

MINUTES

OREGON RACING COMMISSION

July 21, 2005

The Oregon Racing Commission met on Thursday July 21, 2005, in Room 140, 800 NE Oregon Street, Portland, OR. Commissioners in attendance were Chair Steve Walters, Lisa Metcalf, Jeff Gilmour, Todd Thorne and Julianne Davis. The meeting was called to order at 11:00 a.m. at which time the commission immediately went into executive session to consult with counsel and to deliberate regarding proposed orders in pending contested cases and for discussion on personnel issues. Following the executive session the commission adjourned for lunch. The meeting reconvened at 1:30 p.m. at which time Chair Walters stated the commission took no action during the executive session. Agenda items were discussed in the following order with resulting actions:

1. Approval of June 17, 2005, Minutes

ACTION: MOTION (Metcalf) Approve minutes as submitted.

VOTE: 5 Aye, 0 Nay

2. Request from Harney County Fair Race Meet to Conduct Only Two Days of Racing

Jodi Hanson stated the Harney County Fair race meet application originally requested three days of racing. After it was approved it was determined that three days would not be feasible for them. The number of races to be run during the meet will remain at eighteen.

ACTION: MOTION(Davis) Approve the request from Harney County Fair to race two days instead of three as originally requested in their race meet application.

VOTE: 5 Aye, 0 Nay

3. Proposed 2007 Meeting Dates

The dates were approved by consensus.

4. Status Report on Race Meet Application from MEC Oregon Racing, Inc. dba Portland Meadows for Period June 1, 2005 through June 30, 2006.

Chair Walters began by stating at the June meeting the commission actually granted the license subject to conditions that had to be fulfilled by August 1st. Chris Dragone and Dwayne Yuzik were present to provide the update. The following transcript is in response to a question from Chair Walters as to where they were with respect to fulfilling the conditions that were placed on the license that MEC Oregon Racing, Inc. was granted in June.

Dragone: I think that we've moving along quite well. As a matter of fact, we have a verbal agreement at this point. The contract is being drafted but we have a verbal agreement with the HBPA that we have a contract for next year, and we are pushing ahead with the stakes schedule and the purse schedules. So I think we are on line to make the August 1st deadlines.

Walters: It occurred to me that I think that race days, the specific days of racing, was something that was left open...

Dragone: Yes, you'll have...

Walters: and that will all flow out of obviously the purse agreement and that type of thing.

Dragone: Absolutely. But I'd say that we're 90 to 95 percent there at this point. We have the agreement so it's just now hammering out the details which really I don't see a whole lot of issues with. I don't think we should have any problems by August 1st.

Walters: Have stall applications gone out or anything of that sort?

Dragone: I believe they go out this coming Monday.

Walters: Are you confident that you're going to make August 1st or if there is any significant risk... You realize that the license goes away if you don't meet that deadline under the way it was passed.

Dragone: I think that the only risk that I could see is the actual contract because Scott Daruty, corporate counsel, is on vacation for the next two weeks. Short of that I could a letter being drafted indicating that there is a commitment based on the contract being finalized, but that would be the only hurdle I would see.

Walters: Perhaps we could do this. If it's satisfactory with the members of the commission, perhaps we could delegate to the executive director the ability to move that date to the next commission meeting just in case they don't make it. A deadline still would be there but we'd need a written request before August 1st if the August 1st date looks as if it may slip some because of drafting issues and that type of thing.

Dragone: That would be fine with us.

Walters: Does that make sense?

Gilmour: Well, with your permission, I would suggest the same but I'd also suggest that the executive director of the Racing Commission confer individually with all of the commission members of the status and what the delay is based, reasons for it to be based on for that extension.

Walters: That's fine with me, but we would delegate to her the authority to make the decision.

Gilmour: I'm okay with that but I want to know why.

Walters: Sure, okay. Other questions and comments? I think we'll need a motion to delegate that authority.

Gilmour: So moved.

Walters: Further discussion. All those in favor signify by saying Aye.

All Aye.

Walters: So, basically Jodi has the authority to extend the August 1st deadline to the date of the next commission meeting, which I believe is August 18th, based on a prior written request prior to August 1st. If such a request is received she will confer with the members of the commission before she acts on it.

