

MEETING MINUTES

OREGON RACING COMMISSION September 20, 2007

The Oregon Racing Commission met on Thursday, September 20, 2007 at 11:00 a.m. in Room 1A of the Portland State Office Building located at 800 NE Oregon Street, Portland, Oregon. Commissioners in attendance were Chair Kerry Johnson, Vice Chair Stan Robson, Chris Dudley, Charlie Williamson and Lisa Metcalf via telephone.

11:00 a.m. Executive Session:

The commission entered into executive session to consider information or records exempt from disclosure pursuant to ORS 192.660(2)(f) and to consult with counsel on the commission's legal rights and duties regarding litigation that is likely to be filed pursuant to ORS 192.660(2)(h) and to deliberate on pending contested case hearing matters pursuant to ORS 192.690(1).

Upon return from executive session, the commissioners took a lunch break and resumed the meeting at 1:30 p.m.

1:30 p.m. Public Session:

Agenda items were discussed in the following order with resulting actions:

Commissioner Johnson introduced the new executive director, Randy Evers, and the new commissioners, Stan Robson, Chris Dudley and Charlie Williamson.

1. Selection of Commission Chair and Vice Chair

Commissioner Johnson stated that she was elected Chair and Commissioner Stan Robson was elected Vice Chair during the public session of the September 19, 2007 special meeting.

2. July 19, 2007 Meeting Minutes

ACTION: MOTION (Metcalf) Approve minutes as submitted.

VOTE: 5 Aye, 0 Nay

3. July 30, 2007 Special Meeting Minutes

ACTION: MOTION (Metcalf) Approve minutes as submitted.

VOTE: 5 Aye, 0 Nay

4. July 31, 2007 Special Meeting Minutes

ACTION: MOTION (Johnson) Approve minutes as submitted.

VOTE: 5 Aye, 0 Nay

5. August 17, 2007 Special Meeting Minutes

ACTION: MOTION (Johnson) Approve minutes as submitted.

VOTE: 5 Aye, 0 Nay

6. August 6, 2007 Special Meeting Minutes

ACTION: MOTION (Johnson) Approve minutes as submitted.

VOTE: 5 Aye, 0 Nay

7. Portland Meadows' 2007-2008 Race Meet License Application

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Dwayne Yuzik, Portland Meadows, and Steve Walters, Counsel to MEC Oregon were present to answer questions.

ACTION: MOTION (Dudley) Approve the race meet application as submitted.
VOTE: 5 Aye, 0 Nay

8. Portland Meadows 2007-2008 Race Meet Application Amendment – Request to Conduct “Electronic 1-2-3 with Pick N” Wagering

Dwayne Yuzik, Portland Meadows, and Steve Walters, Counsel to MEC Oregon were present to answer questions. Information and discussions included the following:

ACTION: MOTION (Robson) Deny request to amend the race meet license application.
VOTE: 4 Aye, 0 Nay, 1 Abstain

The following is a transcript of the discussion that ensued:

Walters: Thank you, Madam Chair. Steve Walters, Counsel to MEC Oregon, may I make just a brief statement and ask a question of the commission?

Johnson: You may.

Walters: Thank you, Madam Chair. As I think the commission is aware, the next step in this process – this is part of the process to test the Attorney General’s current view that Instant Racing is illegal in Oregon. The plan is that MEC Oregon will contest this decision by the commission through a contested case hearing and then with the proposed order coming back to the commission, if the commission then were to continue to deny the request, there would be following appeals to the Oregon Court of Appeals. As my understanding as the next step in this process is for the commission to issue a notice of proposed action that would come out – that would be sent to MEC Oregon with the statement of hearing rights and procedures. We then would express our intention to appeal that proposed action which then triggers a contested case hearing before an Administrative Law Judge and the process goes from there. In my early discussions with the Attorney General’s office on this subject, and the Attorney General’s office has been very cooperative throughout this process, particularly the commission’s counsel, and I’m grateful for that. But in the early discussions, it was agreed, I think, among counsel that we would do whatever we could to expedite this administrative process and appellate process to the maximum extent possible. I’m just hoping that continues to be the sense or the desire of the commission. I’m hoping that we can get the notice of proposed action as soon as we possibly can. I know that falls on your counsel who may have one or two other things to do with her time, but we’re hoping that that could come out just as soon as possible. We will promptly get in our notice of appeal and then work to get the earliest possible hearing before an Administrative Law Judge and go forward. The request is that we all continue to work together to solve this issue one way or another for the benefit of racing in Oregon.

