



**Minutes**  
**Oregon Racing Commission**  
**January 19, 2017**

**Meeting Detail**

The Oregon Racing Commission (ORC) met on Thursday, January 19, 2017, in Room 1C 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 1:40 p.m.

**In Attendance**

**Commissioners:** Chair Charles Williamson, Vice Chair Jan Palmer, DVM, Commissioner Diego Conde, Commissioner Michael Huber, DVM

**Staff**

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

**Excused**

Commissioner Christopher Dudley

**Agenda Items**

**Approvals:**

- A.** Chair Williamson stated that the agenda had some additions and adjustments: a) move item 7 to follow item 5; b) add report on the Oregon Quarter Horse Racing Association's (OQHRA) use of Hub funds; and c) discussion of potential race cancellation dates.  
**Action:** Approve the agenda as amended January 19, 2017 ORC meeting  
**Moved by:** Vice Chair Jan Palmer, DVM  
**Seconded:** Commissioner Michael Huber, DVM  
**Vote:** Commissioners Williamson, Palmer, Huber and Conde voted AYE, and the motion carried unanimously (4:0).
- B.** November 17 meeting minutes.  
**Action:** Approve November 17<sup>th</sup> meeting minutes with no changes.  
**Moved by:** Commissioner Michael Huber, DVM  
**Seconded:** Commissioner Diego Conde  
**Vote:** Commissioners Williamson, Palmer, Huber and Conde voted AYE, and the motion carried unanimously (4:0).

## **Old Business:**

### **C. Executive Director's Report**

Executive Director Jack McGrail stated that it has been a difficult past six weeks for Portland Meadows. The racetrack has been closed since January 1. Director McGrail stated that it is unfortunate that January 15 and 17 were also cancelled, as they were make-up days. Even with warmer weather, the track conditions remain uncertain and the physical racing condition of the horses remain unclear.

On a national level, Director McGrail reported that wagering figures for 2016 show an increase from 2015, which would indicate that the market has stabilized and may spur an increase in foal crop. Director McGrail went on to report that the U.S. Treasury Department on December 29 proposed changes in Internal Revenue Service (IRS) withholding and reporting requirements that will reflect the true cost of a wager. That move, Director McGrail stated, has been long-sought by the National Thoroughbred Racing Association and will have a dramatic impact on exotic wagers, and provide a considerable amount of money to stay in the hands of the gambler. This is a welcome change to IRS regulations.

The agency request for proposal for drug-testing services is in its final review stage. Director McGrail stated that members of the selection committee will have a final chance to review this up until January 24. The document will then be sent back to the Department of Administrative Services (DAS) and put out for bid. The bidding process takes 3-4 weeks depending on how DAS wants to handle it.

Regarding the budget committee meeting, Director McGrail stated that the Governor's Balanced Budget has passed through the audit process. This represents the second step before Ways and Means and legislative approval. Director McGrail stated that it is important to provide for the Advanced Deposit Wagering (ADW) licensees, and that a forward-looking regulatory environment must be provided. Licensees seeking to implement new products or open distribution channels must know that there is a regulatory framework in place and a business climate that supports that kind of innovation.

Director McGrail stated that he attended the Association of Racing Commissioners International (ARCI) Symposium in December, but not much new information came out of it. He stated that Washington state has moved closer to the national medication model, with emphasis on the controlled therapeutic medication schedule. Director McGrail reported that the Stronach Group weighed in on certain aspects of the program with some sentiment that the medication policy as it stands is in good shape with no need of alterations. He stated that when changes come through nationally, they will be regionally vetted with no major changes to the current medication policy.

Director McGrail noted that Washington state did implement the no-Clenbuterol in Quarter Horses policy that the ORC adopted several months ago. Director McGrail stated that the ARCI has implemented new test barn policies and the ORC is in compliance with most of the practices already. These protocols include test barn enclosure, sample selection, sample processing, access and staffing. TCO2 testing and out-of-competition testing are areas in which the ORC does not follow the recommendations.

Director McGrail reported that the Harney County Fair Board conveyed that it wishes to continue racing at the fair and will be submitting an application. Director McGrail also stated that each fair has been notified that its Hub fund request form for the biennium is due February 1; however, this is not a hard deadline. Associations that are due checks should receive them next week. Director McGrail explained that the delays for the checks were due to adverse weather stalling mail from Salem.

