Mar and was not doing this as a full-time job. He added that the Grants Pass track surface was much improved after Mr. Wood’s efforts.

Commissioner Huber stated he welcomed anything that would improve track surfaces. He asked if Mr. Wood would be given jurisdiction. Director McGrail stated that Mr. Wood would work directly with trackmen at the fairs as a consultant.

Vice Chair Palmer asked if Mr. Wood could be required to make a written report, so that if fairs could not implement all his suggestions, they would be available for future reference. Director McGrail stated he would request a written report when he begins negotiations with Mr. Wood, but noted that he was working basically for the cost of his room.

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

d. Medication and Horse Welfare

Commissioner Michael Huber, DVM, reported that the sub-committee met this morning and discussed Clenbuterol and the amended rule before the Commission, as well as its support of Coggins testing.

e. Executive Director’s Report

Executive Director Jack McGrail noted that the summer race meets start in about four weeks, beginning with the Eastern Oregon Livestock Show in Union. He stated that

Steve Wood had agreed to act as a consultant for the fairs. He noted that ADW licensee The Racing Channel would cease operations after the Belmont Stakes on June 11. The Budget Sub-Committee would review the effect of that departure.

Director McGrail stated that the program to offset the cost to horsemen of Coggins testing was a good one. He added that Dr. Jensen in Grants Pass had agreed also to do the test for \$30 for those who don't meet the guidelines set by the OHBPA program.

Director McGrail thanked Ben Hayes from US Off-Track and BJ Cosson from TVG for their license renewals and Todd Bowker from Premier Turf Club for his testimony earlier in the day.

He stated that Portland Meadows and the horsemen had reached an agreement on and submitted a race meet application. The ORC has 30 days to review the application, and Director McGrail noted the early submission allowed time for careful review.

Director McGrail stated that Angel Baez has stepped down as a Commissioner; time demands by his business made it difficult for him to fulfill his ORC obligations. Director McGrail thanked him for his service.

Nationally, Director McGrail noted, there has been a slight increase in wagering from 2015 to 2016.

Chair Williamson noted that Commissioner Dudley has been appointed to the Medication and Horse Welfare Sub-Committee in the wake of Commissioner Baez's resignation. Once a new Commissioner is appointed, committee assignments will be reassessed, he added.

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

Vice Chair Jan Palmer, DVM, said the group met this morning and discussed marketing to support the fairs and Portland Meadows. Kelly O'Neill, who works with the Oregon Thoroughbred Owners and Breeders Association (OTOBA) on its marketing, has been hired for three months.

New Business:

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

- ❖ ODS Technologies (TVG)
- ❖ US Off-Track, LLC

Roger Nyquist, BJ Cosson and Grace Kenworthy of TVG addressed the Commission. Mr. Nyquist stated TVG was requesting a 5-year license for a multi-jurisdictional hub in Oregon, which will generate \$4 million for the Oregon horse racing industry. Mr. Nyquist noted that TVG was the initial applicant, in 1999, for a multi-jurisdictional hub license. He commended the Commission for a business-friendly regulatory approach that balanced its obligation to ensure the integrity of wagering and horse racing with allowing the ADWs, particularly TVG, to grow and prosper.

Connie Winn, ADW Supervisor for the ORC, stated that based on her assessment, review of documents and audits, she recommended approval of their license renewal.

Action: Approve application from ODS Technologies (TVG) for a 5-year ADW license renewal.
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.

Ben Hayes, Attorney, and Deb Trickel, Vice President and General Manager of US Off-Track operations in Portland, addressed the Commission. Mr. Hayes noted that US Off-Track was the second applicant to file in 1999 for a multi-jurisdictional hub license in Oregon and was seeking approval for a 5-year license.

Ms. Winn stated that her review of US Off-Track's documents had confirmed everything in the application and she recommended approval of the license. She added that both TVG and US Off-Track did exceptional jobs of submitting their applications.

Action: Approve application from US Off-Track, LLC, for a 5-year ADW license renewal.
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 & Possible Adoption of Proposed Rule Regarding Racing Roulette and Pick (n) Wager:
Chair Williamson stated that he served as the Hearings Officer earlier in the day on this proposal. One person testified, Todd Bowker of Premier Turf Club, which had requested the rule allowing the change in wagering.

Director McGrail explained that this is a new form of wager. It is a roulette-type wager in which, for example, a nine-horse field is reduced to three betting interests. The only payoff is for win. The Pick (n) is similar to a pick-6 wager, which again eliminates certain wagering possibilities to make for easier handicapping.

Director McGrail noted the proposal came through Premier Turf and Todd Bowker. There was discussion about intellectual property rights, he noted, but the Commission would simply authorize the wager. As far as the Commission is concerned, the wager would be open to all associations, including ADWs and racetracks. He added that it is a simple concept, and in the spirit of encouraging innovation he recommended approval. Chair Williamson, as Hearings Officer, also recommended approval.

Action: Approve adoption of the rules regarding Racing Roulette and Pick (n) Wager
Moved by: Commissioner Christopher Dudley
Seconded: Commissioner Michael Huber, DVM
Vote: Chair Williamson took roll and results were unanimous with 4 Ayes and 0 Nays.

Discussion & Possible Adoption of Rule Amendment Regarding Clenbuterol:

Chair Williamson stated that he served as Hearings Officer earlier in the day for the hearing on a rule regarding Clenbuterol that was requested by the Oregon Quarter Horse Racing Association (OQHRA). He named those who testified, including Jackie Phillips of the OQHRA, Karsten Hennze of Portland Meadows, Rod Lowe of the Southern Oregon Horse Racing Association, Malon Cowgill of OQHRA, Dave Nelson of OQHRA, Hector Magallanes of OQHRA, Randy Evers of OHBPA and Jim Smith of the ORC.

