

# MINUTES

## OREGON RACING COMMISSION

September 15, 2005

The Oregon Racing Commission met on Thursday, September 15, 2005, at 1:30 p.m. in Room 140, 800 NE Oregon Street, Portland, OR. Commissioners in attendance were Chair Steve Walters, Lisa Metcalf and Jeff Gilmour. Commissioners Todd Thorne and Julianne Davis were excused. Agenda items were discussed in the following order with resulting actions:

### 1. Approval of August 18, 2005, Minutes

ACTION: MOTION (Metcalf) Approve minutes as submitted.

VOTE: 3 Aye, 0 Nay, 2 Excused

### 2. Portland Meadows Update Report

Chris Dragone, General Manager Portland Meadows, was present to answer questions. Information and discussions included the following:

- a. Currently have 918 horses on back side, down 7% from last year – Seattle's running longer this year, not concerned at this point. Handle numbers with no live racing at the dog track, down 17%.
- b. Inch of washed sand put down at the track –  $\frac{3}{4}$  across entire surface; cost \$30,000.
- c. A quarantine is taking place in approximately five states with regards to a highly contagious disease similar, but not as serious as, Foot & Mouth Disease. There is a 10 mile quarantine radius for the horses infected with this disease per federal guidelines; the disease has a two to eight day incubation period. The horses coming from these states will be stopped at the gate and not allowed on the back side until it is verified that the horse is not at risk.
- d. Parking lot donated at the end of the month to an organization that will be holding an auction to raise funds for hurricane relief.
- e. Starting construction for the new scale house within next week or two.
- f. Meetings every two weeks regarding the track surface will be held once the horse meet starts.

### 3. Harney County Fair Race Meet Report

Mr. Bob Blair, Presiding Steward, provided the report. Information and discussions included the following:

- a. The horse numbers were down, probably due to the quarantine, and the high price of gas.
- b. Jockey incentive program was compiled. The seven of the ten riders shown in the photo had the highest earnings.

- c. One horse's wraps came undone during the running of a race. Question as to whether that warranted some type of discipline; had the horse tripped it would have been disastrous. Mr. Blair explained that no one knew what happened, but stated that the horse had thrown "a fit behind the gate". The wraps are checked at the paddock and an expert is located at the gate.
- d. Did not have new test barn as expected.
- e. Programs were not acceptable and need to be done differently in the future: too many errors; not properly put together and 24 hour entries were too close together.
- f. New silks with Harney County emblem on the back.
- g. Fields were good – had only one or two four horse fields due to a scratch.

#### **4. Report on Jockey Incentive Program for 2005**

Mr. Blair reported that out of the ten riders, seven received incentive money and every one that he spoke to asked about whether we would have the incentive program next year and for how much? There were three riders that did not ride at all of the fairs; two of them were injured - one had a broken arm and one had a head injury.

Jodi Hanson stated that the program was changed this year so that the jockeys had to ride at all five fairs in order to receive 100% attached to their eligible points. Blair added that this helped the fairs.

#### **5. Proposed Order for Gerald A. Wootten**

Raul Ramirez, Assistant Attorney General, stated that the hearing was held on August 16, 2005 and the proposed order was issued. No exceptions have been received. The order comes before the Commission today for deliberation and possible entry of a final order.

ACTION: MOTION(Metcalf) Adopt the proposed order.  
 VOTE: 3 Aye, 0 Nay, 2 Excused

#### **6. Confirmation of Next Commission Meeting – October 20, 2005**

Commissioner Metcalf stated she would not be present for the meeting.

#### **7. Action on Proposed Amendments to OAR 462-140-0340 and 462-160-0010**

Jodi Hanson, Executive Director, reported that there was testimony from one individual at the public hearing held this morning at 10:00 a.m. on OAR 462-140-0340. This rule change pertained to the jockeys who could no longer wager on a race meet that they were riding in. This came up last year when a jockey wagered against himself. That model of behavior reflected poorly in the eyes of the public. This rule change would not prohibit the trainers from giving the jockeys the bonus tickets and it would not prohibit them from wagering on any other meet that they wanted to, just not, for example, Portland Meadows or any other meet that they would be riding in that is under the Commission's jurisdiction. Also, it would not prohibit a jockey's

spouse from wagering on the meet that the jockey would be participating in. Mr. Blair had questioned whether the jockeys should be permitted to wager at the track, period. Or, on any other race other than at Portland Meadows. How would the public perceive that?

ACTION: MOTION(Gilmour) Adopt rule change as proposed (even though it's not as restrictive as it is on members of the Commission).

VOTE: 3 Aye, 0 Nay, 2 Excused

Jodi Hanson continued the report on the second amendment OAR 462-160-0010. The testimony heard, however, was unrelated to that amendment, but pertained to concerns about review of the medication rules. The Commission voted, at their last meeting, to start that review process. It was made clear that the process has been started and that when it's time for public input, proper notification will be given.

