

# MINUTES

## OREGON RACING COMMISSION July 17, 2008

The Oregon Racing Commission met on Thursday, July 17, 2008 at 1:30 p.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, Michael Huber, DVM, and Charles Williamson.

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

### 1. Approval of Agenda

Chair Johnson combined agenda item number eight, OTOBA Hub Fund Spending Report, and item number 10, OTOBA Request for Approval to Pay Out the Owners' Bonus and Breeder Awards for 2007-2008.

### 2. June 19, 2008 Meeting Minutes

ACTION: MOTION (Williamson) Approve minutes as submitted.

VOTE: 4 Aye, 1 Abstain, as follows: Dudley: Aye  
Huber: Aye  
Johnson: Aye  
Robson: Abstain  
Williamson: Aye

### 3. AmWest Entertainment 2008-2009 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Nelson Clemmens, Principal Owner, and, Randy Boden, Chief Operating Officer, of AmWest Entertainment were present to answer questions. Information and discussions included the following:

AmWest operated an OTB network, wagering without rebates and wagering with rebates.

Handed out to the commission a matrix analysis that provided confidential, proprietary information and included the take out, host fees and source market fees for each of their contracted tracks.

⇒ In response to Commissioner Huber's request for clarification regarding the reference to offshore bettors becoming onshore bettors, Mr. Clemmens verified that that referred to US bettors using onshore ADWs instead of offshore ADWs.

⇒ When Chair Johnson asked if they took bets only from individuals, Mr. Clemmens responded in the affirmative.

ACTION: MOTION (Robson) Approve application as submitted with the notation that some of the commissioners were still concerned about rebating and that there would be continued discussion on the matter in the near future.

VOTE: 5 Aye, 0 Nay

**4. Update on Youbet.com, Inc. 2008-2009 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License**

Dan Perini, General Counsel for Youbet.com, was present to answer questions. Information and discussions included the following:

⇒ Gordon Tallman, Supervisor of Account Wagering Hubs, stated that the condition placed on the approval of Youbet's license application at the last meeting had been met; they now had a source market agreement with Portland Meadows in place.

ACTION: MOTION (Williamson) Remove the condition placed on the license application approval.

VOTE: 5 Aye, 0 Nay

**5. Sub-Committee Update Reports**

**a. Best Practices Subcommittee Report**

Commissioner Dudley thanked the commissioners for completing the best practices performance measure questions. He reported that the commissioners had a unanimous agreement on four of the questions while the others ranged between 40-60% to 80-20% agreement. He explained that as this was the first time through this process, these numbers would set a bench mark for them to improve upon.

**b. Budget and Hub Funds**

Commissioner Robson explained that the committee met to review the proposed budget for 2009-2011 and requested that it be approved.

**c. Medication**

Commissioner Dudley announced that the proposed medication rules would be open to the public for comment at the August 21, 2008 rules hearing.

**6. 09-11 Agency Request Budget**

ACTION: MOTION (Robson) Approve the proposed Agency Request Budget.

VOTE: 5 Aye, 0 Nay

**7. Steward's Report on the Eastern Oregon Livestock Show, the Grants Pass Race Meet and the Crooked River Roundup**

Mike Twiggs and Bob Blair, State Stewards, were present to answer questions. Information and discussions included the following:

Eastern Oregon Livestock Show: The new racing secretary, Nichelle Milner, did a great job considering she had never been the racing secretary before nor had she ever experienced a bush meet. There were plenty of horses with 144 starters; twelve jockeys participated, thanks to the Jockey Incentive Program, but there were rider shortages at times because they weren't always all present; and an increased handle, \$48,117. There were no serious injuries to either the riders or the horses.

Grants Pass Race Meet: The racing secretary had the challenge of trying to fill races while there was a lack of horses. There were 542 starters; eighteen jockeys who participated, again with periods of rider shortages when they weren't all present; the handle was down about \$36,000 compared to 2007, but it was not a disappointing result as the handle in 2007 had been notably

up from previous years.

