

# MEETING MINUTES

## OREGON RACING COMMISSION April 16, 2009

The Oregon Racing Commission met on Thursday, April 16, 2009 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 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 announced that there were no changes to the agenda.

ACTION: MOTION (Dudley) Approve agenda.

VOTE: 5 Aye, 0 Nay

### 2. March 19, 2009 Meeting Minutes

ACTION: MOTION (Dudley) Approve minutes as submitted.

VOTE: 4 Aye, 0 Nay, 1 Abstain as follows: Johnson: Aye  
Robson: Abstain  
Dudley: Aye  
Huber: Aye  
Williamson: Aye

### 3. Allocation of Hub Funds

Vice Chair Robson stated that the ADW Hub subcommittee met and put together a tentative budget; however, some new issues recently came up that also needed to be considered and they would postpone the hub fund allocations until the next commission meeting.

At this time, Vice Chair Robson provided an overview of everything they considered, as follows:

While it was the first biennium budget proposal ever presented by the ORC, they were going to use the same criteria they'd established last time. The criteria included setting priorities following the intent of the law and subsequent rules regarding racing in Oregon. Decisions would be based on the philosophy of trying to do the most good for promoting horse racing in Oregon. For the most part, the fairs and racing associations had responded very favorably to the last budget, so the commission would continue with the same methodology and distribution decisions. He added the goal was to achieve an appropriate and fair distribution.

This biennium budget started with over \$70,000 more based on what the legislature determined for the ORC spending limitations. In addition, the ORC was no longer providing funding for the greyhound adoption kennel so that provided an additional \$180,000.00 to be allocated elsewhere. Even with those increases, this year's requests exceeded the funds by over \$900,000, almost a million dollars. He stated that there would be some additions and some reductions, but most entities would stay intact if not increase in some areas.

There was a caveat to this budget. Because of the economic times in Oregon and because the proposed budget was based on what they could forecast, the

commission reserved the right to reassess the allocations in one year. He added that whether there were revenue decreases or increases, the allocations would be adjusted accordingly.

Dr. Huber and Commissioner Dudley had requested a new area of funding for horse safety. While the subcommittee thought it was a good idea, they did not want to include it in the draft of the budget until there was a policy and a requested funding amount. He added that if the policy's enacted in the next couple of months, they would utilize the reserves and be able to fund it to a limited extent.

The new greyhound association also requested one-time start up funding of \$4,500 to get their organization going. Vice Chair Robson reiterated that it would be a one-time fund.

Vice Chair Robson stated that it was the hub fund revenues that were keeping horse racing going in Oregon. He strongly encouraged the racing community to become more creative in gaining additional fiscal support for racing. He stated that Portland Meadows had done an exceptional job this year with the creation of the People's Horse, Mystacallie, and the Jockey Challenge, which were two really successful efforts. He explained that if others could work to get additional sponsorships to raise purses, such as the Quarter Horse Racing Association's John Deere Challenge, the industry could get more of a boost. He stated that most of the racing community had said that the purse increases were bringing new horses to this state for the first time. If the purses continued to increase, it would mean more and better quality horses in the future. He urged everyone to take up this effort to support racing in Oregon.

#### **4. Portland Meadows Report**

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

Appreciated Vice Chair Robson's kind words. They believed it was a successful meet and appreciated the commission's support; the marketing couldn't have been as creative without the additional hub funds from the commission.

The 08-09 meet concluded on Tuesday, March 31, 2009. They ran 66 days of live racing this year compared to 61 days last year; 620 races compared to 583 races last year of the 620, 536 Thoroughbreds and 84 Quarter Horses; the average field size was 7.6 horses per race, on par with last year; paid out 3.1 million this year in purses compared to last year's 3 million, but with 6 percent more races, the average purse per race day this year was \$47,589, compared to last year's just over \$50,000; average wagering on Portland Meadows in state product was \$38,800 per live race day, a small drop from the previous season's \$39,000; export sales were phenomenally strong again this year, averaging a total handle per day of \$637,000 compared to \$492,000 in the previous year; the total of the in state wagering and the export sales, ring in Oregon on the Portland Meadows network was \$44.6 million dollars wagered on the races, compared to last year's 32.4 million, an increase of 27.2% on a per day basis; wagering in Oregon was \$24 million, down 14% from last year's \$28 million.

A new OTB in Fairview, located a few blocks from the old Multnomah Greyhound Park, would be opening the Wednesday before the Kentucky Derby. Formerly a restaurant, the new owners converted it into a sports bar.

#### **5. Legislative Updates**

**a. Senate Bill 198:** Commissioner Williamson explained that the bill passed the Senate. However, there were concerns from TVG and Roger Nyquist, so he and Mr. Nyquist would be meeting with legislative counsel tomorrow. While they had reached an agreement, they wanted to make sure that what they agreed to was what was actually written in the amendments. Next month, Commissioner Williamson, Commissioner Dudley, and Mr. Nyquist would present the bill with the amendments to the house committee and then if passed, it would go back to the Senate for their concurring approval of the amendments.

**b. House Bill 3099:** Commissioner Williamson explained that the people from the greyhound community asked the commission to take a look at this bill. The bill updated some land use laws, but in the process, outlawed the greyhound farms or kennels in zones where they had previously been allowed. He stated that while there weren't any current plans to have a greyhound track in Oregon, he wanted to keep that option open and asked the commission to oppose that part of the bill dealing with the greyhound kennels farms. He indicated that there was some agreement that that portion of the bill would be taken out.