The intent of this rule change was to make it clear for regulatory purposes that nothing would be administered after entry – *entry* means at the close of a draw for a race. The amendment states that no horse may be administered any substance other than foods by any route or any method after entry except the drug Lasix or electrolytes by feed or paste unless approved by the Commission veterinarian. The amendment was drafted by Dr. Schlingman, Commission Medical Director, after the hearing.

Stephen Walters, Commission Chair, added that this was an issue raised by Dr. Metcalf concerning inhalants. The idea was to simplify the language to indicate that you can't administer anything by any method other than the approved foods, phenobutisol, Lasix and electrolytes.

Jodi Hanson further added that there was no opposition by any parties that were here, including the veterinarian at the track as well as the HBPA and so forth.

Commissioner Gilmour stated for the record, entry is as determined by the drawing for post positions. For example, if you have a stakes race where everyone knew there were ten horses eligible and they were all entered, but because there's only eight starting gates, obviously two aren't going to get in. Let the record show that that is the intent of the word "*entry*".

AAG, Raul Ramirez, commented on the part of the amendment "unless approved by the Commission veterinarian" stating that it would be implicit that the approval of the exception would be made in advance, not after the fact.

Dr. Metcalf commented that she did not agree, stating that it would be too limiting and provided the example of a horse cutting an eyelid and needing to be medicated and sutured, but otherwise still able to race. The Commission veterinarian, if unavailable at the time, could approve of it after the fact.

ACTION: MOTION (Metcalf) Adopt the proposed amendment.

VOTE: Aye 3, Nay 0, 2 Excused

## 8. Oregon HBPA Proposed Budget for 2005-06

Dick Cartney, Oregon HBPA, was available for questions on their proposed 2005-06 budget as submitted. Information and discussion included the following:

- a. One correction under the 05 Distribution for Benevolence instead of \$11,925 it should be \$16,925 as the Board of Directors of their division recently voted to make a \$5,000 donation to Louisiana HBPA to support them with their problems resulting from the hurricane.
- b. The 2005 Donations and Gifts was \$10,000 more was due to a program that they adopted last year upon request to increase invitational handicap events at Portland Meadows. The HBPA agreed to put in additional \$1,000 race for a series of races.
- c. Legal and Legislative expense goes for the cost of the lobbyist who is paid on a yearly basis. The lobbyist does some work in between legislative sessions and stays active. Mr. Cartney stated "rather than just pay her more money for two years we spread it out and do it on a yearly basis."
- d. Regarding continuing education for the horsemen, Mr. Cartney explained that they usually have a Christmas party and a general membership meeting at the same time, but last year they were not able to, due to people being out of town. He added that they intend to put it back in.

ACTION: MOTION (Metcalf) Approve the proposed budget.  
VOTE: Aye 3, Nay 0, 2 Excused

## **9. OGA Greyhound Adoption Kennel Report**

Dick Gage, Oregon Greyhound Association, was present to answer questions about the report. The detailed report was much appreciated by the Commission. Information and discussions included the following:

- a. The total number of Oregon bred greyhounds eligible for adoption through the adoption kennel as of May 31, 2005 – the cutoff date for the five year exit plan – is 1,789 greyhounds. That number is the amount of Oregon bred greyhounds whelped between January 1, 2000 and May 31, 2005. This number also includes breeding stock on Oregon farms.
- b. In June of 2005 the adoption kennel was relocated to a local Oregon farm. At this location the adoption kennels were restricted to kennel space that could only house 28 greyhounds. In July, the adoption kennel moved back to Multnomah Greyhound Park – "thanks to the generosity of Mr. McFadden". In July, 39 greyhounds entered the adoption kennel and 11 were adopted out. In August, seven greyhounds entered the adoption kennel and eight were adopted out. In September, one has entered the kennel and three have been adopted out. There are also eight greyhounds that were called in the first part of this week and three of those came in this morning, the other five will be this weekend sometime. As of September 14, 2005, 40 greyhounds were in the kennel. Year to date, 135 greyhounds have been adopted, 90 adoptions below our normal average.

c. Expense budget correction under Facilities was due to July and August both being paid in July. Also, under Employee Wages and Benefits, July and August were both paid. The August payment also includes half of September as it has to be paid before the first of the month.

d. Oregon State Veterinary College assists the OGA to cut costs whenever possible. For example, the college offers to spay and neuter the dogs for free.

e. Tucson Greyhound Park wants to improve their image and are undergoing a complete makeover. They plan to model their program after Oregon's.

**10. Installation of Gate Lines for Quarter Horse Races at Tillamook and Burns.**

Removed from the agenda.

