

# MINUTES

## OREGON RACING COMMISSION September 18, 2008

The Oregon Racing Commission met on Thursday, September 18, 2008 at 10:00 a.m. in Room 1A of the Portland State Office Building located at 800 NE Oregon Street, Portland, Oregon. The commission immediately went into executive session, took no action, and after a lunch break, reconvened in public session at 1:30 pm. Commissioners in attendance were Chair Kerry Johnson, Vice Chair Stan Robson, Chris Dudley, and Charles Williamson. Michael Huber, DVM, was excused

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

### 1. Approval of Agenda

Chair Johnson recommended moving agenda item 12, Portland Meadows Application, to 3B and agenda item 13, OQHRA Proposed Fiscal Budget, to 3A. Commissioner Dudley recommended removing agenda item 4, Update on Source Market Agreement.

ACTION: MOTION (Williamson) Approve agenda as amended.

VOTE: 4 Aye, 1 Excused

### 2. August 6, 2008 Meeting Minutes

ACTION: MOTION (Williamson) Approve minutes as submitted.

VOTE: 3 Aye, 1 Abstain, 1 Excused, as follows: Dudley: Aye  
Huber: Excused  
Johnson: Aye  
Robson: Abstain  
Williamson: Aye

### 3. Oregon HBPA Proposed Fiscal Budget for 2008-2009

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

The budget this year was the same as it had been in recent years.

⇒ In response to Commissioner Dudley's question about the agenda item marked for advertising/website, Mr. Cartney explained that the money went towards maintaining the website and for an ad in the Washington Thoroughbred, a quarterly magazine.

ACTION: MOTION (Williamson) Approve the OHBPA budget as submitted.

VOTE: 4 Aye, 0 Nay, 1 Excused

### 4. OTOBA Proposed Fiscal Budget for 2008-2009

Gay Welliver, OTOBA President, was present to answer questions. Information and discussions included the following:

This year's budget was the same as in previous years with the exception that they had a new line item for source market which would be contingent on some resolution of things in the future. They were hopeful that the source market revenue would be substantially similar to what it had been in the past.

The Oregon/Washington combined magazine was available to members and the OTOBA submitted something for publication, at least, quarterly.

⇒ In response to Commissioner Williamson's question, Ms. Welliver explained that they chose not to hold a sale this year as the cost of the sale was offset by the revenue it generated, therefore, they didn't always make money.

ACTION: MOTION (Robson) Approve the OTOBA budget as submitted.  
VOTE: 4 Aye, 0 Nay, 1 Excused

#### **5. OQHRA Proposed Fiscal Budget for 2008-2009**

Dave Nelson, OQHRA Representative, was present to answer questions. Information and discussions included the following:

The budget was based in part on a deduction of \$15,000 from the Quarter Horse purse account at Portland Meadows. The rest of the revenue came from membership related sources.

Their budget figure had stayed relatively constant for about 15 years.

⇒ In response to Commissioner Dudley's question about advertising, Mr. Nelson explained that they purchased advertising in northwestern related racing magazines to promote stakes races in Oregon.

ACTION: MOTION (Williamson) Approve the OQHRA budget as submitted.  
VOTE: 4 Aye, 0 Nay, 1 Excused

#### **6. Portland Meadows 2008-2009 Race Meet Application**

Will Alempijevic, Portland Meadows' General Manager, was present to answer questions. Information and discussions included the following:

Portland Meadows improvements included an upgraded racing surface; increased security on the front and backside; and additional security cameras.

Expressed appreciation for the matching marketing funds from the commission and had a new marketing plan that was broader than what they had done in the past. Advertising would include newsprint media; a promotional ad with All Sports Radio that would run throughout the race meet; a radio show on the All Sports Radio internet site, and hopefully on their radio show in the future; and billboard advertising which was contracted to go up on September 29th.

⇒ In response to Commissioner Williamson's concerns, Mr. Alempijevic agreed to look into whether the purse account was a segregated account; what the cost would be to raise the surety bond from \$265,000 to \$500,000; and what the cost would be to have a \$10,000 performance bond. He agreed to have the answers back to the commission the next day.

→ Vice Chair Robson added that if the account was segregated, it would probably negate the need to increase the surety bond.

⇒ In response to Vice Chair Robson's question as to why they weren't running 720 races this year, Mr. Alempijevic explained that they didn't feel they could offer a competitive race meet and offer attractive purses for 720 races without having some other alternative gaming, Instant Racing for example, to support the purses.