Director McGrail stated that Dean Noyes, Director of Racing for the Crooked River Round-Up (CRRU), had reported successful negotiation of a contract for all of the fairs to use United Tote as the service provider. Director McGrail stated that this would improve the fairs and would represent a 15% increase to what ORC already allocates for the same service.

Director McGrail stated that the ORC is still looking into the starting gate issue. He stated that after contacting True Center Gate and United Puett, he determined it is not feasible to purchase a new gate. This would cost over \$80,000 for a custom eight-horse gate. Director McGrail stated that he spoke to True Center about leasing the gate used in Kennewick, Wash. It is possible that this gate could be leased and used in Union and Harney County. Director McGrail stated that it is a ten-horse gate, but it should be compatible for eight-horse races if installed by sliding it in to the inside rail to fit the configuration of the tracks. Director McGrail stated that the ORC has been talking with a consultant to make sure gates meet the standard expected from the ORC and that the situation should be resolved by the end of next month.

#### **D. Future of Racing in Oregon Group (FROG) Report**

Vice Chair Jan Palmer, DVM, stated that the majority of the meeting was devoted to reflecting on what FROG has done and will do going forward. The group felt that they had accomplished most of their goals, working with stakeholders and horsemen to provide a united front to the Legislature when working on increasing hub funds and the Instant Racing bills.

#### **E. Portland Meadows Report**

Karsten Hennze, General Manager of Portland Meadows, opened by emphasizing the complications adverse weather conditions have brought to the track. Mr. Hennze stated that the backside had been closed recently because of adverse weather and the front side partially as well. Mr. Hennze stated that they had two incidents on the same day that caused the track to close early.

Mr. Hennze reported that Instant Racing launched two new games/themes and was proceeding well even with the weather conditions. Mr. Hennze reported that handle was down about \$5.8 million, which represented a relatively significant financial impact.

Commissioner Huber asked for a report that would summarize off- and on-track handle and Mr. Hennze agreed to draft one in the same format as past reports. Chair Williamson asked if the decrease was mostly in simulcast off-track-related items or if it had to do with on-track handle. Mr. Hennze stated that the decreases were both off- and on-track.

**F. Proposed (OAR) Rule 462-200-0665**

Portland Meadows General Manager Karsten Hennze requested a proposed rule for a new wager. Chair Williamson reported that there was no objection to the new rule and, if adopted, it will be available at Portland Meadows and to any other licensee. It adopts the ARCI rule for this type of wager.

**Action:** Approve 462-200-0665 Pick(n) Position(x) Pool Wager

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

**Seconded:** Commissioner Diego Conde

**Vote:** Commissioners Williamson, Palmer, Huber and Conde voted AYE, and the motion carried unanimously (4:0).

**G. Medication and Horse Welfare Report**

Commissioner Huber stated that the ORC has had 5 catastrophic injuries in approximately 2,200 starts, for a ratio of 2.27 per 1,000 starters, which is below the national average but above the legislative benchmark (annually). Commissioner Huber emphasized that the event that skewed the number was the day in December when two catastrophic injuries occurred on the same day, possibly due to inclement weather.

Commissioner Huber stated that the Race Track Industry Program (RTIP) meeting that Director McGrail attended in December conveyed a discrepancy between the Racing Commissioners International (RCI) and the Racing Medication Testing Consortium (RMTC). He stated that changes between the two are more apparent concerning rules reviewed over a year ago.

Commissioner Huber stated that the sub-committee is not making a decision on the RMTC rules at this time. The ORC plans to evaluate new third-party medications through a vetting process as they pertain to the violation rules and application to trainers. Commissioner Huber stated that at this time there will be no major push for a campaign to adopt the rules in their entirety.

Commissioner Huber stated that the sub-committee discussed Equine Infectious Anemia (EIA). Citing an outbreak in 2015, the sub-committee does not think that the outbreak started in Oregon but stressed that an integrated and scientific approach will be necessary to address the problem. The Department of Agriculture requires a negative Coggins test report for horses within 6 months of travel between states. The medication sub-committee recommendation is to continue with the 6-month Coggins testing requirements adopted by the ORC last year as horses travel in-state between race meets.

Commissioner Huber reported that the sub-committee deliberated on the recent cancellations of races at Portland Meadows. He stated even if adverse weather conditions cease and the conditions of the track improve, the horses will have only two days to prepare to run. Commissioner Huber reported that a few of the veterinarians had polled horsemen, who report that their horses are fit and ready and would have little difficulty with the current track situation, while others remain concerned. Commissioner Huber also noted that without a certain level of activity, the horses could have unpredictable behavior in the starting gate, which could potentially lead to injury. The sub-committee is aware of the potential financial impact to the horsemen due to cancellations. The sub-committee voted and their recommendation to the commission is to cancel the next two race days.

