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Minutes
Oregon Racing Commission
January 18, 2024

Meeting Detail

The Oregon Racing Commission (ORC) met at 1:30 p.m. Thursday, January 18, 2024, via Zoom videoconference.

Call to Order and Roll Call

Chair Margaret Doherty called the meeting to order at 1:30 p.m. and Karen Parkman conducted roll call.

In Attendance

Commissioners: Margaret Doherty, Quinn Berry, Lindsay Fowler, and Scott Beckstead (arrived late at 1:42 p.m.).

Staff: Executive Director Connie Winn; Karen Parkman, Program and Administrative Coordinator; Kelly Routt, Assistant Attorney General (AAG)

Excused

Diego Conde

Approvals:

Meeting Agenda

Action: Approval of the January agenda with a correction concerning the executive session.

Moved by: Commissioner Berry

Seconded: Commissioner Fowler

Vote: Commissioners Doherty, Berry, and Fowler voted AYE, and the motion was carried unanimously (3:0).

Meeting Minutes

Action: Approval of the November 2023 meeting minutes.

Moved by: Commissioner Fowler

Seconded: Commissioner Berry

Vote: Commissioners Doherty, Berry, and Fowler voted AYE, and the motion was carried unanimously 3:0).

OLD BUSINESS:

Executive Director's report

Executive Director Winn began by thanking Karen Parkman and Maleah Thom for their teamwork planning and unplanning the in-person January meetings. She reported that an issue with the meeting zip drives not opening is being addressed, and the use of a link to the ORC website where the materials are posted will remedy this issue in the future. Director Winn and Director of Mutuals, Micah Lloyd, attended the ADW Roundtable in Tucson and a project to create a database for the ADWs to address the issue of problem gamblers. Micah Lloyd is working on setting up the first meeting for this project. The ORC's newly submitted Information Technology Strategic Plan received positive feedback, and Director Winn thanked all staff members who were involved in its creation. Director Winn reported that Micah Lloyd created a new artificial intelligence policy. This policy was going to be included on this month's agenda; however, it will be included in a later meeting once the state has finalized theirs to ensure alignment.

Director Winn reported that there is some pending legislation that could affect the ORC. One item would allow more funds to be retained rather than going to the General Fund. The possible elimination of greyhound racing would have a negative effect on off-track betting facilities and the commercial track. It could also cause the departure of some of the ADWs. Other items would require some additional reporting, the ability to fine ADWs for illegal operations in the state, and an increase in maximum fines the ORC is allowed to charge.

Medication and Safety Committee Report

Commissioner Berry reported that the Medication & Safety Committee has met twice since the last ORC meeting. Participants have discussed several safety initiatives and mitigation strategies. The general consensus is that every reasonable precaution should be implemented, however cost, available technology, and the state of the industry are confounding factors that must be recognized. The committee has made a good faith effort to draft rules with the aim of increasing athlete safety and promote welfare, which is critical to fulfill ORC's mission statement for the regulation and facilitation of racing in Oregon. The overall agreement has been that less medical intervention prior to races is better for the horses. These draft rules, included in the meeting packet to be voted on during the meeting, will hopefully increase safety while preserving thrilling racing. The goal for 2024 is to explore additional ways to keep athletes safe and to make Oregon the international gold standard for fun and safe horse racing.

NEW BUSINESS:

County fair meetings assignments

Director Winn asked that the commissioners attend at least one day of racing during the 2024 race season. More than one person can attend the same meet, but on different days, and all meets should be covered as it is important to licensees and industry partners to see and meet their commissioners.

Director Winn also recommended that on the topic of scheduling, the commissioners consider moving the in-person meeting in Portland to April starting this year. Then, rather than meeting in June or July at Grants Pass Downs, to meet there in September. This is also a better time to visit the track, as the commercial meet will be underway.

Action: Schedule the in-person commission meetings for April and September of this year.

