

# MINUTES

## OREGON RACING COMMISSION JUNE 18, 2004

The Oregon Racing Commission met on Friday, June 18, 2004, at 2:00 p.m. for their regular meeting in the Arts and Crafts Building at Josephine County Fairgrounds in Grants Pass, OR. Commissioners in attendance were Steve Walters, Chair, Lisa Metcalf, Jeff Gilmour, and Todd Thorne. Commissioner Julianne Davis had intended to be present, however, was excused due to last minute scheduling conflict. After calling the meeting to order Chair Walters thanked Josephine County Fair and the Southern Oregon Horse Racing Association for hosting the commission for their annual June meeting in Grants Pass. Agenda items were discussed in the following order with resulting actions:

### **1. Approval of the May 20, 2004, Minutes**

ACTION: MOTION(Metcalf) Approve minutes as submitted.

VOTE: 4 Aye, 0 Nay, 1 Excused

### **2. Request by OTBA for Payment of Oregon-bred Thoroughbred Owners' Bonus and Breeder Awards Earned During 2003-2004 Portland Meadows Race Meet**

Ursula Gibbons was present to answer questions and made reference to the outline which provided total amounts they would like to pay out. There being no questions, Jodi Hanson recommended approval of the request.

ACTION: MOTION(Thorne) Approve request to distribute owners' bonus and breeder awards.

VOTE: 4 Aye, 0 Nay, 1 Excused

### **3. Request by OQHRA to Distribute Oregon Bred Breeder and 1% Owners Bonus Funds From 2003-2004 Portland Meadows Race Meet**

Dave Nelson and Rod Lowe, board members of the OQHRA, were present. Mr. Nelson stated the percentages in the letter in their packet would increase slightly with the receipt of the source market fee distribution that was received after the letter was sent. Jodi Hanson recommended approval of the request.

ACTION: MOTION(Metcalf) Approve request to distribute the Oregon bred breeder and 1% owners bonus funds.

VOTE: 4 Aye, 0 Nay, 1 Excused

### **4. AmericaTAB Request to Approve Proposed New Wager Called RaceLotto™**

Jodi Hanson stated a letter was received from Todd Bowker requesting that the commission approve a new wager called RaceLotto™, which is similar to the Magna Pick 5. ORC staff is currently reviewing particulars of the request. Chair Walters suggested that the best way to proceed would be to direct staff to initiate the rulemaking process. Commissioner Thorne voiced concern about using trademark names in our rules if, in fact, the new rule were to be adopted.

ACTION: MOTION(Thorne) Initiate rulemaking on the proposed rule.

VOTE: 4 Aye, 0 Nay, 1 Excused

### **5. Request by MEC Oregon Racing, Inc. to Release Funds in the MKC Acquisition Co. Training Track Account**

Jeff Grady was present to answer questions. Chair Walters stated another issue that may or may not be related to this request is the on-going discussions with the OGA concerning the breakage for the last couple of years. Having said that, Chair Walters stated the process the commission normally follows in approving training track fund releases is that the track first submits a proposal outlining how they intend

to utilize the funds and identifying specific cost breakdowns. The commission would then act on the request. No action was taken on the request at this time.

Commissioner Thorne commented that he was interested in the other issued cited by Chair Walters. Jeff Grady said a plan had been proposed to the OGA, which was denied. His understanding is that Magna's position that they were going to pay back one year because of the way the negotiations were with the contract with the OGA that wasn't taking into point because Magna was out-of-pocket so much money. Chair Walters stated it would be preferable for the commission to have the issue resolved between Magna and the OGA. The difficulty the commission has is that the issue at hand is a statutory payment. The commission realizes there are tradeoffs in purse contract negotiations, however, it seems in this instance there was not a tradeoff because no one knew the payments were not being made. Just looking at this situation as a regulator, these are statutory payments which should have been made and the commission's job is to enforce the statute.