Dragone: I don't think we're needing nearly that much time. I think we're talking about just a gentleman who is going on vacation at an inopportune time. He'll be back I think the first week of August, so I don't think that should be an issue.

Walters: Anything else in your report?

Dragone: I think just a quick update on our current situation regarding simulcasting statewide. There's been a drop in the Oregon simulcasting handle. I believe it's about 25%. That's purely due to the loss of dog track, and actually that impact is considerably less than we had thought it would be. So, I think most of the trends that we're seeing right now are positive as far as simulcasting goes.

Walters: I guess one counts one's blessings where we find them. Yippee, a 25% decline in simulcasting, but I hear what you're saying. Good. Anything else to report?

Dragone: Not on this end, no.

Walters: I would, Chris and Dwayne, like to ask you some questions about the racetrack. As you know from time to time members of our staff and members of the commission get inquiries or stronger from horsemen about the condition of the racetrack and asking about what's going to be done about it and what steps are you taking to insure that the track is as safe as we can make it. I'd like you to comment on that and let us know if you have procedures in place, what you are doing, are you looking at the track, those types of things.

Dragone: Okay, very good. First of all, we're always looking at the track and keeping an eye on it even now during summer training hours. I've had occasion to meet several times with the HBPA over the last month or so. That's first and

foremost one of things I use to gauge how we're doing as far as the racetrack goes. At the last meeting, obviously, they want to know what procedures we're going to be taking going forward. Quite frankly, there hasn't been a criticism of the racing surface itself as far as being dangerous...

Walters: Addressed to you. Because I have to tell you I have received statements to that effect from individual horsemen.

Dragone: Talking to my racing secretary there's been two complaints that I know of in the last six weeks, but again you have to understand I will take my lead from the jockey colony and the HBPA. I cannot make alterations to the racing surface based on each individual complaint I have. If I did that we'd be doing 24 hours, 7 days a week making alterations for each individual trainer. That's why we have the operation where the HBPA speaks to us and then we make the alterations based on that. Now having said that, that's really not answering your question. What we've got planned for the future is we do have a certain amount of material that we have purchased that we're going to be putting on the surface probably sometime in September. It's more of a sandy-type base because the concern that we've heard from the horsemen is they were concerned more during the rainy season. We're hoping this kind of sand layer will help hold the track up a little bit better than last year. We also have in this new contract a clause which indicates that we have to have a meeting with the horsemen every two weeks. It's a track committee meeting with I assume two of the leading trainers or whoever they select from the HBPA and myself, the racing secretary and the track superintendent. I think that will be positive in the sense of keeping communications open throughout the year. I don't think anything will get away from us. As you say, you get to a point sometimes where the parties aren't communicating necessarily their concerns immediately. I've got concerns about the racetrack all the time. The only thing that I would touch upon is that the track is not always the culprit in situations where you have horse injuries. Tired horses I think tend to be much more vulnerable to injury than horses that aren't tired. And right now just touching upon this given the economic conditions that we've got within racing in the state right now where people are probably having to run the horses a little bit more than they'd like to be and pushing the horses year around not only at Portland Meadows but also at the 5 furlong or 4 furlong fair meets as well as my track, these horses, they need to be rested once and a while as well because I think tired horses are the type of horses that get injured. I'm not taking anything away from the racing surface. Obviously I've got to monitor that, but there's other issues as well. I think any time a trainer has a horse break down on the racetrack I think the track is an easy excuse sometimes that the track did it. I think tracks probably break horses down only a small percentage of the time, quite frankly. If not small percentage, a quarter of the time. I think there's other issues also out there that need to be looked at.

Walters: In looking at what you can do I've heard you say you have material to add to the track. Last year just after the first of the year, I believe, you put more sand on. Do you have similar plans to that?

Dragone: Yes. We're not going to change anything but we're again going to take the lead from the horsemen. We don't do that without discussing it with the horsemen. I think we've got a very good track superintendent. He's different than we had last year when we started the meet. I think Pat Carter is well on top of things. I've had several meetings with him during the off season. He's the one who recommended this sand that we're going to be putting down on the racing surface. I have a lot of confidence in him and I think that a lot of the trainers and horsemen I've talked to have a lot of confidence in Pat. But, if they were to come to me in November and say that we've got issues with the racetrack that we think it's headed south or whatever, then we're going to spend the money. There's no question about it.