Moved by: Commissioner Beckstead

Seconded: Commissioner Fowler

Vote: Commissioners Doherty, Berry, Fowler, and Beckstead voted AYE, and the motion was carried unanimously (4:0).

Chair Doherty asked that the commissioners review their calendars and email her with their desired dates no later than Monday, January 22nd.

Director Winn added that travel and lodging would be covered at the government rate. She also stated that racing at Prineville occurs at night, so that may be a consideration.

Policy and Budget Discussion – Tamara Brickman, Policy and Budget Analyst of Administrative Services

Tamara Brickman, the Policy and Budget Analyst at DAS, shared a presentation with the commission to overview the 2025-2027 budget process development, which is now underway. Ms. Brickman reported that Governor Kotek has implemented some changes to how agency request budgets are developed. In the past, agencies worked to develop their request budgets themselves and then turn it in for the analysts to review and create an Agency Recommended Budget (ARB) from. Now, the analysts will be involved from the start to ensure a unified Governor's Recommended Budget (GRB). This is an executive branch process. Phase I begins Monday, January 22, where agencies will submit their proposed Legislative Concepts (LC) and policy package information to the Governor's Office (GO) and their CFO advisor. The GO advisors and CFO advisors will meet and discuss developments and agencies will receive feedback by February 2nd. In March, a Budget Kickoff Meeting will be held to establish budget development plans and release budget instructions. Development of the Current Service Level (CSL) will begin in April. The final information of LCs and policy packages will be due to the GO and CFO on April 30th. The CSL and package development will continue through May, and position and non-position related CSL information and audit transmittals will be due on May 31st. This is when inflation

requests and exceptions are calculated. In June, any outstanding CSL decisions will be finalized, and package development will continue. On June 28th, position related information for any packages the ORC proposes if they involve the addition of any positions to the agency is due to ORPICS, non-position related information which includes all other package information outside of personal services is due to ORBITS, and DAS submits LCs to Legislative Council. In July, the agency will begin finalizing their ARB. The deadline to finalize placeholder language with LC is due on July 31st, along with the ARB narrative being due to CFO. In September and October budget discussions continue which will be a collaborative effort with the agency to put together budget memos for the GO. On October 25th, LCs will be returned to agencies for final review. In November and December, the Governor will have to publish her GRB (released December 1st). November 13th is the deadline for LC packages to DAS and December 13th is the bill filing deadline for any LCs approved by the GO for the agency to have filed with the LC.

Chair Doherty thanked Tamara for her report and explaining this new, more streamlined process. She asked if the budgets still go to the Ways and Means Committee, which Tamara answered that they do if approved.

Review Best Practices form and prepare to discuss in February.

Commissioner Beckstead reported that the purpose of the Best Practices document review is to discuss the items today.

Director Winn added that at the end of the year the Commission must evaluate itself and key metrics. The objective for the meeting is to look at the review questions and see if there are any questions the commissioners have, and then next month to check back in and see if there are any areas that need work.

Commissioner Beckstead asked if there were any questions regarding the document. Chair Doherty stated that the document appeared to be very comprehensive, but also very important for increasing the Commissions effectiveness. Commissioner Beckstead agreed and stated that transparency and accountability are important steps that should be prioritized. There were no questions regarding the review items. Further review will occur during the February meeting.

Review and possibly approve ORC Retention Schedule.

Director Winn reported that the Retention Policy has been reviewed at the state level as well, so she was able to work with the State on this to increase some categories, and it was approved by the governing office. This document covers how long the agency must keep documents. There were no questions or statements from the commissioners.

Action: Adopt the Retention Schedule as printed.

Moved by: Commissioner Fowler

Seconded: Commissioner Berry

Vote: Commissioners Doherty, Berry, Fowler, and Beckstead voted AYE, and the motion was carried unanimously (4:0).

Review and possibly approve Air Quality Policy.