Vice Chair Palmer asked who would be enforcing the Coggins test requirement. Commissioner Huber stated that the sub-committee is aware of reports about stewards not being at the tracks when horses are arriving and the desire to have the horses turned away if they do not have the negative Coggins report in hand. The sub-committee concluded that it is a work in progress and is still discussing the best way to approach enforcing Coggins checks. One of the ideas is to have horsemen fax their Coggins reports in for approval or showing papers to stewards at time of arrival. Director McGrail stated that perhaps the Coggins report could be taken on site by the stallman and faxed to the ORC. He added that they will work closely with fair managers to ensure proper enforcement of the rule. With the horsemen knowing in advance, Director McGrail hoped that the rule will be followed to a greater degree and vetting clean horses will be smoother.

#### **H. Budget Sub-Committee Report**

Vice Chair Palmer stated that the budget sub-committee met to get an overview of the next biennium's budget. She stated that they also discussed the unallocated funds from the last biennium (2015-17) of about \$122,000 available for allocation to the industry. These are funds that came from the legislative shift from retaining 2/3 to 3/4 in pari-mutuel receipts. The budget sub-committee had three requests submitted today. The first was submitted by the Oregon Horsemen's Benevolent & Protective Association (OHBPA) to help offset the costs of extending the PM race meet due to race cancellations. The request is for \$30,000. The OHBPA has spent nearly \$90,000 but is requesting only \$30,000.

The second request comes from the Oregon Thoroughbred Owners & Breeders Association (OTOBA) for \$10,000 to fund foal registrations. The ORC allocated \$15,000 to the OTOBA in the last biennium budget, of which OTOBA spent \$12,000 for 52 registrations.

Portland Meadows requested \$82,000 to offset losses incurred due to race-day cancellations. The committee decided not to vote but would rather present the proposals for a decision to be made in next month's budget committee meeting.

Chair Williamson asked if the ORC had jurisdiction to commit public funds to offset the losses of private companies, and stated that when ORC allocates funds, it's to help horses, medication and other issues. Chair Williamson questioned the legality of aiding private corporations with ORC funds. Counsel McCracken advised the Commission to delay any decisions concerning this matter until the DOJ could review the matter and provide legal advice.

#### **I. Approval of ORC meeting dates for 2017**

**Action:** Approve ORC meeting dates for 2017.

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

**Seconded:** Vice-Chair Jan Palmer, DVM

**Vote:** Commissioners Williamson, Palmer, Huber and Conde voted AYE, and the motion carried unanimously (4:0).

#### **J. OQHRA HUB Fund Report**

Leah Nelson, Executive Secretary of the Oregon Quarter Horse Racing Association, reported that the OQHRA funds used to support their races totaled \$32,000. Hub funds of \$500 together with an additional \$700 were put into each race to provide an additional \$1,200 above the average

purse. Out of the HUB funds received by the OQHRA, \$30,000 was used, for a total of \$62,000. Ms. Nelson stated that all of the HUB funds the OQHRA received were put into Portland and regional races, such as the Firecracker Futurity. She conveyed her appreciation for the HUB funds and thanked the ORC.

### **New Business:**

#### **Cancellation of Races**

Chair Williamson asked council if the Commission needed to vote to cancel race days or if the Executive Director had authority. Director McGrail stated that the Director has authority and that usually that decision is based on the advice of stewards, veterinarians, horsemen and jockeys. This case is unprecedented in that it is not just the track condition, but the primary consideration is pre-race health of the horses given that many have not been able to exercise. Counsel McCracken recommended the Commission vote due to the unprecedented nature of the decision.

Chair Williamson asked Mr. Hennze about the current condition of the PM track. Mr. Hennze stated that he would rather wait until the day before races to determine track condition, as is customary. As far as horse health is concerned, he stated that internally the horsemen and veterinarians have the general consensus that they are not comfortable committing their horses to racing in such unknown conditions.

Vice Chair Palmer asked if the decision should be postponed given the chance of track conditions improving. Director McGrail stated that more than the weather was being considered. The health of the horses is a primary concern after not being on the track for approximately 20 days. If the track itself were the only issue, the decision would be delayed until the last possible moment. Director McGrail stated that pre-race exams could not reveal indicators of possible fatigue-related accidents, behavior changes or muscle weakness. Vice Chair Palmer asked if the state vet was observing the training leading up to the potential 23<sup>rd</sup> and 24<sup>th</sup> race meet days. Director McGrail stated that the ORC vet is not there to observe routine workouts for the purpose of determining fitness; she observes scheduled workouts for horses who are working off the vet's list.