Three horses were euthanized early in the meet and each horse broke down at different spots on the track. The common denominators were water content and a lack of track uniformity with irregular surfaces, dips and hard spots.

- ⇒ Commissioner Williamson stated his concern about the horse breakdowns and requested an update from Grants Pass on what they intended to do to improve the conditions of the track before next year's race meet.
- ⇒ Commissioner Huber commented that he currently had two horses in the hospital with catastrophic fractures that weren't race horses. "Horses break legs. There are a lot of different factors that enter into it, but the fact that we've had two plus individuals comment on the surface is enough to make me say we better – The perception is such that the surface is in question, so if we can do something relatively easily then so it should be done. But, I would say if you had a million dollars and could replace that surface, you still will have catastrophic injuries, probably not as high a frequency because there are other factors."

The Stewards were concerned about the lack of security on the backside and requested that there be some next year as it was too difficult to police that area without it.

- ⇒ Executive Director Randy Evers stated that more than the other meets thus far, Grants Pass had really been affected by the economy. With the cost increase in diesel and gasoline, hay and oats, and all the other costs incurred for running a race horse, it was very difficult for people to haul their horses down to Grants Pass this year. He added that at the bush meets, a lot of the handle was generated by the backside folks, the owners and trainers, which could have also contributed to the decreased handle.

Crooked River Roundup: There were 285 starters; fifteen jockeys; and while the handle was down approximately \$18,000 from 2007, it was up considerably compared to most previous years.

Two horses were euthanized and went down at two different places on the track, the first was at the wire and the second was coming out of the clubhouse turn onto the back stretch.

The Stewards waived the coupling rule for the summer meets. Mr. Twiggs explained that the advantage to uncoupling horses was to keep "things above board" so that the horsemen didn't run their horses under someone else's name in an effort to fill the races.

- ⇒ Commissioner Huber stated his concern about the fact that all of the horsemen that went to Prineville weren't able to race their horses and yet he had noticed some of the horses raced back to back, increasing the chances of horses breaking down. Mr. Twiggs responded that Nichelle Milner was

currently addressing that by rewriting the condition book. He added that part of the problem was how it had been written in the past and the fact that there were minimal race office rules. He stated, "One of the rules was that non-starters had preference over starters at the meet. Which is a good rule for those kind of race meets. However, when you put a stakes race in later in the meet, that preference system and those rules go out the window because the conditions for the stakes are what take precedent. And, that would be an equal draw because they've paid for their right to be in that race. That's where a lot of these horses running back to back came from."

**8. OTOBA Hub Fund Spending Report and Request for Approval to Pay Out the Owners' Bonus and Breeder Awards Earned During 2007-2008 Portland Meadows Race Meet**

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

Implemented the following programs utilizing the allotted hub funds:

- Added \$500 to the purse of an OTOBA restricted race at each of the summer race meets.
- Breeder awards were 10% on Oregon-bred wins at each summer fair meet, previously only provided at Grants Pass.
- OTOBA implemented a new incentive program, the High-point Thoroughbred Summer Fair Circuit Challenge.
- They did not allocate any hub funds for the Breeder awards at Portland Meadows, they remained at 10%.
- They increased the Owner Bonus Pool from 33% last season to 47% for this most recent season.

Requested approval to void uncashed checks (\$595.66) and put the money towards payment of the Breeder's Award this season.

ACTION: MOTION (Robson) Approved the payout of the \$595.66 to the Breeder's Award.  
VOTE: 5 Aye, 0 Nay

Requested approval for payouts for the breeder awards and owner bonus in the amount of \$45,671.41.

ACTION: MOTION (Dudley) Approved the payout for the Owner Bonus and Breeder Awards.  
VOTE: 5 Aye, 0 Nay

**9. Confirmation of Next Commission Meeting - August 6, 2008**

All commissioners present indicated that they would be able to attend

the next meeting in Tillamook, except Commissioner Robson.