Walters: You also have built into your contract, this is the first time you've built into your contract requirements of track committee meetings and that type of procedure?

Dragone: It's the first time it's been built into the contract. I think in the past what you've had is you've had a committee like that set up but I think despite good intentions you have these meetings set up and I think you have two or three of them and then I think that you go a month to six weeks without having another one. And then you only have these meetings when suddenly something has come up with the racetrack and then you're having to deal with a problem. I think is probably a much better approach. It forces the parties to come together every two weeks whether they really have anything to talk about or not just to stay on top of the racetrack.

Yuzik: I'd like to say that in addition to that, of course, track surfaces and what has to be done to them is very subjective in nature. Within the MEC family of tracks we're eternally keeping statistics sort of quantifying numbers of breakdowns, starters, things within our own facilities, to use that as a gauge towards how a particular racetrack surface is performing to quantify it somehow so internally we will be benchmarking breakdowns in our facilities to other MEC tracks currently operating during that same period of the year or with over the year to assist us in also evaluating is there a problem, is it outside of norms of existing tracks.

Walters: In the past, I believe last year, Chris, before you came, Dwayne, you brought in a track person to see...

Dragone: We did. The person who was working on Santa Anita at the time, actually, Bill Murphy.

Walters: I'm assuming that you will draw on those and other resources of MEC if you have a problem with the track that needs to be addressed.

Dragone: Absolutely. That's one of the good things about being a part of Magna is that I can have somebody here overnight if we have real question about the racing surface, but I don't think we're going to. Again, I think we're on top of it and I really don't foresee it, but we've got the money, we'll spend the money if we have to and we've set a certain amount of our budget aside to handle issues with it. So I think we're going to start off the meet relatively well. I don't have too many concerns on that.

Waltes: Thank you. Any other questions or comments?

Gilmour: Yes, I have one. Could you tell us where you are with all of the EPA requirements. Are they all in line with what needs to be done to conduct the next race meet there?

Dragone: Yeah, I believe we're probably the most compliant track in the country right now and I don't mean that flippantly. Every racetrack, every facility that basically under the CAFO rules, which is Concentrated Animal Feeding Operations, which is going to include every track in the country is going to need to have a plan in effect by February of 2006, and to my knowledge we're probably the only track in the country that actually not only has a plan but probably is compliant with the CAFO at this point. To answer your question, I never know from one day to the next as to where we stand always with the EPA. I think we're compliant right now, but we are looking at probably a couple of fines that we're waiting to hear how severe or how minor those are.

Gilmour: For past races or...?

Dragone: Not races per se. It's where horses walk on the facility grounds. We have a situation where we have to walk the horses in a certain area so that water runoff in those areas goes into separate tanks than what would run off in the main street. We've had some issues with that. We're looking to, obviously, work with the HBPA to make sure that those are being adhered to because I the EPA in the past has really had to deal with a racetrack situation like we have. So, it's changing the culture of how things are operated on the backside, quite frankly.

Yuzik: I can go a little farther on that because I'm the EPA signoff person. Two months ago we had an onsite inspection and we had a walkthrough with them. They identified some additional outstanding issues regarding some water holding tank areas. They identified some improvements they'd like on our Baker tank, our holding water system. We are probably going to have most of those completed within the next two to three weeks. We're going to have some dirt substance so that particular areas can be utilized as holding areas within the backstretch. We are currently in the process of trying to reschedule a reevaluation with the objective of getting a final signoff that we are in compliance. Also, in saying that is in working with the horse people we are planning much more education. We're going to be accessible, we're going to be working with the horse people so they fully understand the dos and the don'ts and things of that nature so that hopefully it'll be a buy in by all parties.

Gilmour: Signage and...

Yuzik: Signage, also educational, just basically informing... It became very evident in the last couple of months that we could have been more effective in communicating to the horse people, the people that are working in that environment, of what they can do and what they cannot do and why. We've made a commitment to them that we will be providing that and also be accessible to answer their questions because it requires a buy in by both sides.