Johnson: I believe that’s the intent of the commission and I know that Kelly’s spent a lot of time on this and will continue to keep everything moving forward.

Gabliks: It’s my highest priority. So, obviously, whatever is within our control, we will certainly expedite as soon as possible. Once we turn it over to Office of Administrative Hearings, then we certainly – all of us lose a certain amount of control.

Walters: I understand that. That’s the way litigation goes is other people make decisions for

you. But, my thinking is that to the extent requests for expedited hearing do any good, that we could join in that sort of a request and the same with the process for a proposed order and on down the line. We can do what we can.

Gablirks: And we're certainly happy to join in those requests.

Walters: Thank you very much.

9. OTOBA Proposed Fiscal Budget for 2007-2008

Ursula Gibbons, Executive Director, OTOBA was present to answer questions. Information and discussions included the following:

ORC approval was required for the breakage expenditures pursuant to ORS 462.140(3)(a)(A-D).

ACTION: MOTION (Robson) Table this agenda item until later in the meeting.

VOTE: 5 Aye, 0 Nay

10. Oregon HBPA Proposed Fiscal Budget for 2007-2008

Dick Cartney, Executive Director, Oregon HBPA, was present to answer questions. Information and discussions included the following:

Budget request was for \$150,000 which was taken from the horsemen's purse account. This money was used to run the organization in lieu of charging the association members dues. The amount requested was the same as it has been for the past several years.

The majority of the funds go to benevolence programs and/or salaries for the staff of two people.

ACTION: MOTION (Robson) Table this agenda item until later in the meeting.

VOTE: 5 Aye, 0 Nay

For the record, Commissioner Williamson stated that he might have a conflict of interest in regards to the HBPA.

11. OQHRA Proposed Fiscal Budget for 2007-2008

Leah Nelson, Executive Secretary, Oregon Quarter Horse Racing Association, was present to answer questions. Information and discussions included the following:

Budget request was for \$15,000 which were funds that came from the purse account to assist in the operation of the association.

ACTION: MOTION (Robson) Table this agenda item until later in the meeting.

VOTE: 5 Aye, 0 Nay

12. Betpad, Ltd. 2007-2008 Applicaton for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Ben Hayes, Attorney for Betpad, and Michael Weiss, Executive Vice President of Betpad, were present to answer questions. Information and discussions included the following:

Betpad was formerly known as AmericaTab, a company that held a hub license in Oregon since 2001. Shortly after being granted their 2007-2008 Hub license, a majority of AmericaTab's assets were purchased by Churchill Downs. Therefore, AmericaTab's application had been amended under the new name of Betpad in order that they may operate in those jurisdictions that were not included in the Churchill acquisition.

Subsequent to the acquisition, an ownership change occurred so that Betpad's structure was now much simpler. Some of the previous members of the limited liability company were no longer a part of the organization.

The basic business plan had not changed and they will continue to do business at US Off-Track's call center. However, the websites were changing so that that part of the operation would still need to be reviewed by the commission. They asked that the authority to approve be delegated to the executive director.

Operations would begin subsequent to that final review with a target date of approximately October 15, 2007.

Security agreement was still in place and they provided an amended list of jurisdictions where they will be conducting business.

They have authority to do business in Oregon; however, they have not received the certificate that shows the name change form AmericaTab to Betpad. He agreed to forward a copy as soon as they received it.

- ⇒ In response to Chair Kerry Johnson questions, Mr. Weiss stated that they would not be conducting robotic wagering and that new source market agreements would be obtained once they were completely separate from Churchill Downs.
- ⇒ Executive Director Randy Evers, upon review of the application with Gordon Tallman, Supervisor of Account Wagering Hubs; recommended approval of the application with the caveat that the revised State of Oregon business license be submitted.

ACTION: MOTION (Williamson) Approve the application amendment as submitted.

VOTE: 5 Aye, 0 Nay

13. Sub-Committee Update Reports

None.