⇒ Regarding delegating authority to the ORC Executive Director, Commissioner Dudley stated that he agreed that the executive director could approve small changes in the live performances, such as making up a snow day, but if Portland Meadows requested major changes, such as extending the race meet significantly, it should come before the commission.

⇒ Chair Johnson clarified the following: Portland Meadows had an Unclaimed Winnings Account; Mr. Alempijevic had submitted the names of their Horse Identifier and Plate Inspector; and the liability and jockey insurance policies were current and the companies licensed to do business in Oregon.

**ACTION: MOTION (Williamson)** Approve the Portland Meadows 2008-2009 Application with the commission reserving the right to impose, depending on the information received prior to the next commission meeting, additional requirements on the surety bond or trust account and, a new requirement for a 10,000 performance bond.

In addition, the approval was subject to the two million dollar public liability insurance and the jockey insurance remaining in effect at the rates and amounts that were submitted in this application.

**VOTE:** 4 Aye, 0 Nay, 1 Excused

## **7. Sub-Committee Update Reports**

### **a. Advanced Deposit Wagering and Multi-Jurisdictional Hubs**

Chair Johnson reported that, after the rules process was closed today, she hoped that the committee, as well as people in the industry, would again work on making additional rules changes starting in November.

## **8. Action on Final Order for Timmy K. Tso**

**ACTION: MOTION (Robson)** Adopt the Final Order to Deny the License.

**VOTE:** 4 Aye, 0 Nay, 1 Excused

## **9. Action on Final Order for Kevin L. Willis**

**ACTION: MOTION (Dudley)** Adopt the Final Order to Deny the License.

**VOTE:** 4 Aye, 0 Nay, 1 Excused

## **10. Portland Meadows Application Amendment for Electronic 1-2-3 with Pick N Wagering** (Originally, this amendment was to be addressed immediately following the Portland Meadows License Application, but was overlooked and addressed at this time.)

**ACTION: MOTION (Williamson)** Hold a decision in abeyance pending the ongoing court proceeding.

**VOTE:** 4 Aye, 0 Nay, 1 Excused

→ For the record, Commissioner Dudley stated that this amendment was not part of today's Portland Meadows Application and therefore Electronic 1-2-3 with Pick N Wagering was never approved.

#### **11. Steward's Report on the Tillamook and Harney County Fairs**

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

Tillamook County Fair: New grandstand made of metal and concrete with a 14 x 40 Stewards stand; handle was \$129,306, up about 1% from last year which was a record breaking year; 140 starters over three days; races were overfilling and discussed running 7 field races next year; one breakdown, the first since 1996. Late scratches were caused by a gate that prematurely opened and a noisy, carnival ride that was located right next to the starting gate. Jerry Underwood already addressed both those issues for next year.

⇒ Regarding the one horse that broke down, Commissioner Williamson asked that, once the cause was determined, the commission be informed.

Harney County Fair: Handle was down a little at \$30,675 compared to last year's \$32, 939, primarily due to the economy; 119 starters over two days; the jockey colony was thin and one horse had to be scratched because of no rider, but jockey availability had been a lot worse prior to the jockey incentive program. Issues of concern included the timing of the races, which could be corrected by installing a modest PA system in the barn area with a mic in the paddock for next year; rodeo contestants and spectators sitting along the rail across from the paddock on the main part of the track, which could be corrected by installing a secondary, temporary barrier for next year; and the lack of a cooling out area or a way to isolate the horses being tested in the test barn from the general population on the backside, which could be corrected by installing fencing panels to better define the test barn area for next year.

Jockey Incentive Program was very instrumental in making the summer fair circuit successful. Five riders received a \$5,000 bonus.

⇒ Executive Director Evers announced that there would be a fair association meeting held in January that the commission was invited to attend and that would provide an opportunity to discuss the commission's concerns and suggested resolutions with the fair managers.

He also stated that the new racing secretary, Nichelle Milner, did a great job for her first year at the summer fair meets.

#### **12. Confirmation of Next Commission Meeting - October 16, 2008**

All commissioners present indicated that they would be able to attend, including Commissioner Dudley, who would be out of state, but would attend via telephone.

**13. Rules Hearing Report by Charlie Williamson, Hearing Officer**

Commissioner Williamson explained that the rules had been printed and were available to the public.

**14. Action on Proposed Amendments for Procedural, Horse Racing, Account Wagering and Multi-Jurisdictional Simulcasting and Interactive Totalizator Hub Rules**

ACTION: MOTION (Williamson) Adopt the proposed amendments to all of the divisions as provided by Carol Morgan of the Racing Commission.

