

# MINUTES

## OREGON RACING COMMISSION AUGUST 16, 2001

The Oregon Racing Commission met on Thursday, August 16, 2001, at 1:30 p.m. for their regular meeting in Room 140 of the Portland State Office Building located at 800 NE Oregon Street, Portland, OR. Commissioners in attendance in person were Tom Towslee, Chair Pro Tem, Lisa Metcalf and Jeff Gilmour. Commission Todd Thorne was present via telephone for a portion of the meeting. Chair Walters was excused. Agenda items were discussed in the following order with resulting actions:

### **1. Approval of July 23, 2001, Minutes**

ACTION: MOTION(Gilmour) Approve minutes as submitted.

VOTE: 4 Aye, 0 Nay, 1 Excused

### **2. Multnomah Greyhound Park Update**

Carl Wilson reported they are currently getting ready for Derby Night on August 25th. The field is probably the most competitive they have had in a long time. The handle is improving. With one less performance the Oregon handle is down .3%, the on-track live handle is up .3% and the off-track live handle is down 2.7%. The amount wagered at the off-track sites has improved since the surcharge was eliminated on the live racing. The total handle on MGP is up \$609,000 and exports are up 20%. Simulcast greyhound and horse handles have improved since last month, with the deficits going from 13.2% to 12.1%. The total Oregon handle is down 9.2% and the total handle is down 6.3%.

### **3. Greyhound Channel, LLC dba US Off-Track Quarterly Report**

Ben Hayes, attorney for US Off-Track, made the fourth quarter and annual report. Regarding the number of jurisdictions in which account holders reside, there are 27 domestic jurisdictions and 7 foreign jurisdictions. There are 19 greyhound tracks and 35 horse tracks being offered to their account holders. The handle for the 2000-2001 license period was just under \$6 million. January 1, 2001, they began their closed loop subscriber base system and currently in beta testing a wireless telephone system they hope to bring on line in the next 60 to 90 days.

### **4. MEC Oregon Racing, Inc. Race Meet Issues**

Scott Daruty and Art McFadden were present representing Magna Entertainment Corp (MEC). Mr. Daruty reported things basically are going well. They are enthusiastic about the resurfacing project. The environmental issues are still out there. They have had many positive meetings with the EPA of the last several weeks and they are moving towards resolution with them that is acceptable to both parties. They have met with the Department of Agriculture in Salem and are working with them on some of the technical criteria they want to make sure they are satisfied. As soon as those are resolved they can begin with their construction work. Other projects include painting the buildings and in general sprucing things up. In response to a question from Commissioner Towslee as to whether or not they could see anything that would jeopardize the start of the meet, Mr. Daruty stated absolutely not. Horses are expected to begin hauling in on September 1st. Mr. McFadden reported about 40% of the stalls have had dirt added to the stalls which is being packed down. They are doing work on

the backside first in order to meet the September 1st deadline and then will move to the frontside to work on a number of construction projects. The racing secretary has reported he has received three times more stall applications than he did last year. The horsemen's contract has not yet been finalized, however, they are continuing to work with them on having a contract that is workable for both parties. Commissioner Metcalf inquired about the track surface. They are trying to get down all the way to the base and remove all the existing top sand. The horsemen have been very much involved in the process.

*(During the course of discussion of the above agenda item Commissioner Thorne was disconnected. It was decided not to reconnect him again since a quorum was present.)*

#### **5. Issues Regarding Transferring Customers and "Piggybacking" Hubs**

After having the situation explained the commission was comfortable with the three interests of Americatab with the understanding that if there were any other entities that were going to become equity owners or similar operational issues that those entities would have to become before the commission after background checks and have to be approved before they could gain that interest or participate as partners in the hub.

Commissioner Towslee expressed concern regarding the framework in place to regulate hubs in a manner that was beneficial to the public and the state and also allowed appropriate business models for the hubs. After discussion the commission expressed an interest in scheduling a hub summit meeting at which the commissioners, hub operators and interested parties could meet and discuss the relevant issues.

#### **6. Approval of Acquisition of MKC Acquisition Co. Stock by Magna Entertainment Corp.**

Scott Daruty reported Magna Entertainment has entered into an agreement with Art McFadden to purchase Multnomah Greyhound Park. The acquisition is being done through a stock acquisition which essentially buys the corporation that owns the business and operates the greyhound track. They wanted to come before the commission to inform them of the transaction and hopefully receive the commission's agreement and approval. Steve Barham said there were a couple of things to look at. The transaction is scheduled to close in late October which would be after the current race meet is over. The statute says the ownership of a race meet license has to have the pre approval of the commission if it happens during the race meet. It does not need commission approval if it happens during the off-season. The other part of the statute deals with race meet licensees. He went on to quote the statute: "Except as the commission otherwise may provide by rule no licensee shall be granted licenses of both classes nor shall licenses be issued for more than one class of racing on the same racecourse". Carol Parks, interim assistant attorney general, stated she believes the commission has the discretion to the decision. If the commission wants to make sure they are on the safe side, they can adopt a rule allowing Magna Entertainment to be the parent company of MEC Oregon Racing, Inc. and MKC Acquisition Co. Mr. Barham stated the statute was written in this manner to allow for a situation like what is being presented today.

**ACTION: MOTION**(Gilmour) Approve acquisition by Magna Entertainment of MKC Acquisition Co. and direct staff to enter into rulemaking per ORS 462.040(2)(a).

**VOTE:** 3 Aye, 0 Nay, 2 Excused

**7. Confirmation of Next Commission Meeting**

Due to scheduling conflicts, it was decided to hold the next meeting on September 27, 2001 instead of September 20, 2001.

**8. Crooked River Roundup 2002 Race Dates Request - July 10, 11, 12 and 13**

Steve Barham recommended approval subject to timely submission of an application for issuance of a race meet license and approval of that application by the commission.

ACTION: MOTION(Metcalf) Approve race dates request as recommended.  
VOTE: 3 Aye, 0 Nay, 2 Excused

**9. OTBA Sale at Portland Meadows**

Ursula Gibbons reported the sale this year will be held at Portland Meadows in the infield on September 22nd. They have concerns about disrupting training on the track. Also, some consignors are licensed in Oregon and some are not. One of the consignors has a suspended license, Mark Payne. They would like consignors to be able to have access to the infield to unload their horses by coming through the backside. Steve Barham stated the commission has control of the racecourse 30 days prior to the beginning of the race meet. In the case of Mr. Payne he is suspended and ruled off all areas under the jurisdiction of the Oregon Racing Commission. Mr. Barham recommended following a couple of suggestions outlined in a letter from Ms. Gibbons to the commission: (1) Have a licensee meet and escort each unlicensed consignor through the backside and onto the infield; and (2) Mark Payne would be required to hire an agent to deliver and handle his horses at the sale.

ACTION: MOTION(Gilmour) Approve the two suggestions submitted by Ms. Gibbons and cited above by Mr. Barham.  
VOTE: 3 Aye, 0 Nay, 2 Excused

There being no further business, the meeting was adjourned.