Gilmour: One last question. Has the Portland Fire District been through the backside lately for any problems that they see or are you relying on their last visit?

Yuzik: I'm not aware of currently of what the status of what the last visit was. I'll need to get back to you and inform Jodi of such.

Gilmour: Okay. I'm trying to cover all the reasons why something would happen in October that hasn't been thought of, and I'm sure you're thinking of everything. I don't mean to be critical. When you start something like this, there's things we both need to understand it's been thought through.

Yuzik: Actually, it's (unintelligible) with Magna we probably are the most health and safety programs that we do get corporate auditing on, the big issues are the health and safety (unintelligible) our plans and that nature. It's with great pride that we say of all the Magna tracks, Portland had the greatest improvement in the last two years, and we do have an internal auditing process outside that evaluates how we are on those things. We'd be more than willing to show and share with Jodi exactly what it's like.

Gilmour: Great. Thank you very much.

Walters: Other questions. Thank you very much, gentlemen, and best of luck in moving toward the start of your race meet or continuing your race meet.

5. Grants Pass End of Meet Report

Chair Walters stated there were a couple of written reports provided in the commission packets, one from Al Westhoff and one from the ORC investigators. Jodi Hanson stated investigators' reports provide a day-to-day summary of what happened during the race meet. As information, the Eastern Oregon Livestock Show investigators' reports were also provided. These reports were started as a result of the fact the role of the investigators for the Racing Commission was in question during the 2003-05 legislative session. Mr. Blair stated the handle the last three days, which was \$195,210, was up compared to last year which was \$186,900. There were a lot of faces that hadn't been seen for awhile and they weren't the \$2 bettors. In his view simulcasting wasn't the answer to handle on live racing. The track surface held up quite well. The big feature of the meet was the mule races which provided some good close races. It was a good promotion, the mule people had all their paperwork in order and there were no pitfalls. During that time, however, the regular licensing staff was in Union so the staff that was still in Grants Pass had to do tailgate licenses. One of the mule trainers that was licensed was not eligible for a license and he also had a bute violation. Out of 904 starters, only one horse had to be removed by the horse ambulance during the races. At the request of the executive director, Mr. Blair was directed to conduct inspection reports of every racetrack in the state. In doing so, Grants Pass came up far short. We have permitted too many violations or lack of compliance in the racetrack operations over the past several years. As an example, with 32 days of conducting business during the race meet at the fairgrounds, it is inexcusable for ORC staff to be without a phone system to properly conduct their regulatory responsibilities. Mr. Westhoff told the staff that unless he gets to run while Union is running like he has in the past and instead is required by the commission to be dark that weekend, he will not be running a race meet in Grants Pass. Chair Walters commented that in a conversation he had had with Mr. Westhoff he suggested he and Union bring the issue of the overlap to the commission's attention as soon as possible like no later than August or September so that the commission can resolve the issue in order for both race meets to be able to do their planning for the 2006 summer racing season.

6. Crooked River Roundup Association Race Meet Report

Jodi Hanson reported they had their most successful race meet since the Oregon Lottery became a part of the playing field. Their four day handle was \$196,141. The attendance was an increase of about 1,000 over 2004. Mr. Blair reported the stewards' stand was expanded this year which was greatly appreciated. The video worked well, however, the photofinish was not at all good. It works well during daylight but at night it is very difficult to discern images due to the type of lights used. Portland Meadows had the same problem with photofinish during night racing. They are planning on moving their paddock and jocks' rooms to the other end of the grandstand so that they will be closer to the stabling area as well as the test barn. Commissioner Gilmour added some very positive comments regarding the enthusiasm and participation by the local community which has made this race meet a resounding success year after year. He also complimented Mr.

Blair by saying that he is a calming agent and does an extremely good job as far as the regulatory element that the ORC provides at a race meet. Commissioner Gilmour personally thanked Mr. Blair for having the ability to work with the people at the individual race meets like Tillamook, Union, Prineville, Harney County and Grants Pass in helping them to have safe and successful race meets.