Vice Chair Palmer asked if it was possible to have a state veterinarian go to racetrack to examine horses before the race dates. Commissioner Huber conveyed his doubt that someone could make a proper pre-race examination in the given time frame. Commissioner Conde stated that very few horses breeze two days before a race, and that if anything they would do a light jog or a small gallop before a race. A light workout would not be a proper measurement of the health of the horse and potential racing horses that have not stretched their legs in 3-5 weeks before a big race would present a very real health concern and risk for injury.

Counsel McCracken stated that she had not had the opportunity to conduct legal research related to this issue, but she would caution against proceeding with racing in adverse weather conditions due to potential for liability issues if the races go forward.

Randy Evers, Executive Director of the OHBPA, commented that there are two separate issues: The condition of the track and the condition of the horses. He stated that the trainers have informed him that they feel confident that they could race after light workouts leading up to the race. Mr. Evers stated that some trainers "blow out" their horses and then run them in the

afternoon. He further stated that the OHBPA voted to try to race Monday and Tuesday and that the trainers would like to do so as well.

Dave Nelson of the OQHRA stated that one of the two horses that suffered a catastrophic injury recently was a Quarter Horse, a breed designed to maintain racing condition longer than thoroughbreds. He noted that Quarter Horse trainers typically walk their horses more than thoroughbred trainers. Mr. Nelson called into question the practicality of having a race when already trainers are scratching their horses off the track. After further questioning from Vice Chair Palmer on why the decision is being made today, Mr. Nelson stated that many of the trainers would have to start traveling today to arrive in time to prepare for racing.

Leah Nelson stated that she had spoken with a trainer from Hermiston via text messages and had received the recommendation not to run. Further, the same trainer had stated three of nine horses scheduled to participate had already been taken out of the race.

Director McGrail stated that rule OAR 462-150-0010 (5)(a) reads: Any Thoroughbred horse that has not run in a recognized race in the 30 days prior to the race in which it is sought to be entered must have at least one official workout within the previous 30 days before being eligible to race in an official race.

**Action:** Cancellation of races January 23 and 24, 2017

**Moved by:** Commissioner Michael Huber DVM

**Seconded:** Commissioner Diego Conde

**Vote:** Commissioners Williamson, Palmer, Huber and Conde voted AYE, and the motion carried unanimously (4:0).

### **Contested Cases:**

Final order in Kassie Guglielmino case.

**Action:** Approve the final order

**Moved by:** Commissioner Diego Conde

**Seconded:** Commissioner Michael Huber, DVM

**Vote:** Commissioners Williamson, Palmer, Huber and Conde voted AYE, and the motion carried unanimously (4:0).

### **Public Comment:**

Dave Nelson stated that he was under the impression that there wouldn't be an ending balance, which is why OQHRA did not submit a request for funds out of the \$122,000 in unallocated funds. Mr. Nelson stated that the OQHRA had \$16,000 in losses. These losses will have to be made up out of advance wagering. Mr. Nelson stated it will take up to 4-5 weeks of racing to get back to even before they can start accruing profits for next year. Since no decisions were made concerning the disbursement of the \$122,000 at this meeting, Mr. Nelson asked if the Commission would entertain a request to offset the losses OQHRA incurred. Vice Chair Palmer agreed to take his request into consideration.

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

The next Oregon Racing Commission meeting will be February 16, 2017, at 1:30 p.m. in Room 1C of the Portland State Office Building (PSOB), 800 N.E. Oregon St., Portland OR.

At this time, Chair Williamson called for a recess of the public portion of the meeting to hold an executive session regarding pending litigation pursuant to ORS 192.660(2)(h), ORS 192.660(2)(f), ORS 192.502(9) at 3:03 p.m.

After adjourning the executive session, the public session was reopened at 3:37 p.m.

**Adjournment:**

**Action:** Adjournment

**Moved by:** Commissioner Huber DVM

**Seconded:** Vice-Chair Palmer DVM

**Vote:** Commissioners Williamson, Palmer, Huber and Conde voted AYE, and the motion carried unanimously (4:0).

There being no further business, the meeting was adjourned at 3:38 p.m.