ACTION: MOTION (Williamson) The commission oppose HB 3099 unless it's amended to delete references that adversely affect the present or future greyhound farms and kennels in Oregon. The motion was conditional upon there being no opposition to this position by the Governor's office.

VOTE: 2 Aye, 3 Nay, as follows: Johnson: Nay  
Motion Failed Robson: Nay  
Dudley: Aye  
Huber: Nay  
Williamson: Aye

Later, during the meeting, Vice Chair Robson wanted to readdress this House Bill.

ACTION: MOTION (Robson) Reconsider Commissioner Williamson's motion to oppose HB 3099 unless amended as stated and so far as it's approved by the Governor's office.

VOTE: 3 Aye, 2 Nay, as follows: Johnson: Nay  
Motion Passed Robson: Aye  
Dudley: Aye  
Huber: Nay  
Williamson: Aye

**c. HB 5044:** Vice Chair Robson explained that the budget had passed, adding that the ORC was not part of the General Fund and he did not anticipate any issues.

## 6. Subcommittee Update Reports

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

Chair Johnson reported that a public hearing was held that morning for the new hub rules and Commissioner Williamson would be addressing the rules later in the meeting.

### b. Best Practices

Commissioner Dudley proposed the commission hold their retreat after the July meeting in Prineville or in Burns on September 10<sup>th</sup>. He explained that they would need to meet for approximately three hours to review the Best Practices. After verifying everyone's preference, Commissioner Dudley would announce a definite date and time by the next meeting.

### **c. Budget and Hub Funds**

Vice Chair Robson stated he had nothing additional as the information was provided previously in the meeting.

### **d. Medication and Horse Welfare**

Commissioner Huber announced that the subcommittee met in the morning prior to today's commission meeting. He stated that they were focusing on the fatalities directly associated with racing. They looked at the statistics from the 2008-2009 race year as well as previous years and evaluated factors that might have affected those statistics.

One action they were considering was to provide the numbers to a statistician to see their actual significance. He explained that they would also try to equate track conditions to the breakdowns. They had an expert on track surfaces who came out to the track, made some recommendations, which were followed, and still more breakdowns occurred. All were in agreement that breakdowns were not all related to track surface, but it was an important part of the process.

Also discussed a necropsy program, which may not give a direct answer as to why the horse broke down, but would help categorize the fatality, the type of injury, where the horse was in the race, and where on the track the injury occurred.

The subcommittee also discussed conducting pre-race exams and the possible relationships between catastrophic breakdowns and the presence or lack of toe grabs, the use of riding crops, and the medications. They also discussed looking at the condition book and how the actual scratching of horses might impact the number of fatalities.

He stated that they did not make any policies or recommendations, but would be meeting again next month when Executive Director Evers and Dr. Katler could be in attendance.

## **7. Confirmation of Next Meeting – May 21, 2009**

All commissioners present indicated they would be able to attend the May meeting.

## **8. Action on Proposed Amendments to Account Wagering Hub Rules OAR 462, Divisions 210 & 220.**

Commissioner Williamson announced that a hearing was held that morning on the rules and provided the following information:

Gay Welliver and Wendie Hayes-Pounds, of the OTOBA, testified that by not setting a percentage for the source market fees, the commission was leaving this issue open to a lot of work by the track and the ADWs to negotiate. They felt that a seven percent source market fee should be imposed, or 6% if no signal, which would be the cost of doing business in Oregon so that everybody would be on the same page.

The ADW subcommittee proposed that each ADW negotiate with the track and, if they couldn't reach an agreement, the commission would still allow a license if they found that the mitigation in the proposed license was satisfactory. The reason the ADW subcommittee took that stance was because there was a fluid situation across the country where some of the ADWs, in some situations, could actually lose money on a wager based on what the tracks were charging for signals, other costs the companies incurred, and the added seven percent source market fee. The subcommittee determined that the ADWs should be allowed the opportunity to try to

negotiate with the track on those points.

In the future, if the commission had to listen to arguments item for item about the proper source market fees, Ms. Welliver's recommendation might be revisited. There were one or two ADWs that were in agreement with setting the seven percent fee; the others wanted the opportunity to negotiate.

There was also testimony from Gene Chabrier who wanted to lower the \$25.00 minimum, but it was felt by the subcommittee that it was advanced deposit wagering and \$25.00 was a pretty small advance.

Roger Nyquist and Ben Hayes testified in favor of the rule amendments.

ACTION: MOTION (Williamson) Adopt the rule amendments to OAR 462, Divisions 210 & 220 as proposed.

VOTE: 5 Aye, 0 Nay

**9. Presentation of Oral Arguments on Exceptions Filed by Michael Boag to the ALJ's Proposed Order for Mr. Boag**

ACTION: MOTION (Williamson) Defer this agenda item to the next meeting.

VOTE: 3 Aye, 2 Nay, as follows: Johnson: Nay  
Motion Passed Robson: Nay  
Dudley: Aye  
Huber: Aye  
Williamson: Aye

**10. Public Comment**

⇒ Harvey Boyle, Grants Pass, explained that they had hired a new track person who'd worked in Ferndale as well as all the other northern California tracks.

They talked with a soil specialist who recommended that they put gypsum on the track to help break up the soil and keep it from being slippery until they can replace the dirt.

The issue regarding the vehicles crossing the track would be resolved by making a plywood ramp that would spread the weight out so the track didn't get packed down.

They had purchased a new gate so it won't be necessary to have equipment on the track.

Don Jackson was looking into purchasing new soil and Jackie McBee had submitted two grant proposals to try to finance the cost of the new soil.

There being no further business, the meeting was adjourned.