14. Oregon HBPA Request for Tier 2 Hub Funds for Portland Meadows Purse Supplement Reimbursements for 2006-2007

Dick Cartney, Executive Director, Oregon HBPA, was present to answer questions. Information and discussions included the following:

Requested a reimbursement for funds used to supplement last year's purses at Portland Meadows. They believed, at that time, that they would be compensated by the Commission when the hub funds became available.

They have a summer stabling program at Portland Meadows so that

horsemen have a place to stable and train their horses during the summer. Portland Meadows charged the OHBPA a fee for last year's stabling and they in turn charged the horsemen a small fee; however, they still needed the Commission's assistance to cover all of the expenses.

The total request for reimbursement was \$251,700.

ACTION: MOTION (Robson) Table this agenda item until later in the meeting.

VOTE: 5 Aye, 0 Nay

15. OQHRA Request for Tier 2 Hub Funds for Portland Meadows Purse Supplement Reimbursements for 2006-2007

Jackie Phillips, Chairman of the Oregon Quarter Horse Racing Association, and Leah Nelson, Executive Secretary, Oregon Quarter Horse Racing Association, were present to answer questions. Information and discussions included the following:

Requested a reimbursement for \$26,400 for funds spent on the Baxter Andruss Futurity, the Oregon Bred supplement and the Portland Meadows purses. The OQHRA spent this money based on the belief that they would be compensated by the Commission when the hub funds became available.

ACTION: MOTION (Robson) Table this agenda item until later in the meeting.

VOTE: 5 Aye, 0 Nay

16. OTOBA Request for Tier 2 Hub Funds for Portland Meadows Purse Supplement Reimbursements for 2006-2007

Ursula Gibbons, Executive Director of OTOBA, and Gay Welliver, President of OTOBA, were present to answer questions. Information and discussions included the following:

Because of the uncertainty of hub funds last year, the OTOBA did not continue paying for the purse supplements because the association did not have the funds to do it. However, had they known that the Commission would reimburse them for those funds; they would have provided the full amount of the purse supplements. Therefore, they were requesting reimbursement for those funds now so that they could provide the purse money as originally planned.

ACTION: MOTION (Robson) Table this agenda item until later in the meeting.

VOTE: 5 Aye, 0 Nay

17. Harney County Race Meet Report

Bob Blair, ORC President Steward, was present to answer questions. Information and discussions included the following:

The race meet was very successful with record breaking attendance and handle. There were 33 trainers, 148 horses and 12 jockeys, thanks to the Jockey Incentive Program. As a comparison, prior to the hub funds, there were only three jockeys and 75 stalls which meant many horses had to be tied to their horse trailers.

18. Action on Proposed Order for Michael Boag

Charlie Williamson recused himself for deliberation and consideration of this matter as he previously represented Mr. Boag.

Michael Boag, represented by attorney William Dickas, presented oral arguments in support of his exceptions filed in response to the commission's Proposed Order issued on May 18, 2007.

At this time, the Commission entered into Executive Session to deliberate contested case matters pursuant to ORS 192.690(1). Upon their return, they continued with the current agenda item:

Note: Commissioner Metcalf's telephonic attendance was discontinued.

ACTION: MOTION (Robson) Adopt the proposed order to deny the license as the final order and to include the correction that exhibit A-6 was withdrawn.

VOTE: 3 Aye, 0 Nay, 1 Excused, 1 Recused

19. OTOBA Request for Tier 2 Hub Funds for Portland Meadows Purse Supplement Reimbursements for 2007-2008

Ursula Gibbons, Executive Director of OTOBA, and Gay Welliver, President of OTOBA, were present to answer questions. Information and discussions included the following:

Requested matching nominations for stakes races; supplements for the stakes races; and matching funds for a bonus program that has only been won once in eight years.

ACTION: MOTION (Robson) Table this agenda item until later in the meeting.

VOTE: 4 Aye, 0 Nay, 1 Excused

20. Oregon HBPA Request for Tier 2 Hub Funds for Portland Meadows Purse Supplement Reimbursements for 2007-2008

Dick Cartney, Executive Director, Oregon HBPA, was present to answer questions. Information and discussions included the following:

Requested funds to supplement Portland Meadows purses which would provide an additional \$200.00 per race. If they do not reach their goal of 600 races, unused funds would be returned to the commission.