Director Winn started by thanking Rod Lowe and the horsemen for aiding in collaborating on this policy regarding air quality concerns. Unfortunately, due to fires, especially in Southern Oregon, air quality is a factor that must be considered for athlete safety. This policy establishes what to do and when, who needs to meet, and the necessary steps in the event of an air quality concern that could impact the horses. She recommends approval.

Chair Doherty thanked all for their work and added that this was a good document that covered very important factors for making races run or having them canceled if safety becomes an issue.

Action: Approve the Air Quality Policy as printed.

Moved by: Commissioner Berry

Seconded: Commissioner Fowler

Vote: Commissioners Doherty, Berry, Fowler, and Beckstead voted AYE, and the motion was carried unanimously (4:0).

Discussion and possible adoption of proposed rule filings:

A. 462-220-0080 – Hub fund requests.

Director Winn reported a hearing occurred earlier in the morning and there was a requested change. She asked Commissioner Berry, who ran the hearing report on the changes.

Commissioner Berry reported that the requested change was in favor of the overall rule but requested regarding wording that Randy Bodine requested that “all account information” be changed to all “hub account information” for specificity.

Action: Approve the proposed rule filing of OAR 462-220-0080 with the recommended change.

Moved by: Commissioner Beckstead

Seconded: Commissioner Fowler

Vote: Commissioners Doherty, Berry, Fowler, and Beckstead voted AYE, and the motion was carried unanimously (4:0).

Discussion and possible approval to repeal OAR 462-001-0010.

Director Winn reported that this rule existed as an IRS pickup, which up to a year ago designated for the state to match an amount of money placed in retirement funds so they did not come out of staff salaries. Since that time, the state has changed how they handle this, so funds are allocated

into the salary for this purpose and the commission is no longer reimbursing these funds. Therefore, the rule is now irrelevant.

Action: Approve the repeal of OAR 462-001-0010.

Moved by: Commissioner Beckstead

Seconded: Commissioner Fowler

Vote: Commissioners Doherty, Berry, Fowler, and Beckstead voted AYE, and the motion was carried unanimously (4:0).

Request to start the rule making process for the following amendments:

A. **462-140-0250 Starting Gate Amendment**

Director Winn explained that this amendment ensures additional training, and safe and appropriate handling of the horses. This is already occurring at most other tracks, but the ORC wants to put it into rule. There are also limitations on how the horses are put into the starting gate and prohibits the tail wrapping technique, which is used to keep the horses from flipping in the gate but has been deemed inappropriate for handling the horses.

B. **462-150-0060(k) Plates Amendment**

Director Winn explained that this amendment considers that HISA and some other jurisdiction rules don't address differences concerning Quarter Horses. This rule sets the standards for horse shoes and differentiates between Thoroughbreds and Quarter horses. It was brought to Director Winn's attention that a new proposal concerning this topic has been submitted to HISA. She recommends comparing this new proposal with what is stated in this amendment at the next Medication and Safety committee meeting to see if any minor changes should be made, but still recommends approval to begin rule making.

Dave Nelson with the Oregon Quarter Horse Racing Association (OQHRA) commented that the ideas on racehorse shoes change frequently, so while minimum standards should be in place, care should be taken not to set rules that are very exclusive and may cause horsemen to go elsewhere. Therefore, he recommends having a rule that is flexible and accounts for different tracks, surfaces, dimensions of shoes, and other factors.

Chair Doherty recommended that this rule should perhaps be tabled for the March meeting after it can be further reviewed.

C. **462-160-0110 Intra Articular Injections Amendment**

Director Winn reported that this amendment would prohibit intra articular injections within 14 days of racing and within 7 days of a timed and recorded workout. Dr. Everman explained that intra articular injections are those given directly into a joint, usually Cortisone or a local anesthetic. If given close to race time, these injections may largely be

contained within the joint and may not be detectable in blood and/or urine tests. This would also be compliant with existing HISA rules.