#### **10. Update on Source Market Agreement between TVG and Portland Meadows**

Will Alempijevic, Portland Meadows General Manager, and Rogyer Nyquist, on behalf of TVG, were present to answer questions. Information and discussions included the following:

Mr. Alempijevic explained that approximately two and a half weeks ago they proposed a source market fee agreement that was 30% lower than what TVG had paid historically. When they received a response from TVG earlier this week, it was not a counter offer of negotiations, but a request for information that was not pertinent to the negotiations. Therefore, Portland Meadows and TVG did not have a source market fee agreement currently in place. He added that Portland Meadows did have a source market fee agreement with all of the other ADWs licensed in Oregon.

Mr. Alempijevic continued to explain that they offered TVG the same source market fee agreement that they were able to execute with the other Oregon ADWs.

⇒ In response to Commissioner Williamson's question as to whether Portland Meadows would be willing to give TVG the same rate that they gave to any other ADW that didn't take their signal, Mr. Alempijevic responded that he would be willing to propose that to the parent company.

Mr. Nyquist explained that the information they requested had to do with other source market agreements and hub handle information that would give them a basis for proposing a new rate.

**ACTION: MOTION (Huber)** For TVG and Portland Meadows to meet with Commissioner Robson on Monday morning, July 21, 2008 in an attempt to mediate an agreement on source market fees and that if no agreement is reached, the commission may be forced to pursue disciplinary action.

⇒ Commissioner Robson stated that he was very disappointed that, after years of fairly smooth negotiations, the two parties suddenly couldn't reach an agreement. He explained that he was discouraged by the fact that they felt that they were being held hostage as to whether a meet would actually take place in October. He stated, "I'm hoping that we can come to some conclusion fairly quickly so that we can get on with racing in Oregon."

⇒ Commissioner Williamson explained that he was disappointed about the backside being closed and the horsemen wanting to come to Portland Meadows and being unable to, making it difficult to get a race meet going.

He also stated, "Frankly, I think there has been misrepresentation to the commission about whether or not there was mitigation in place at the time of the TVG license. I think that there's the rules – even if there wasn't a misrepresentation, there clearly was not an agreement. There's

no meeting of the minds on what that agreement was and, therefore, the terms of the license were not met. We will have to proceed with some sort of discipline if there's no agreement and resolution of this back to January. Maybe we would proceed with suspension or maybe an imposition of a fee or fine."

- ⇒ Commissioner Dudley stated, "I seconded the motion because I think we're being played. I think that this part of a much bigger issue, probably a disagreement corporate level. And, they've forced people in the State or Oregon to pay the price for it. I don't like the position we've been put in and I don't like feeling like I'm a ping pong ball in the politics of horse racing across the state or across the country. I think it's a precarious position for us already with the horse racing industry in Oregon."
- ⇒ Commissioner Huber stated, "The reason I brought this motion is because it is time. Although one commissioner has already said that the commission is being held hostage, I actually think the horse racing public and those that are the horse owners and breeders and trainers are being held hostage. I don't think that's appropriate. I think two business entities that have a verbal agreement for many years - it just surprises me and it's amazing that it worked as long as it did, but it puts us in a precarious situation when it comes to changes in that agreement or the lack of. Quite honestly, I'm a little surprised and I'm surprised that one business entity would accuse the other of holding up horse racing in this state. In some respects, this is sort of my personal way of getting a little aggravated at the situation and also kick starting the effort to get racing going this season. Currently, Portland Meadows is licensed until the end of September. Are they planning on running a meet? I don't think you throw that question back to one of the hubs. I really don't. There's eight other hubs involved right now."

VOTE: 5 Aye, 0 Nay

#### **11. Public Comment**

- ⇒ Ron Sutton, Vice President of OHBPA, clarified that after all of the meetings that the horsemen had had with Magna, the issue wasn't whether they would have meet, they would, but rather when the backside would open. He added that it was an issue of revenue as there were expenses involved in having the backside open.

There being no further business, the meeting was adjourned.