

# MINUTES

## OREGON RACING COMMISSION MAY 18, 2000

The Oregon Racing Commission met on Thursday, May 18, 2000, at 1:30 p.m. in Room 140 of the Portland State Office Building located at 800 NE Oregon Street, Portland, OR. Commissioners in attendance were Steve Walters, Chair; Laura Fine, Vice Chair; Richard Reid, Tom Towslee and David Price. Agenda items were discussed in the following order with resulting actions:

### 1. Approval of April 20, 2000, Minutes

ACTION: MOTION(Reid) Approve minutes as submitted.  
VOTE: 5 Aye, 0 Nay

### 2. Crooked River Roundup Race Meet Application - July 5, 6, 7 and 8

Steve Barham recommended approval of the application with delegation of authority to approve racing officials.  
ACTION: MOTION(Fine) Approve race meet application and delegate authority to the executive director to approve racing officials.  
VOTE: 5 Aye, 0 Nay

### 3. New Portland Meadows EPA Project Status Report

Following is a transcript of the status report:

Ferryman: Good afternoon. Brian Ferryman, Portland Meadows. Mr. Chair, last week, or last meeting, unfortunately you weren't here to see the kind of "dog and pony show", different graphs and whatnot. At this point we're a month further down the road and in the last month we've picked up two weeks. How you do that I don't know, but that's what the engineers are telling me. Tomorrow we're supposed to have 100% plans to the City of Portland and to all the interested bodies, including Department of Ag, Multnomah Drainage District. Issued a check today for the permit fees, so we're in that part of the on-going process.

As far as the gutter contract, we have four gutter bids right now to gutter all the barns. We think we have the one that we're going to select. Met with them. Everything looks like it's a go.

Walters: What's the length of schedule on that?

Ferryman: On the gutters?

Walters: Yes.

Ferryman: About anywhere from 30 to 45 days of working time, so they think they will be done well before the end of July, which is, you know, well in advance of the other project.

As far as the barn area goes, permits were submitted to the City of Portland for that work. We're working with the architect and engineers on that to try to expedite the process. And soon as we get our permit, which they think that we'll be able to get a counter permit on it, so soon as we get that then we'll be turning, too, on that, and just the process goes on.

Some of the other issues that we've been dealing with, and we talked about the last meeting, contract issue with the HBPA. I've met with contract committee with the HBPA twice. I met with

one of the other representatives once in the last month, or actually since the first of May, and we're moving forward. You know, I think we're closer now than what we were at our first meeting, and we have another meeting scheduled on Monday. So, I'm really confident that we'll get an agreement worked out.

Walters: As I understand that process, even if you don't get an agreement then you go to binding arbitration. So, you will have a contract, whether it is a contract you like or not, you will have a contract.

Ferryman: But, I think we're getting closer to the point where maybe we'll have one that we both like so we don't have to go to that position and, you know, put a spike between us or something. That doesn't do any of us any good. Hopefully we can work it out to where everyone is happy.

Walters: I take it that if you do go to arbitration, kind of, as I understand it the that arbitration works is you make a proposal, HBPA makes a proposal, the arbitrator will, sort of like baseball arbitration, the arbitrator picks one or the other of the contracts that are proposed.

Ferryman: That's the way our current contract's written.

Walters: And I take it that even if the arbitrator picks a contract submitted by the HBPA, that's the contract you'd go with for this next racing season and your license application would be based on that?

Ferryman: I presume so. You know, if they're awarded something that we can't afford to pay, legitimately can't afford to pay, then we'd have to talk to our counsel about it and come up with some plan, you know. I don't think it's going there. Like I said, I think we're going to try to work something out before we would have to go to arbitration so we can work proactively together instead of going somewhere against one another.

Walters: I would hope that you would be able to do that, too.

Ferryman: Looking at the worst case scenario, I can't give you an answer because, first of all, I'm not an attorney.

Walters: Okay.