D. **462-160-0120 Use of Shock Waves Amendment**

Director Winn reported that this amendment would change the requirement from shock wave or radio pulse treatments occurring a minimum of 10 days prior to racing to 30 days prior to racing and is compliant with HISA and other jurisdictions. Dr. Everman explained that for Oregon there are no approved machines or machine users, so this rule change won't actively affect the horsemen, and he feels that makes it a good time to put this into rule. The machines radiate sound waves into the tissue and for an unknown reason result in temporary local anesthesia of the tissue. He used the example of using shock wave therapy on micro fractures of the cannon bone, which would result in the horse no longer feeling any pain from the fractures, which may result in the horse getting past a prerace exam when it shouldn't because the horse is not showing signs of lameness. These treatments often occur off-track outside of ORC jurisdiction, so this rule may be difficult to enforce. Dr. Everman stated that if horses could not enter within 30 days of treatment, the anesthesia effects would be worn off by race day.

Commissioner Berry added that enforcement may be an issue for many of these amendments. While establishing ideal standards for horsemanship in Oregon is easy to discuss, it hangs on having a culture that recognizes that having safe, quality horseracing is in everyone's best interest. Ideas on how to enforce these amendments are a topic for future committee meetings.

Chair Doherty commented that making sure the rules are enforceable before putting them into rule is important.

E. **462-160-0130 Prohibited Substances Amendment**

Director Winn reported that this amendment changes several things, but the big ones concern the use of NSAIDs, of which there are three approved for use in Oregon. Currently, use is limited to no less than 24 hours prior to racing, however the ORC recommends changing this limit to 48 hours to reduce hidden lameness during prerace exams and horses racing that should not. Another change is in regard to the use of Lasix, which is given to reduce bleeding from the horse's lungs when running. Currently Lasix may be given no less than 4 hours prior to racing. The recommendation is to change this to 3 hours prior to racing, which is in line with Washington state racing, and based on Dr. Everman's research is better for the horse. The other change would be to reduce the maximum dose of Lasix from 500mg to 250mg, which is more inline with surrounding jurisdictions. This also adds standards for sampling when only blood can be collected, as urine samples are not always possible.

Commissioner Beckstead asked if the expansions of these thresholds would help increase athlete safety. Director Winn responded that by getting pain medication two days prior to racing instead of one, the affects of the medication would be out of their system, so they do not get cleared to run on possible injuries. Dr. Everman clarified that prerace occurs the morning of racing, but races often don't occur until later that evening. When this happens the horses receive medication much closer to the time of the prerace examination, so a horse that might be lame without medication may not appear lame at the time of examination with medication on board. He stated a lame horse should not be racing.

Dr. Alice Lombard, who is one of the commission veterinarians who works the fair meets, commented that she is glad these issues are being investigated. However, she feels this amendment needs a lot of work before going forward and that the commission should not only be getting in line with neighboring jurisdictions and the nation, but also recognizing that HISA does not regulate Quarter Horses and that Oregon has a large Quarter Horse population. Differentiations between the breeds need to be addressed. Further, she felt the issue of changes to Lasix rules needs more investigation, as Lasix is an important drug for horse wellbeing. She also commented that bisphosphonates should also be added and addressed in this amendment. This is another drug that is used and can affect bone development in young horses and some other states have prohibited the racing of horses who have received this drug, as they can have poor bone conformation as a result. She is excited about the work being done on these issues but is unsure this is ready to move forward with.

Dave Nelson, added that it is important to understand that Lasix is a protective drug and that Quarter Horses have been exempt from HISA rules. He added that the American Quarter Horse Association's (AQHA) policy is to defend and support the use of Lasix for Quarter Horse races.

Commissioner Beckstead reaffirmed the objective that horse racing in Oregon, regardless of breed, should be made safer for the horses to reduce and prevent injuries and breakdowns as much as possible. If the rules make racing safer for the horses and jockeys, that should be the primary goal.