He added that testimony was overwhelmingly in favor of *some* rule. The rule presented at today's hearing was changed recently, he explained, adding that Mr. Evers was made aware of the changes only this morning. In its earlier form, the rule applied the Clenbuterol ban only to Quarter Horses and did not

include Thoroughbreds, even if they were running in a Quarter Horse race. The altered rule made Thoroughbreds in Quarter Horse races subject to testing. He stated that the OHBPA asked for more time so its vets, board and membership could consider the rule's effect.

Chair Williamson stated that the OHBPA's concern was legitimate, but there was pressure to get the rule adopted in time for the fair meets. He added there is also concern about the cost of the hair tests, which are more expensive than blood and urine tests. He added that the OQHRA, PM and perhaps others would be willing to help cover the testing costs, noting that it was not in the ORC budget to spend an additional \$60,000 on testing.

Chair Williamson stated he had discussed the matter with Director McGrail and was recommending that the Commission put the matter over until the June 16 ORC meeting, leaving the public comment period open until June 15. He requested that further testimony be presented in writing by that date. In the meantime, he explained, Director McGrail would work with the budget, PM and OQHRA to come up with a funding plan. He explained that the consensus was the ORC would not test every Quarter Horse race because of the expense, but would test in high-profile races as well as a significant number of other races.

Action: Delay possible adoption of the rule regarding Clenbuterol until June 16, leaving the public comment period open until June 15, while the Executive Director works on financing.

Moved by: Vice Chair Jan Palmer, DVM

Seconded: Commissioner Christopher Dudley

Discussion: Commissioner Huber noted that during the Medication Sub-Committee meeting, the two sub-committee members present split on whether to accept the rule. He asked if delaying the vote would keep the rule from being effective in time for the Grants Pass meet. Chair Williamson stated it would not: The rule could take effect on June 16, or as soon as it could be filed.

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

Update on Oregon Horsemen's Benevolent and Protective Association (OHBPA) Coggins Program:

Randy Evers, Executive Director of the OHBPA, explained that the association would offer four clinic days -- two at Grants Pass, one at Prineville and one at Portland Meadows -- with a few details for the latter two to be worked out. At Grants Pass, on June 17 and July 1, Dr. Jack Root will administer Coggins tests for \$30 each. Mr. Evers explained the ORC, the OHBPA and the horse owner/trainer would each pay one-third. In addition, if the horse is an Oregon-bred Thoroughbred racehorse, the OTOBA would contribute \$10 toward the cost of the test, bringing the cost of the test for the owner to zero, he added. Mr. Evers explained that to help keep the costs down, Dr. Root is requesting the owner bring a photocopy of page 1 of the registration papers and \$10 to be paid at the time of testing.

Commissioner Huber noted that some horses would need Coggins before they come to Grants Pass, and Mr. Evers acknowledged that the program would not work for everyone. Commissioner Huber asked if the program would subsidize owners who had Coggins done elsewhere, and Mr. Evers replied that the OHBPA board had decided against that.

In response to a question from Commissioner Huber about enforcement of the policy, Director McGrail explained that some horses would be omitted from the program, which was designed for horses that had a Coggins when they left PM that would expire this summer. Commissioner Huber asked if horses without a current Coggins were being housed at Grants Pass. Director McGrail stated that would be a violation of the stewards' order: Once the ORC took jurisdiction of the track, horses were not to come onto the property without a Coggins. He added that the order did not apply to rodeo horses, over which the ORC

has no jurisdiction, but most of those horses travel across state lines and have already been tested. Commissioner Huber noted that the rodeo horses were not the at-risk population, the racehorses were. Mr. Evers clarified that the OHBPA program included Thoroughbreds, Quarter Horses and pony horses used at the race meet.

Director McGrail noted that policing horses at the fair meets presents challenges, because there is no single entry gate with a security guard. He added that the horsemen are cooperating with the new procedures and that most horses will already have their Coggins. Everyone understands the rules are in place for a reason, he stated.

Contested Cases:

None

Other Business As May Properly Come Before the Commission:

None

Public Comment:

Ron Sutton, President of the OHBPA, stated that regarding the Clenbuterol rule, the science on Thoroughbreds needs to be done. He added that 30 days to talk to vets and get that done was not enough time. He stated that Clenbuterol was a good therapeutic drug that was not used for increasing muscle in Thoroughbreds. It's taken a year to get to this point, he noted, and trying to change that in 30 days was not fair to the Thoroughbred industry.

Chair Williamson noted that the proposed rule applied only to Thoroughbreds running in Quarter Horse races. Mr. Sutton stated that it would affect 14 to 16 races. If a Thoroughbred had been sick two months ago, treated with Clenbuterol, then won one of those races and was hair-tested, it would lose the purse, he explained. He added that his group would gather statistics, but 30 days was a short time.

Counsel McCracken explained that the record is being held open and comments should be submitted in writing into the hearing record.

Confirmation of the Next Commission Meeting:

The next ORC meeting will be at 1:30 p.m. Thursday, June 16, 2016, in Room 1A of the Portland State Office Building, 800 N.E. Oregon St., Portland, OR.

Adjournment:

There being no further business, the meeting was adjourned at 2:23 p.m.