7. Review of Equine Veterinary Practices, Health and Medication, Chapter 11, of the Joint Model Pari-Mutuel Rules

Jodi Hanson had brought to the commission's attention at the June meeting her desire for Oregon to come on board with adopting, with whatever slight modifications to meet particular needs specific to Oregon, the Joint Model Pari-Mutuel Rules pertaining to equine veterinary practices which have been approved by both NAPRA and RCI. Chair Walters agreed that this is an important effort for the commission to undertake because uniformity in medication rules has been one of the positive developments in racing nationwide. Commissioner Metcalf will set up a meeting with the vet med committee in preparation for a hearing on proposed rules in order to get on board with the rest of the country. She also stated we need to be able to familiarize ourselves with the differences between the model rules and our current rules.

ACTION: MOTION(Gilmour) Direct staff to initiate rulemaking with the goal in mind that the commission can have rules adopted that would become effective the first day of racing at Portland Meadows if possible.

VOTE: 5 Aye, 0 Nay

8. Confirmation of Next Commission Meeting – August 18, 2005

All commissioners stated they would be able to be present.

9. Request by eDowns.com to Terminate its Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Jodi Hanson reported one of the officers came into the office and handed her a letter which stated they would like to cancel their license and, therefore, receive their money back. The check which accompanied the license application was returned at that time, however, there still was the amount of \$18,000 which had been submitted with their original application for fiscal year 2004-05 and was never used since their operations never came on line prior to June 30, 2005. Chair Walters questioned as to whether or not the full amount should be returned since quite a bit of time went into investigating their application as well as the time and expense for Ms. Hanson and Gordon Tallman to conduct a site visit of their operation in Phoenix prior to their being licensed. His thinking was the commission should be reimbursed for the time and expense involved on the part of staff to insure all the required documentation was in place prior to the commission taking action on the application. It was decided to direct the executive director to work out an appropriate amount to withhold from the \$18,000 to cover the cost of the investigation in the licensing process and to defer action on the request by eDowns.com for reimbursement until the August meeting.

ACTION: MOTION(Gilmour) Approve eDowns.com to not operate under their license.

VOTE: 5 Aye, 0 Nay

10. Request for Tier 2 Hub Funds from OTOBA to Supplement Oregon-bred and Specific Stakes Races

Ursula Gibbons stated last year the OTOBA was able to double the amount of the nomination fees with hub funds which made quite a difference in the purses for the stakes races. This request is to once again have the matching funds in the amount of \$28,230 for the stakes races for the upcoming race meet at Portland Meadows. The purpose for the request today is that the sale catalog for the annual OTOBA Mixed Sale is ready to go to the printer and she would like to be able to provide the information on the purses for the stakes races in the catalog. The goal of the OTOBA is to make Oregon racing attractive to owners of Oregon-bred horses and money in purses brings buyers to the sale. The other part of their request is for \$44,000 for Oregon-bred purse enhancements spread over the entire 2005-06 race meet. Commissioner Thorne proposed the hub subcommittee have a meeting with the three groups and other interested parties so that they can discuss how hub funds are distributed. Thus far we've had Tier 1 and Tier 2, and given the urgency of the purse structure in the state the manner in which hub funds are allocated needs to be revisited and revised. Commissioner Gilmour echoed the comments of Chair Walters and Commissioner Thorne, stating he believed the commission needed to act on the \$28,230 today and that purse enhancements beyond a contract that is signed is a direction he would like to see the commission go. Commissioner Davis voiced her support for any initiative that the commission or the industry can come up with to increase purses in Oregon, stating it was absolutely vital for the survival of the industry.

ACTION: MOTION(Thorne) Approve request in the amount of \$28,230.
VOTE: 5 Aye, 0 Nay