Chair Doherty commented that this amendment should also be tabled for further discussion at the next meeting. Commissioner Berry asked if the horsemen's associations would prefer to come to decisions on these issues today, or if they would rather further discussion occur and re-address them another day. AAG Kelly Route from DOJ clarified that these are rules that are just beginning to be made and not being adopted. Chair Doherty clarified that this is just the start of the process. She also asked if it was better to just approve all the

amendments to begin rule making, and discussion can still occur through the rulemaking process. Director Winn recommended moving them all forward. AAG Route stated that from a legal standpoint, either way was fine, but approving them would give more runway to work on them.

F. **462-160-0140 Testing Amendment**

Director Winn reported that the bulk of this amendment are changes our AAG recommended. There were some items removed by Dr. Everman because they were conflicting, but most were grammatical and legal changes.

G. **462-220-0020 Geo-location Amendment**

Director Winn reported this is an ADW rule, which includes geo-location as a means to verify location.

Action: Approve beginning the rule making process for the above amendments.

Moved by: Commissioner Beckstead

Seconded: Commissioner Fowler

Vote: Commissioners Doherty, Berry, Fowler, and Beckstead voted AYE, and the motion was carried unanimously (4:0).

Discuss industry experts' participation in advisory committees and review charters.

Chair Doherty stated that she felt it would be beneficial to have the input of industry experts to help clarify and discuss different topics. Commissioner Beckstead asked to clarify if the experts would be serving in an advisory capacity or a voting capacity. Chair Doherty answered that it would be advisory. Commissioner Beckstead commented that he would have no issue with having industry experts take part in the conversation and give input, and that he supports the concept.

Director Winn stated that she would work with the appropriate members of the ORC team for recommendations to present to the committee chairs to see if they would like to include those recommendations or have their own or types of experts they would like to hear from for their committees.

Discuss Horse Racing Integrity and Safety Act (HISA). – Commissioner Beckstead

Commissioner Beckstead led the discussion on HISA, stating that he formally worked on the passage of HISA and that he would like to discuss if there are substantive and valid reasons not to join HISA, which he currently is not convinced is the case, that the commission should still look into moving in the direction HISA is trying to move in with the objective of making horse racing safe for the athletes. As the commission is already working to adopt rules which are in-line with HISA, he would like there to be due consideration of embracing the ideas and values behind HISA,

while remaining pragmatic and not insisting on adoption of HISA itself if there are good reasons not to.

Chair Doherty asked what the concerns holding the commission back from HISA were.

Director Winn responded that there were a few reasons. One reason a lot of tracks have adopted HISA is because it is required for simulcasting to ADWs in other states. Unfortunately, due to the small size of Grants Pass Downs, the costs of simulcasting are not financially viable, unless the track grows. Another issue is the number of lawsuits and lack of government funding has brought the cost of HISA membership to approximately \$500,000 per year. In Director Winn's opinion, ORC could implement the same ideas and use those funds instead to invest in the fairs and athlete safety. Lastly, Oregon has a high population of Quarter Horses racing, which do not fall under HISA anyway.

Commissioner Berry stated that he had not heard of anyone who was opposed to implementing any evidence-based practices. His impression is that, regardless of joining HISA or not, all industry partners want to take any reasonable precautions to keep athletes safe.

Rod Lowe, with the HRA and SOHRA, added that his opinion aligns with Commissioner Berry. The track is already moving to align rules and regulations with HISA, without accruing the additional costs of HISA. Mr. Lowe stated that he believed HISA was set up because some tracks lacked good regulatory agencies, however the ORC has always had a good handle on things and Oregon continues to be proactive in ensuring safety, as seen in this meeting. He believes we can achieve the same safety standards without HISA. With HISA, they come in and regulate the Thoroughbreds, but we would still have to provide staffing to regulate the other breeds, which adds the cost of a new regulatory body plus your own track staff. He believes it is better for our agency to self-regulate and save funds, especially if some of the bills in the current legislative session go through which could negatively impact the industry and the commission.