#### **6. Multnomah Greyhound Park Update**

Jeff Grady reported the live racing days have been changed slightly. At the beginning of the meet there was racing on Tuesdays, and that has now been changed to racing on Sundays. The other race days during the week remain the same. The change has shown a slight increase in the handle. The meet to date live handle, which is nine less race days than last year, is down 33%. The export handle is not good at all. Last year Phoenix featured MGP as their lone simulcast. The total simulcast handle is about even with last year. Also, the Best Bet was permanently closed on Belmont day, which means there are 16 off-track sites currently operating. A new site, Coach's Best Bet located in Cedar Hills Shopping Center, has already opened and has recovered about 80% of the Best Bet's business. The Portland Meadows handle has increased close to 60% as a result of the lifting of the surcharge. Mr. Grady believes it is important to lift the surcharge for the entire meet at least at both live tracks, and in response to a question from Chair Walters they are still looking at the feasibility of lifting the surcharge completely. In order for the off-track system to be successful in simulcasting, lifting of the surcharge needs to be done statewide. The Rialto will be closed for 6 months due to a renovation project of the entire building. They are still having on-going discussions about the coast in Lincoln City. They have also received a call from people in Ontario who, depending on what happens in Boise, are interested in opening an off-track site. There is an ad campaign on cable TV beginning today for MGP and continuing into the Portland Meadows season.

Regarding Portland Meadows, Mr. Grady reported the backside improvement two year plan is now going to be one summer. Downspouts and gutters were installed in all the barns, with the run-off being kept separate from animal waste water. They are adding two Baker tanks which they hope will alleviate any future overflows. In response to a question by Jodi Hanson, Mr. Grady confirmed that Mitch Bevil is still responsible for filing reports when there is an overflow. Chair Walters also touched on the overflow reports and inquired as to whether or not the commission received copies of the reports. Ms. Hanson stated we did not, however, Mr. Grady said he would make sure the commission received reports to the EPA, DEQ and City of Portland.

#### **7. ODS Technologies, L.P. d/b/a TVG 2004-2005 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License**

Roger Nyquist was present on behalf of TVG to answer any questions. Chair Walters commented there was a very general description in the operating plan of the source market compensation policy and stated the commission needed a more detailed description of what arrangements TVG negotiates with various entities. Also, he asked that the commission be provided with information requested of the other hubs to detail the arrangements TVG has with various entities and also provide information about source market compensation that is actually paid for the commission's regulatory oversight purposes. Mr. Nyquist said he believed the source market fee program is on a contract-by-contract basis. The accounting people have told him that during the past year TVG paid \$30 million in source market fees. The contracts

are on file and are available for commission inspection. Mr. Nyquist stated they will pull each contract and provide the commission with the requested information understanding that the information is proprietary and is to remain confidential.

Chair Walters also asked for a more detailed description in the operating plan on the AWARE program. Another issue raised by Chair Walters was on the availability of funds to customers. TVG formerly had a cooling off period and now are going to a program of a customer being able to wager as soon as the funds are available in his/her account. In addition, TVG does not, unlike many of the other hubs, have built into the operating plan velocity limits on credit card usage. Chair Walters asked for an explanation of the reason for the change of the elimination of the cooling off period and whether TVG had considered velocity limits. Regarding the cooling off policy, Mr. Nyquist stated it, in essence, was successful only in cooling off their business in that customers went other places where that type of policy did not exist. On velocity limits, Mr. Nyquist stated TVG believes different people have different levels where there's an imaginary line and they would rather review them on a case-by-case basis. Commissioner Thorne stated he felt TVG's problem gambling model could be used to cover a number of issues rather than having different programs with each program addressing a specific issue. Chair Walters stated that if the commission approved the TVG application, he recommended that they delegate to the executive director the ability to waive the velocity limits in the operating plans of the hubs.

One final question from Chair Walters was on the issue of exclusivity, stating TVG continues to have exclusive contracts with the sources of their product. He asked for more detail about their policy, why they have it and why the commission should not say the application will not be approved if TVG has exclusive contracts. In response, Mr. Nyquist stated TVG's business model when they started was an exclusive contract with racetracks. TVG, unlike a lot of the other hubs, runs in essence a TV show which amounts to a substantial expense and it costs money to do that. TVG feels they cannot put on that show and then have all of their would-be customers going somewhere else for any given number of reasons. Where possible and appropriate they do make agreements with other hubs and they have access to that product as well. They believe there is value in the TVG television and video product. Commissioner Gilmour inquired as to whether or not it is TVG's intent to continue their call center in Oregon, to which Mr. Nyquist replied it certainly is. Jodi Hanson recommended approving the application. Chair Walters also recommended delegation to the executive director to approve the source marketing materials and the more complete description of the problem gambling program.