VOTE: 4 Aye, 0 Nay, 1 Excused

**OAR 462, Division 1 – Procedural Rules**

ACTION: MOTION (Williamson) Adopt the proposed amendments to Division 1 with the added amendment that 4(i) “licensed deposit wagering companies” be added to 462-001-0000 so that the ADWs also received the notices on the rules.

VOTE: 4 Aye, 0 Nay, 1 Excused

**OAR 462, Division 110 – Definitions**

ACTION: MOTION (Williamson) Adopt the proposed amendments to Division 110.

VOTE: 4 Aye, 0 Nay, 1 Excused

**OAR 462, Division 120 – Licensing Procedures**

ACTION: MOTION (Williamson) Adopt the proposed amendments to Division 120.

VOTE: 4 Aye, 0 Nay, 1 Excused

**OAR 462, Division 130 – Prohibited Conduct and Hearing Procedures**

ACTION: MOTION (Williamson) Adopt the proposed amendments to Division 130.

VOTE: 4 Aye, 0 Nay, 1 Excused

**OAR 462, Division 140 – Duties**

ACTION: MOTION (Williamson) Adopt the proposed amendments to Division 140.

VOTE: 4 Aye, 0 Nay, 1 Excused

**OAR 462, Division 150 – Horse Racing Requirements and Procedures**

ACTION: MOTION (Williamson) Adopt the proposed amendments to Division 150 with the exception that the added amendment 462-150-0030(29) not be adopted, but be deleted from the rules.

VOTE: 4 Aye, 0 Nay, 1 Excused

**OAR 462, Division 160 – Horse Medication and Misc. Provisions**

ACTION: MOTION (Williamson) Adopt the proposed amendments to Division 160.

VOTE: 4 Aye, 0 Nay, 1 Excused

**OAR 462, Division 210 – Account Wagering**

ACTION: MOTION (Williamson) Adopt the proposed amendments to Division 210 with the addition of the language “not less than fifty dollars” to 462-210-0030(2) so that ADWs could set whatever minimum they wanted, but it couldn’t be less than fifty dollars.

VOTE: 4 Aye, 0 Nay, 1 Excused

**OAR 462, Division 220 – Multi-Jurisdictional Simulcasting And Interactive Wagering Totalizator Hub**

ACTION: MOTION (Williamson) Adopt only the proposed amendments to 462-220-0060 and not adopt any proposed amendments to 462-220-0030.

VOTE: 4 Aye, 0 Nay, 1 Excused

→ Executive Director Evers and the commissioners thanked Commissioner Williamson for all of his hard work as the Administrative Rules Hearing Officer.

**15. Public Comment**

⇒ Dick Cartney, Executive Director OHBPA, stated that the source market fee issue had been debated for a period of months and reminded the commission that it was an extremely important issue to the horsemen and the operator of Portland Meadows as it involved a significant amount of money. He continued that it could impact whether this year's race meet was successful and whether the owners of Portland Meadows, as well as the horsemen, would want to continue to operate in Oregon.

→ Chair Johnson responded that the commission's position today was to encourage the negotiations to continue towards an agreement, but that the commission was not going to make the decision for them.

⇒ Dave Nelson, OQHRA Representative, reported on the OQHRA's use of hub tax revenue, stating that they were using it to increase the purses in their stakes programs in an effort to build up the enthusiasm and incentivize breeding and racing at Portland Meadows. He explained that they were putting a total of \$160,000 into the stakes races as follows: \$55,000 from the purse account; \$46,000 from hub tax funds; \$49,000 from source market funds; and \$10,000 from the Baxter Andress fund.

⇒ Gay Welliver, OTOBA President, reiterated her concerns about the unresolved source market issue. She stated that in the budget previously approved by the commission, it listed the distribution of the source market funds which were critical to their industry.

⇒ Jody Davidson explained to the commission that because he was no longer allowed to have a license in Oregon, it was preventing him from getting a license in other states.

→ Kelly Gabliks, AAG, responded that because his license was denied in Oregon, if the time to appeal had already passed, he would have to wait six months from the date the order went into effect to reapply for a license, according to Oregon law.

⇒ James Wooten explained that he was having a problem with his licenses in Washington and California because he had a revocation in Oregon. Randy Evers, Executive Director, agreed to meet with Mr. Wooten after the meeting to review his status and current options.

There being no further business, the meeting was adjourned.