Commissioner Berry added that he hopes the incurred savings would be used to make Oregon racing even safer than HISA, which he believes is possible. While you can't ever remove all risk, we should be the standard. Chair Doherty responded that she believes this is the goal of the Commission as a whole.

Dave Nelson, OQHRA, commented that in California, where he is a board member, it has been stated that if Oregon adopts HISA, they will lose the horsemen. This is due to the fact they won't be able to cover their racing fees, which they are able to afford in California because the purses are bigger than Oregon's. They won't be able to afford the added examinations and testing that goes along with HISA regulations. Mr. Nelson stated that too many rules could run out the horsemen, so there has to be a balancing act.

Commissioner Beckstead thanked everyone for their contribution to the discussion. He came into the commissioner role fired about HISA, but has gained a more rounded idea of HISA, both the good and bad. He likes the idea of Oregon setting standards so they could be even better, and he understands the costs, and asked Director Winn if she had those costs to please share them with him for his own added understanding.

Discuss changes to Public Records Law - Kelly Routt.

AAG Kelly Routt stated that her summary could be public record, though if the commissioners had further questions, the executive session item was included on the agenda. However, it may not be needed. Ms. Routt reported that four bills were passed during the 2023 legislative session. All four bills are operative currently.

The first is House Bill 2806, effective July 13, 2023, which adds two new grounds for a board to conduct an executive session, in addition to existing ones. The first is to discuss matters relating to the safety of the governing body, public body, volunteers and staff, facilities, and meeting spaces. The second is to consider matters relating to cyber security infrastructure and responding to cyber security threats.

The second bill was Senate Bill 11, effective January 1, 2024, which set into law that when agencies meet over telephone or other electronic means the board must record the meeting and promptly publish the meeting on a publicly accessible website or hosting service where it can be viewed free of charge.

The third was Senate Bill 207, effective January 1, 2024, authorized the Oregon Government Ethics Commission to open an investigation of an executive session violation on their own motion without receiving a complaint if there is reason to believe there has been a violation in the past.

Lastly, House Bill 2805, effective September 24, 2023, did a few things. The first is it updated definitions related to meetings and clarified what activities are not covered by the Public Meetings Law (PML). Meeting is already defined by the PML, though the word convening is used, and is defined as “gathering in a physical location or using electronic video or telephonic technology to communicate among participants, using serial written electronic communication among participants, or using an intermediary to communicate among participants.” It also defines deliberation as “discussion or communication that is part of a decision-making process.” Activities not included in the PML are communication between or among members of a governing body that are purely factual or educational in nature and that convey no deliberation or decision on any matter that might come before the governing body, communications not related to any matter that could reasonably be seen to come before the governing body for deliberation or decision, or communication that is no substantive in nature such as communication related to scheduling,

leaves of absence, or similar matters. The bill then moves into the enforcement process, which was lacking previously from the PML. This creates a grievance process for the public, where a grievance can be filed first with the public body if they believe a public meeting violation has been committed, and if not satisfied with how the public body handled that grievance, then the member of the public could file a grievance with the Government Ethics Commission. The bill authorizes sanctioning authority to the Government Ethics Commission for any violation of the PML, where previously they could only sanction violations of executive sessions. A civil penalty imposed on a member of a governing body is the personal liability of that member and may not be paid by the governing body or public body. Finally, training opportunities are provided to be offered by the Government Ethics Commission to public bodies.

Chair Doherty asked if this information was included in the meeting packet. AAG Kelly Routt stated that it was not, but it is public information so she would be happy to get it to the commission to review. There were no questions, so the commission did not go into executive session.

PUBLIC COMMENT:

None.

CONTESTED CASES:

None.

CONFIRMATION OF NEXT COMMISSION MEETING:

The next commission meeting is scheduled for February 15th, 2024, at 1:30 P.M. via ZOOM.

Director Winn reminded the meeting participants that the Medication and Safety Committee meeting would be following the commission meeting after a 10-minute recess.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 3:13 p.m.