ACTION: MOTION(Thorne) Approve the application with the delegation to the executive director as stated by Chair Walters.

VOTE: 4 Aye, 0 Nay, 1 Excused

Chair Walters stated he wished to pursue the issue of delegating to the executive director, at the request of the other hubs, the ability to waive the velocity limits requirement in their respective operating plans.

ACTION: MOTION(Thorne) Approve delegation to the executive director to waive the velocity limits requirement in the operating plans of other licensed hubs if the request is submitted.

VOTE: 4 Aye, 0 Nay, 1 Excused

## **8. Proposed 2006 Meeting Dates**

It was the consensus of the commission to accept the 2006 meeting dates as submitted.

## **9. Grants Pass Race Meet Report**

Al Westhoff reported after 11 days in 2004 compared to 11 days in 2003 the handle is up 6.7% and off-track is up 10.3%. The horse population is greater than it has been in the past 4 to 5 years. There are 350 thoroughbreds, 138 quarter horses, 12 appaloosas and 2 paints. They are averaging 5.75 horses per start. The only concern at this point is the number of jockeys available to ride. Mr. Westhoff thanked the

commission for the support they've given the summer race meets, primarily the Tier 1 and Tier 2 hub funds and what that funding has allowed them to do. He feels the new dirt and track conditioner has played an instrumental role in the reduced number of injuries they have seen thus far this year. Mr. Westhoff also thanked the HBPA, OQHRA and the OTBA for their support with the Oregon-bred bonuses, and Portland Meadows for their assistance on the simulcasting. In response to a comment by Commissioner Gilmour that the Tier 1 funds for purses are intended to be a supplement and not the entire amount of the purse, Mr. Westhoff responded by saying that they appreciate receiving the funds no matter what you call it.

#### **10. Eastern Oregon Livestock Show Race Meet Report**

F. R. Blair, presiding steward, reported there was an overabundance of horses and even with the new barn there were not enough stalls. There were 24 races this year with 127 starters compared to 122 in 2003. The jockey incentive program worked well. In 2001 with no incentive program there were 6 riders, in 2002 there were 8, in 2003 there were 9, and this year there were 11. The only problem was that there were futurity trials going on that same weekend in Grants Pass which made it impossible for some of those jockeys to be there for the entire meet. The towers for the video cameras worked great. This is the first time that video has been available for use by the stewards and it was an invaluable tool on a number of occasions during the course of the meet, i.e., inquiries, objections, non-starter at the gate, etc. Mr. Blair commended the race meet staff, Nate Jacob, Ron Droke and their crew, for the excellent job they did in completing the projects funded by hub monies as well as the running of the meet itself. He also complemented ORC staff on the performance of their responsibilities.

#### **11. Confirmation for Next Commission Meeting – July 15, 2004**

Chair Walters stated he would not be present. All others stated they would be able to attend.

#### **12. Request from Friends of Multnomah County Fair to Conduct Three Day Race Meet – September 30; October 2, 3, 2004**

Larry Campbell, member of OQHRA board, stated he was at the meeting at the request of OQHRA Chair Jackie Phillips to present information to the board's action. Friends of Multnomah County Fair have been operating out of Oaks Park for the past several years, and this year will be conducting the Multnomah County Fair at Portland Meadows. In the process of their discussions with Portland Meadows they inquired about the possibility of conducting horse racing during their fair dates. The purpose of the letter of request was to indicate that they were interested in conducting horse racing during the course of their fair and, in so doing, have it become a permanent part of the racing schedule in Oregon. From the OQHRA viewpoint Mr. Campbell stated this would give access to a new group of people who presently don't have anything to do with horse racing. He also stated he presumed the HBPA and other key players had not yet been in this discussion. Chair Walters confirmed with Mr. Campbell that Multnomah County Fair would be conducting this as a nonprofit race meet. He also confirmed that Multnomah County would be conducting a fair at Portland Meadows whether or not there would be horse racing. Chair Walters also assumed that the request was for \$48,000 in hub funds to supplement purses.