11. OTOBA, OHBPA and OQHRA Joint Request for Hub Funds for Purse Supplements at Portland Meadows

Representing the three organizations were Ursula Gibbons, OTOBA; Jackie Phillips, OQHRA; and Ron Sutton, OHBPA. The joint request is one for hub funds to enhance purses for the upcoming Portland Meadows race meet. As a group they feel very strongly about raising purses at Portland Meadows because that meet is the backbone of for racing in Oregon. Without Portland Meadows the breeding industry would disappear. Rather than piecemeal the hub money out Ms. Gibbons stated the horsemen really have a stake in what happens with racing in Oregon and that they should have a say in how the money is used. Ms. Phillips agreed with the written and verbal statements made by Ms. Gibbons, and stated it is really difficult to get people to keep breeding Quarter Horses and getting them to run in Oregon due to the low purses. Mr. Sutton commented that he was very glad that the three organizations were united on this proposal in requesting hub funds to be used to enhance purses citing the Portland Meadows meet needs to be strong to help the fair meets. Any money that they would be requesting would be in addition to purse monies agreed to in the contract between the OHBPA and Magna. He went on to say he would like to see it put right on the Form that it's Oregon Hub Funds Additional Money similar to what they do at Emerald Downs. Chair Walters asked whether they had considered implementing another idea Emerald Downs is doing by providing purse enhancements for fields of over eight horses. Mr. Sutton said they have talked about it but most of their efforts recently have been focused on coming to an agreement with Magna on the contract. Further discussion on

the request for hub funds for purse enhancements for the 2005-06 Portland Meadows race meet was continued to the August meeting.

12. Request for Tier 2 Hub Funds from Crooked River Roundup

Chair Walters stated that he wasn't sure any of the requested items were urgent and required action at this meeting. Given the issues the commission is likely to have before them in the upcoming months, he suggested that this request be tabled and look at this as part of the other issues. Commissioner Thorne agreed stating they are really going to have to look at how their process works and what the commission is going to have left for Tier 2 type distribution. Regarding the race dates requests through 2010, Chair Walters questioned the July 5, 2006, date which comes the day after the usual July 4th day of racing in Grants Pass. He stated the commission really needs to look at these dates to see what is feasible and he was more than willing to grant them dates through 2010. Commissioner Gilmour commented the CRRA people are extremely well organized. They have a five year plan, and their willingness to work and look for other areas of matching funds is amazing and is an ongoing effort. They are the type of people who want to continue to keep the commission informed as to what is going on. Commissioner Gilmour suggested this request be filed in the appropriate file and to review it with the CRRA representatives sometime in the future on their other areas that they will be looking for revenue to improve their entire facility and operations. The consensus was to table this request to the August meeting.

13. Draft Final Default Order for William White

ACTION: MOTION(Thorne) Adopt the Draft Final Default Order as the Final Default Order.

VOTE: 5 Aye, 0 Nay

14. Draft Final Default Order for Kevin Murray

ACTION: MOTION(Thorne) Adopt the Draft Final Default Order as the Final Default Order.

VOTE: 5 Aye, 0 Nay

15. Stipulated Final Order for Robert Gutierrez

ACTION: MOTION(Davis) Adopt the Proposed Stipulated Final Order as the Stipulated Final Order.

VOTE: 5 Aye, 0 Nay

16. Proposed Order for Roger Stolp

For the benefit of the public Chair Walters stated this was an order that came before the commission at the June meeting at which time they postponed action on the Proposed Final Order from the Administrative Law Judge in which the proposed order suspended Mr. Stolp's license for one year that would expire August 31, 2005, and the suspension would continue until he paid certain financial obligations. The decision of the commission at that meeting was they would review the evidence in that case themselves and decide whether to adopt the proposed order or a different order with perhaps different findings and/or penalties. During the executive session earlier today the commission discussed the evidence and asked questions of counsel with respect to this case.

ACTION: MOTION(Thorne) Adopt the Draft Final Order Revoking License which is based on the commission's review of the evidence in the case and finding that the violation was reckless and not just negligent. The motion also includes amended language with respect to the conclusion of counsel that the commission can revoke the license based on each individual violation.

VOTE:

5 Aye, 0 Nay

Chair Walters stated he and the other members of the commission feel very strongly about this order. This was a matter of animal neglect, a situation showing a very calloused disregard for the wellbeing of animals. There were excuses that the licensee was very busy with work and didn't have enough help, didn't have enough funds coming in. The number one job of anyone who owns or trains horses is the care of the animals. The commission hopes in revoking this license it will send a strong message that the commission takes very, very seriously situations in which people entrusted with the care of animals neglect and/or abuse those animals.

Other Business

Commissioner Gilmour suggested that the hub subcommittee meet prior to the next commission meeting. After a brief discussion, the meeting was scheduled to take place at 9:00 a.m. on August 18, 2005.

There being no further business, the meeting was adjourned.