Ferryman: Other than that, that's basically where we are right now. On the construction part, we have talked to four different contractors. We have kind of laid out what we want as far as a contractor and what we think that the contractor should bring to the table. They will have a bid packet probably the first of the week and ....

Walters: How long do you think the bid review process will take?

Ferryman: We want the bids back by the beginning of the second week in June.

Walters: On, I don't know of any better way to ask this question than the way I am about to. What you're saying, you've been spending money on this project.

Ferryman: Spent a lot of money.

Walters: How much have you spent to date?

Ferryman: I would guess. The engineering was \$110,000.

Walters: And you basically have...

Ferryman: We funded that ourselves.

Walters: Okay.

Ferryman: So, yeah, we've spent a lot of money on this and we're going to continue to spend money and go forward and get the project done like we said we were, you know. We're committed to it.

Walters: Any questions or comments by members of the commission?

Towslee: Not being here at the last meeting, Brian, if I'm going over old ground here just tell me so, but I couldn't discern this from the minutes of the last meeting. What would your expectations of the commission be if for some unforeseen reason October 20th, the first day of your meet rolls around and you're not ready to race?

Ferryman: We will be ready to race whether....

Towslee: I understand. I have no doubt...

Ferryman: Let me go on, okay? Say that we're doing this project in two phases. One phase is the plumbing phase, and what that does is cut all the barn roads, put the pipe in the ground, and then the pipe basically runs unused over to where the holding facility will be, okay? That process is a no brainer. What I've been told it's just a plumbing permit with the City of Portland, it's on private property, you know. There's the right-of-way issues you don't have to deal with and so on and so forth. So, that part is a no brainer from what we're being told. The part that connects up to the sewer system, it takes a little more scrutiny from the city because there is waste then going into their system. So, there're more departments, I guess, that look at that part of it. The barn area will be done, no question, before our race meet, no question. So what happens is if the other part for some reason is not done, we can still hold a race meet. We can fence off the area, the contractors can continue work on it, then we have an issue with the Department of EPA, okay? And at that point what we will do is sit down with the Department of EPA and say, this is where we're at. It's not like we're blowing smoke at you. This project's going to be done, blah, blah, blah, blah, blah. But we have to be able to run to afford to pay for what we've just done. And what I'm being told is that they'll be reasonable about that.

Towslee: Well, let me preface my question again then. I have every confidence in the world, Brian, that you'll get this done. But, if for some reason outside of your control October 20th rolls around and you can't run, whether it's for a day or a week or a month, whatever, what would your expectations of this commission be regarding your license? Would you want to simulcast without live racing?

Ferryman: You know, I haven't even gone down that road, and I can't answer you because I think it will be done. That isn't even in our plans right now to even look at that situation.

Towslee: Well, it's in mine. That's my point.

Ferryman: And I really don't know how to respond to you because I haven't even given it any thought.

Towslee: Well, could you do that and maybe get back to me sometime....

Ferryman: Sure, I'd be happy to.....

Towslee: .... and tell me what your expectations would be of the commission if for any unforeseen reason you can't race for a week or a month, and what you would expect us to do regarding simulcasting for that period; because our position has always been that you don't simulcast unless you live race. And I don't see, you know, I would be hard pressed to want to do anything differently. But like I said, I have every confidence that you'll get this done.

Ferryman: See, if the project isn't done, whatever done means, it will be no different than when we ran this year. There's no impact to the track, there's no impact to the barns. If the plumbing project is done, which we'll be able to see that well in advance....

Towslee: Well, just for my purposes, and I'm speaking solely for myself here, I would not be inclined to approve simulcasting without live racing.

Reid: Brian, last meeting it seems to me we came to some type of agreement that we would know by September 15th that all is well or you're not going to be able to make it, and that still holds.

Ferryman: Absolutely. And like I said, we will give you an update every meeting and let you know where we are, and when they start breaking ground you can come out and look and see that they really are doing what we're telling you.

Walters: On a related but slightly different topic, when would you expect to have your license application in?

Ferryman: We can have it in anytime, actually. We could have it in like July. We've had it in early before and we were told to bring it back later.