Walters: Does it make sense for us to have another race meet where we have to subsidize the race meet? If it's to get something off the ground that could become self sustaining as a nonprofit fair type meet that would help the Portland Meadows meet, that's something I certainly would be interested in. I ask questions of myself about things like do we need another three-day race meet with \$2,000 a race or would it be better to look at ways to use money, i.e., could we run more days at Portland Meadows, could we run at \$5,000 to ten stakes purses at Portland Meadows, are there other ways to use that money, that it doesn't necessarily make sense to start another little race meet where we have to subsidize for a continuing period. Those are just initial thoughts that I have.

Gilmour: Your analogy of thinning the soup has always been one of my concerns. It also begs the question of other county fairs not having races. One of the key factors that encouraged me was the fact that the Multnomah County Fair anticipates physically moving the fair versus Roger Nyquist, county commissioner in Linn County, requesting running race days at Portland Meadows in the name of the Linn County Fair. Timing is absolutely everything. The hub fund is in the toilet, we've talked about that, we've got some unexpected problems with cash flow and a few other things. One of the things that we based the \$2,000 supplement to each race was based on what they did the previous year. As Mr. Blair just reported from Union County they added some races. Now are we obligated for that added money? I think technically we are because we said we would supplement the races not "X" number of races. Burns, for instance, is adding a couple of races. If all parties think this is a wonderful idea – Multnomah County Fair, OTBA, HBPA, OQHRA, Portland Meadows – I think it's wonderful. It begs the question, would you do it this year if you didn't have the hub funds based on the fact that it was going to be a consecutive thing and we'll see how the hub goes for the next year? We're looking at \$183,000 that we have given our word that we'll pay for the purse fund at the end of the year. We're cutting ourselves a little thin. We've already announced that we're going to take a look at the hub funds as a biennial distribution. We probably will not be able to distribute Tier 2 hub funds for the 2005 session so that we can satisfy the state's accounting of the two-year cycle. One of the things we need to do is to find out with these arrangements if the commission thinks this is a great idea for all parties whether or not the first year without the availability of money it still is a good idea.

Campbell: It is probably inappropriate for me to speak for the Friends of the Multnomah County Fair, however, I would say from the discussions we've had with them it would not be possible for them to fund this kind of activity without the involvement of the commission. Just the length of time they have to prepare the move of the fair is going to be a major problem for them. They're not going to be able to come up with \$48,000.

Walters: I thought I understood Jeff to say that they were going to have a fair at Portland Meadows regardless of whether or not they were going to have horse racing?

Metcalf: I'm all in support of promoting the quarter horse industry in Oregon. I do have a couple of questions based on last year's race meet. Are we robbing the end to pay for the beginning? We couldn't even fill our races at the end last year, and I don't think those were specifically quarter horses but are we actually bringing in more horses by having a race meet there three days early. Are we actually bringing in more quarter horses into racing or are we going to rob the end races at the end of the Portland Meadows race meet by doing something like this?

Grady: There are more horses available at the end of September, and as we get into April the availability of horses does diminish. I don't have the formula for that. We have a plan in place but it's going to require statute changes. Another issue is we are now exposing thousands of people to horse racing in Oregon that may not have gone to a greyhound or horse meet that are now going to go to a fair.

Walters: It's certainly an idea that should be explored and it needs to be explored also with the HBPA and the OGA. Obviously there are a lot of difficulties with it starting with the \$48,000 hub funds request. I would also like to have discussions focus on whether or not this makes sense as opposed to other things that could be done with that money. Is this something that really helps racing in Oregon? Obviously more racing in Oregon in general is good, but is a three-day fair meet in Multnomah County run two weeks before the only commercial horse racing meet an appropriate use of money or should we look at enhancing the commercial meet in some way. There is potentially a dilution factor. I thought that Commissioner Metcalf's comments and questions were very appropriate on what impact will it have on the Portland Meadows meet. There are a number of issues to be considered even if we had the money. I agree with the thought you're exposing new people to horse racing in Oregon, and presumably if they had horses running there at the time it would be good. However, two weeks later your commercial meet opens

and it would seem to me if nothing else, since the fair's going to happen there anyway, that it would be a promotional opportunity to get people inside the building. At the very least it is a promotional opportunity for the upcoming commercial meet.

There being no further business, the meeting was adjourned.