ACTION: MOTION (Robson) Table this agenda item until later in the meeting.

VOTE: 4 Aye, 0 Nay, 1 Excused

21. OQHRA Request for Tier 2 Hub Funds for Portland Meadows Purse Supplement Reimbursements for 2007-2008

Jackie Phillips, Chairman of the Oregon Quarter Horse Racing Association, and Leah Nelson, Executive Secretary, Oregon Quarter Horse Racing Association, were present to answer questions. Information and discussions included the following:

Requested funds to supplement purses for their races and stated that the association would also be contributing the same amount of funds to assist with purse enhancements.

At this time, Vice Chair Robson stated his appreciation for the horsemen's indulgence and explained that they wanted to hear all of the requests for funds prior to making any disbursement decisions. The commission proceeded to take action on all of the horsemen's requests as follows:

The OTOBA, OHBPA and OQHRA's Proposed Fiscal Budgets for 2007-2008

ACTION: MOTION (Robson) Approve the fiscal budgets for 2007-2008 for the OTOBA, OHBPA & OQHRA.

VOTE: 4 Aye, 0 Nay, 1 Excused

The OTOBA, OHBPA, and OQHRA's Request for Tier 2 Hub Funds for Purse Supplements for 2007-2008 and for Reimbursements for 2006-2007.

Vice Chair Robson explained that the commission's decision for the following disbursements were based on the \$250,000 allocation that was available at this time.

ACTION: MOTION (Robson) Approve the OQHRA's request for \$23,600 and the OTOBA's request for \$32,405 for 2007-2008; and approve the OHBPA's reimbursement requests for \$175,580 and the OQHRA reimbursement request for \$18,415 for 2006-2007.

VOTE: 4 Aye, 0 Nay, 1 Excused

⇒ Executive Director Randy Evers stated: "I'd like to just clarify something. The \$250,000: I want to explain where that number came from very briefly. The way the state budgeting process works is we get an allotment each quarter. What we're talking about now is the allotments for the first two quarters of this fiscal year. The period is July 1 of 2007 through Dec 31st of 2007. The allotment for that period is about \$500,000; \$250,000 of that has already been spent. So, there's \$250,000 remaining for the rest of this six month period. That's where the \$250,000 comes [from] and what Commissioner Robson has shared with you, those numbers total two hundred and fifty. That is all the money that's available for the first two quarters of this fiscal year. My plan then is to work with the fairs and the associations to create an 18 month plan for the rest of this biennium. I think that will benefit the commissioners greatly so they will have the full allotment plans and all the demands on those funds and will also, I believe, help the associations and the fairs so as they're making their request they will have full disclosure and transparency all the demands that are on the funds. My hope is that we can do some more long term planning. Next biennium, my plan is to have it all done before the biennium even starts. So, I know there's been some frustration on both sides with the way this has operated. This is not a criticism of anyone in the past, but I think this is a better planning process so I just wanted to get that on the record."

⇒ Commissioner Dudley agreed that establishing transparency was important and stated that he was committed to making this process more clear both from the commission's perspective and the horsemen's.

22. Confirmation of Next Commission Meeting – October 18, 2007

Chair Johnson announced that Commissioner Metcalf would be available in October via telephone; Commissioner Dudley stated he would attend in person or by phone; all other Commissioners would be present at the October meeting.

23. Initial Rulemaking to Amend OAR 462-200-0520, Pick (n) Pools; OAR 462-160-0010, Permitted Medications

ACTION: MOTION (Dudley) Initiate the rule making process on OAR 462-200-0520 and OAR 462-160-0010.

VOTE: 4 Aye, 0 Nay, 1 Excused

24. Public Comment

⇒ Vice Chair Robson stated his commitment to the commission and his sentiments that it was unfortunate that, in the past, the horsemen had not known what they could count on for assistance. He continued that with Mr. Evers leadership, the commission would be in a much better position to provide that information. He explained that he had just finished four years of being on the Lottery Commission and knew that a plan could be developed to help them all more work more effectively in the future. In conclusion, he stated: "I'm hoping to work very closely with you folks to not only learn the business, but to see what your needs are and work with you effectively to go forward in a better route."

There being no further business, the meeting was adjourned.