Walters: Obviously it depends on how many contingencies are left in the license application. My preference would be.... As you know, you folks are laboring under a lot of uncertainty and I think the action of the commission at the last meeting, as I understand from being told about it, is to try to alleviate as much of the uncertainty from your business operations as possible, realizing that there's an awful lot that the commission can't do and recognizing that uncertainty, for example, is there somebody out there who is holding the same dates as you are, creates business uncertainty for financial institutions, negotiations, all sorts of things. I think the action was designed to alleviate that. I know you appreciate that the other side of the coin is folks who would be planning to race at Portland Meadows or somewhere in Oregon are suffering from a similar sense of uncertainty that, gee, if something happens with Portland Meadows, what do we do then? And that horsemen who are faced with that decision, to put it in the worst possible terms, those who can leave will leave, and that leaves folks who really don't have any other options. It would help me in trying to balance these various uncertainties if we could have a complete license application by July so that we could review it at that meeting and, I hope, act on it. I would hope that if we can grant a license application at that meeting, that that would help the horsemen and others who are having to make plans about where am I going to race and where am I going to be make those sorts of decisions, I think in the long run would help everybody. So, if you could get that....

Ferryman: Absolutely.

Walters: ...license application to us by July that would be appreciated.

Ferryman: Not a problem.

Walters: Great. Other questions or comments? Thanks a lot, Brian. Appreciate it.

#### **4. Multnomah Greyhound Park Update**

Carl Wilson reported the new parking lot and kennel compound are open. In the compound area they are looking at possible ways to provide shaded area for those kennels who are racing off their farms. The new parking lot is beautiful, however, there are still some patrons trying to use the old lot. Construction has begun on the shopping center which will be located in the old parking lot, old kennel compound and golf course. This year the track will be focusing on something extra every performance. On advertising, they have chosen to do lots of radio spots and no TV. The third floor of the grandstand has been remodeled and has received good reviews. After only two weeks of racing their total Oregon handle is down 4%.

#### **5. OAR 462-200-0305 - Approval Criteria for the Commission for Authorizing Receiving Tracks**

Steve Barham stated that at last month's meeting the commission readopted the existing rule as a temporary rule under the new Rules 2000 format, and it is now coming before the commission to be adopted as a permanent rule. This rule had previously been permanently adopted by the commission in 1998, however, when "Rules 2000" came before the commission for adoption, this particular rule was inadvertently omitted. Commissioner Price suggested leaving out the last sentence in 462-200-0305(6) which reads: "In the event that the commission receives more than one proposal to simulcast during the same period of time, preference will be given to the race meet which has the longer live race "window", so long as that meet runs an appropriate number of live performances during its meet."

ACTION: MOTION(Price) Adopt OAR 462-200-0305 as amended with the removal of the last sentence in (6).  
VOTE: 5 Aye, 0 Nay

Following the vote, it was decided to put together a committee to consider revising the language of this rule. Commissioner Price will be on the committee and will coordinate the meetings.

#### **6. Application of Greyhound Channel, LLC for Multi-Jurisdictional Hub License**

Ben Hayes explained the reason for the new application was due to a reorganization of Greyhound Channel, Inc. to allow for additional shareholders. The operational plan will remain the same under the new name. Steve Barham recommended approval of the license subject to resolution of two issues cited by Chief Investigator Bob Mannix in his investigative report.

ACTION: MOTION(Reid) Approve application as submitted and delegate to the executive director approval on the two issues once they have been resolved.  
VOTE: 5 Aye, 0 Nay

#### **7. Crooked River Roundup Request for Development Fund Fees**

Chair Walters stated he was not inclined to discuss distribution of any of the development funds at this time. He went on to say, however, they will need to determine at some point in time at what level the funds should be in order for the commission to decide how the funds should be distributed.

ACTION: MOTION(Towslee) Table the request.  
VOTE: 4 Aye(Walters, Reid, Towslee, Price), 0 Nay, 1 Abstention(Fine)

There being no further business, the meeting was adjourned.