

MINUTES

OREGON RACING COMMISSION NOVEMBER 21, 2002

The Oregon Racing Commission met on Thursday, November 21, 2002, in Room 140 of the Portland State Office Building located at 800 NE Oregon Street, Portland, OR. The meeting began at 9:30 a.m. with a hearing on proposed rule changes. Following the hearing the commission adjourned for lunch and reconvened at 1:30 p.m. for the balance of the meeting. Commissioners in attendance were Steve Walters, Chair; Tom Towslee, Vice Chair; Lisa Metcalf, Jeff Gilmour and Todd Thorne. Agenda items were discussed in the following order with resulting actions:

1. Approval of October 17, 2002, Minutes

ACTION: MOTION(Metcalf) Approve minutes as submitted.

VOTE: 5 Aye, 0 Nay

2. Portland Meadows Update

Art McFadden reported the live racing handle is up 11% and the overall Oregon handle is almost dead even, down almost less than 1%, as compared to last year. There are currently 26 riders available to accept mounts and the field size is at just about 8 per race. Mr. McFadden then introduced Chris Dragone, the new acting general manager. He was at Monmouth Park for 11 years and The Meadowlands for 4 years. Two issues he had to deal with when he first arrived had to do with the riders deeming that the track was unsafe and the water situation on the backside. Mr. Dragone reported he feels the track is safe and that since the rain there have been no complaints regarding the track surface. The water problem was created by pipes which had been in place for 50 to 60 years had become filled with silt and finally gave way. The pipe has been replaced and they are keeping the pressure low to prevent damage to the remainder of the old system until the summer when improvements to the entire system can be addressed. The makeup day of racing for the day the jockeys refused to ride because of the track conditions has been scheduled for February 14th.

3. Final Order on David W. Strong

Raul Ramirez reported the effect of the order proposed by the hearing officer would uphold the original board of judges ruling suspending Mr. Strong's license for 45 days and imposed a fine of \$500. The hearing officer had noted for this type of behavior in the past stricter penalties had been imposed and she could see a basis for a \$500 fine and six months suspension, however, went with the suspension in the judges' order. There was discussion regarding the reasons the judges imposed a lesser penalty and the possibility of the commission imposing a harsher penalty which involved input from Mr. Ramirez and also Tom Weaver, presiding state judge.

ACTION: MOTION(Towslee) Adopt the order as proposed by the hearing officer.

VOTE: 2 Aye (Walters, Towslee), 3 Nay (Metcalf, Gilmour, Thorne)

ACTION: MOTION(Metcalf) Impose stricter penalties as we would for any other person who has a similar infraction in the form of a \$500 fine and six months suspension.
VOTE: 5 Aye, 0 Nay

4. Update on Executive Director Search

Todd Thorne reported 22 applications have been received and that he and Steve Walters as members of the search committee are prepared to begin the screening process. Before they can do that, however, the commission needs to adopt criteria under which the committee conducts their initial screening of the applicants. Chair Walters, stating a proposed criteria was sent out to people who receive the monthly commission meeting agendas, asked if there were any members of the public wishing to make comments regarding the criteria that was circulated for them to please come forward. Vice Chair Towslee noted the position today requires an individual who has the ability to regulate not only live and simulcast racing activities but also the newer wagering technologies being used in relation to the hubs. The criteria, which are minimum criteria, are as follows:

The person selected for this position must have at least six years of management experience in the public or private organization which included responsibility for each of the following:

- a) development of program rules and policies,
- b) development of long- and short-range goals and plans,
- c) program evaluation, and
- d) budget preparation.

NOTE: Graduate level courses in management may be substituted for one year of the required experience.

ACTION: MOTION(Thorne) Adopt the proposed criteria as minimum criteria in the selection process for the new executive director for the Oregon Racing Commission.
VOTE: 5 Aye, 0 Nay

Commissioner Thorne also reported December 10, 2002, will be the closing date for receipt of applications for the position. The search committee intends to complete the initial screening during December so that the first round of interviews can be conducted in early January with the hope that a final decision can be made at the January commission meeting.

5. Confirmation of Next Commission Meeting - December 19, 2002

The meeting date was confirmed as scheduled.

6. Special Track Improvement Fund Budget to October 15, 2003

Dick Cartney, HBPA, this budget is in response to a request by the former executive director who felt it would be appropriate to have an outline of the projects they thought needed to be done from these funds. By contract their contract with MEC Oregon Racing, Inc. in respect to the work they have done on the backside, EPA projects and others, MEC Oregon Racing, Inc. will the bulk of the money from that fund and that \$15,000 at the beginning of each race meet to use for special needs determined by the HBPA and OQHRA.

ACTION: MOTION(Gilmour) Approve proposed budget for the special track improvement fund.
VOTE: 5 Aye, 0 Nay

7. Oregon Quarter Horse Racing Association Proposed Budget for 2002-2003

This item initially was on the agenda following approval of the minutes but was postponed until later in the meeting to allow a representative from the

OQHRA to be present for discussion. Given the fact there was no representative from the OQHRA in attendance at the meeting, it was decided to table action on the proposed budget until the December meeting.