**11. Discussion of Penalty Grid as Suggested by Administrative Law Judge from Office of Administrative Hearings.**

Mr. Bob Blair, Presiding Steward, provided the report. Information and discussions included the following:

a. The use of a penalty grid was recently suggested by the Hearings Officer during the Roger Stolp case. The intent of the grid is to ensure fairness and consistency. The Board of Stewards have used a guideline of penalties since 1989 and copies of that guideline were submitted for the Board's review.

b. Stephen Walters, Commission Chair, stated that some of the hearings officers have struggled with wanting to know what has been done in similar cases. He suggested that the Commission study not only the Stewards guidelines of the past, but what Washington has and perhaps what other Racing Commissions and other state agencies have. He expressed a major concern that because no two violations are exactly alike, a lot of judgment has to go into the penalties based on the experience of the Stewards and the Commission; both exacerbating and mitigating factors.

c. Mr. Blair explained that the Board of Stewards does not want the mandatory penalties. Those currently on the book are unjust in some cases and should be far greater than what they are now.

d. Jodi Hanson, Executive Director, recommended that the Commission review the guidelines and agrees that their needs to be mitigating and exacerbating circumstances factored in. The members of the Commission agreed.

**12. Request for Tier Two Hub Funds from Grants Pass Downs to Simulcast the 2005 Race Meet**

Rod Lowe, Southern Oregon Horse Racing Association, was present to answer questions. Information and discussions included the following:

a. Chair Walters stated that this was an amended agenda item received today and that it requires more time for thought and deliberation, particularly from the HUB Funds Committee. This item was tabled with

the request that a grant be provided of what the difference was between 2004, 2005 and what is projected for 2006.

- b. Mr. Lowe provided that in 2004, with the simulcast supplement and getting the money from simulcasting, there was a total profit of \$11,000 for Grants Pass Downs with simulcast moneys going to them. Without it, there would have been a loss in 2004 of \$11,000. Josephine County Fair or anybody in Southern Oregon can't take those kind of losses, there's no moneys to take those kinds of losses. Southern Oregon Horse Racing Association kicked in \$15,000, HBPA kicked in \$7,000 in order to make up that difference because we did not get that simulcast supplement that we had been receiving in the years before that. Unfortunately, Southern Oregon Horse Racing Association is broke, so we have no more money to supplement Grants Pass Downs. They have spent \$55,000 in the last five years supplementing Grants Pass Downs without any income coming in. There is no more income to supplement Grants Pass Downs.

Mr. Lowe requested consistency and to keep Grants Pass Downs alive, stating that one of the things that helped, was simulcasting; It's an asset to the horse industry, to Josephine County fairgrounds and to making that meet work.

- c. Commissioner Jeff Gilmore stated that previously the Commission has wrestled with Grants Pass because it's a "different animal" than Union, Tillamook, Burns and Prineville. Grants Pass is not running a three day community affair, or a community of volunteerism where they can get sponsors and people who to work the weekend. The Commission wants to resolve the issues with Grants Pass Downs and work with their new management in order to keep the race meet.
- d. Commissioner Gilmore requested that Mr. Lowe gather information from Tillamook, Union, Harney and Crook County on what each one contributes to support their fair. He added that the Commission, who licenses each of these race meets, would point out to the county fair associations that we are all in this together and need to work together to come up with a way to keep them all going. He indicated that better relationships with the county officials could be formed and possibly, for example, could create a willingness to provide matching funds once they learn that's what the other counties are doing to support their fairs.
- e. Executive Director Hanson stated that the Commission, the staff and the funding are not the same as they used to be. For example, the Racing Secretary was paid for out of the Commission budget, not HUB funds, and that isn't in the Commission budget now. She explained she will need to make some changes and agrees with Commissioner Gilmore's suggestion to all work together to figure out new ways "because things have changed and we can't do things like we always did in the past".
- f. Roger Nyquist, who operates an off track site in Albany at Lakeshore Lanes, stated that part of the problems for Grants Pass, as well as all of racing in Oregon, is due to a disconnect with the industry between handle and purses that did not exist fifteen years ago. He stated that while simulcasting the signal helps the horseman, under the current

structure, the handle has nothing to do with purses. He explained that the HUB supplement is the purse and the handle goes somewhere else and that there's no incentive for the people in the industry to promote or grow that handle. As an industry person, he supports simulcasting the signal to the off track sites. He suggested that there may be a need to recalculate how the budgets are presented and where the money goes and stated that some percentage of that handle had to go to the purses.

Chair Walters pointed out that simulcast money generated does not go into the purses although it increases the pools and address that problem, but in the case of Grants Pass, the simulcasting money does not go into the purses. Mr. Nyquist responded that perhaps they need to shift some HUB funds to pay for some operating expenses in order to move some part of the handle back to the purses.

There being no further business, the meeting was adjourned.