8. Report by Steve Roden on Hub Security Practices

Chair Walters reported unfortunately Steve Roden is on a jury is unable to be present to make the report. Chair Walters stated this was placed on the agenda as a result of the issues surrounding the Breeders' Cup Pick 6 scam. As a result of this, he asked Mr. Roden to gather information from the Oregon hubs to make sure they were not as vulnerable to the type of scam that was run at the Catskill OTB. Their biggest deficiency was that they did not record bets as they were taken which meant they were unable to check the original bet with the bet that ultimately appeared. Mr. Roden e-mailed him saying that all of the Oregon hubs have do a complete job of recording all of their wagering activities and that we have a higher level of security with our hubs than many places have, even other places that record their bets. There are a number of other issues that the scam has raised including the issue of when the bets are actually transmitted to the track. Another related issue is the closing of wagering on simulcast wagers in relation to post time. Mr. Roden has sent letters to the commission from Autotote and Amtote in which they talk about things they are doing to upgrade their technology. A number of things are going on to insure that this type of event doesn't happen again and that public confidence in the technology and the security of wagering systems is maintained. Chair Walters stated with the number of hubs licensed in Oregon, we need to insure that the technology and the security is as good as it can be. He is satisfied from the report Mr. Roden gave him on the investigation he completed that it definitely meets that expectation. He assured everyone that the commission will continue to monitor the developments with the upgrade and the technology with respect to security issues.

9. Action on Proposed Amendments to Administrative Rules - Horse Racing

Chair Walters stated he and Commissioner Metcalf were present this morning for a hearing on the proposed rule changes during which time members of the public provided testimony on a number of the rules. At this time the commission will now be deliberating on the proposed amendments. While commissioners may ask members of staff for clarification on proposed changes, they cannot ask members of the public for further input. Some of the rules involve substantive and policy issues needing to be discussed and others require only clarifying questions. Presiding State Steward F. R. Blair and Deputy State Steward Jim Smith were present to answer questions from the commission. Following are rules with proposed amendments involving substantive and policy issues:

- 462-120-0050(4)(b)(D) - The proposed amendment is regarding a veterinarian being licensed in other categories. The current rule states a veterinarian shall not be licensed as an owner or trainer. The proposed change would state a veterinarian shall not be licensed in any other category. Chair Walters gave examples as provided in testimony during the hearing as to why the rule should remain unchanged and the stewards provided reasoning as to why they felt the rule needed to be changed. The consensus of opinion was to keep the rule as it is but to continue to look at the issue to see whether there should be any restrictions on the dual licensing.

- 462-130-0010(1)(ff) - The proposed amendment is regarding violation of any written agreement entered into with the Oregon Racing Commission and commission determined it was pretty straightforward and should be adopted.
- 462-130-0010(1)(gg) - The proposed amendment is regarding violation of any rule set forth in the application for a race meet license and approved by the commission. Staff thought that this provision was originally requested by the racetrack operators, however, testimony presented was that management wasn't sure they really wanted this provision in the rules. It was decided not to adopt this amendment.
- 462-130-0010(3)(e)(A)(B) - The proposed amendment is regarding prescription medication and says even if a licensee has a prescription for a narcotic or a controlled substance, the stewards/ judges can require documentation from the physician that the medication will not impair the licensee's ability to perform his/her duties. In addition, even if that written confirmation is provided, the stewards/judges can still make the decision, subject to due process rights, that the licensee will not be permitted to perform his/her duties.
- 462-140-0130(16) - The proposed amendment would allow an employee, officer, or director of a race meet licensee to own, lease, or have an interest in any racing animal entered for racing on the race meet licensee's racecourse if approved by the commission.
- 462-160-0010(3) - The proposed amendment would eliminate the rule that restricts the use of phenybutazone (bute) in two year old horses. During the hearing there was a lot of testimony presented on both sides of this issue by veterinarians and trainers. Commissioner Metcalf stated when she was veterinary school they were taught that bute was a rest drug, that it was not to be given when an animal was exercised or under work unless you were trying to fuse a joint. The inflammatory response is a natural physiological response to injury and if inhibited with the use of bute, the healing process is not allowed to take place. The side effects of bute should not be underestimated. Babies (two year olds) metabolize drugs differently than adult horses (three and four year olds). Their renal function is impaired as well as their liver enzymes to metabolize this drug. Bute functions as an anti-inflammatory. If you inhibit inflammation you inhibit pain. Bute has to be used with a degree of caution. Commissioner Metcalf stated she was not in favor of allowing bute being given to two year old horses in Oregon. Since this proposed amendment had so many proponents on both sides of the issue, it was decided to vote on this rule by itself.

ACTION: MOTION(Metcalf) Retain the rule as it is.

VOTE: 5 Aye, 0 Nay

- 462-160-0010(10) - The proposed amendment deals with prohibition of a performance enhancing drug called Erythropoietin (EPO) or derivative of EPO which was originally designed for cancer patients who were not making enough red blood cells. It is a performance enhancing drug which human athletes have already explored. The wording of this proposed amendment is patterned after the California Horse Racing Board administrative rules for this substance. It was felt by the Vet Med Committee that now was the time to adopt some sort of rules regarding the use of EPO.
- 462-160-0010(11) - The proposed amendment deals with Extracorporeal Shock Wave Therapy (ESWT) which are pressure waves. The wording of

this proposed amendment is also patterned after the California Horse Racing Board administrative rules. The use of ESWT has a profound analgesic effect. In the proper hands with the proper equipment and with the proper length of time ESWT seems to have very beneficial effects in both subacute and chronic injuries and is growing in the indications for its use. In the wrong hands it can be very detrimental. The proposed amendment addresses who can administer the therapy, certification of the treatment, what we require as veterinary documentation, etc.

ACTION: MOTION(Thorne) Adopt the proposed amendments to the rules that were noticed with the changes and amendments adopted during the course of the meeting.

VOTE: 5 Aye, 0 Nay

There being no further business, the meeting was adjourned.