

MINUTES

OREGON RACING COMMISSION May 21, 2009

The Oregon Racing Commission met on Thursday, May 21, 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 Stan Robson, Michael Huber, DVM, and via telephone, Chris Dudley and Charles Williamson.

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

1. Approval of Agenda

Chair Johnson requested that agenda item three "a" (3a) Crooked River Roundup be removed from the agenda.

ACTION: MOTION (Robson) Approve agenda.

VOTE: 4 Aye, 1 Excused

2. April 16, 2009 Meeting Minutes

ACTION: MOTION (Robson) Approve minutes as submitted.

VOTE: 4 Aye, 1 Excused

Commissioner Williamson joined the meeting during via telephone at 1:34 pm.

3. Allocation of Hub Funds for 09 - 11 Biennium

Vice Chair Robson explained that the budget committee tried to maintain the same process as they did last year by utilizing the limited hub funds for operational expenses and purse enhancements and not for any capital improvements.

He explained that the combined requests totaled more than a million dollars over the actual amount of the available funds. He stated that the allotment limitation was \$2,631,679 adding that this was an estimate and that the amount could change. He further explained that the committee would reassess the funds in a year and make adjustments accordingly.

Vice Chair Robson provided the biennial distribution amounts, as follows:

Summer Fair Meets and Related Expenses:

| | |
|--------------------------------|--|
| Eastern Oregon Livestock Show: | \$130,850; |
| Josephine County Fair: | \$550,070; |
| Crooked River Roundup: | \$210,120; |
| Tillamook County Fair: | \$190,000, increased from last year due to an additional day of racing; |
| Harney County Fair: | \$130,000, increased from last year due to a couple of additional races; |
| Jockey Incentive Program: | \$80,000; |
| Jockey Insurance: | \$66,000, decreased due to a lack of incidents; |
| Racing Secretary: | \$24,450; |

Associations:

Oregon Horsemen's Benevolent & Protective Association: \$542,000;
Oregon Thoroughbred Owners and Breeders Association: \$250,000;
Oregon Quarter Horse Racing Association: \$180,000;

Additional Allocations:

Portland Meadows Marketing: \$80,000;
Adoption Kennel - a one time and last time expenditure - \$4,500;
Truesdail Laboratories - Testing - \$180,000.

The above allotments totaled \$2,617,990 leaving a cushion of only \$13,689 for adjustments.

Vice Chair Robson reiterated the importance of the fairs and the associations to continue or adopt a marketing program to help acquire funding outside of hub funds. He stated that hub funds were limited and in order for Oregon racing to grow, it behooved everyone to get other support from the racing community.

ACTION: MOTION (Huber) Approve hub fund allocations.

Prior to the vote, Commissioner Williamson explained that one of the partners in his law firm represents the OHBPA, so he stated a potential conflict of interest.

VOTE: 5 Aye, 0 Nay

4. Summer Race Meet Officials, Take Outs and Bute & Lasix

Executive Director Evers recommended approval of the three fair meet applications for the Eastern Oregon Livestock Show, Josephine County Fair and Tillamook County Fair.

He stated one change needed to be made with the Josephine County Fair list of officials, as they had Dr. Stacy Katler, ORC Veterinarian, listed as their fair veterinarian. He added that they would contact him with the correction.

ACTION: MOTION (Williamson) Approve the three fair meet applications with the one revision of the Josephine County Fair Veterinarian update to be provided to Executive Director Evers.

VOTE: 5 Aye, 0 Nay

5. The Racing Channel, Inc. 2009-20010 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Rich Roman, Director of Operations, and Don Dixon, Vice President of Technology for Greenwood Racing (parent company), were present to answer questions.

- ⇒ Audrey Kauffman, Supervisor of Account Wagering Hubs, stated that the application met all of the ORC compliance requirements and she recommended approval.
- ⇒ Chair Johnson requested The Racing Channel's verbal confirmation of specific details in their operating plan to provide on the record verification that they were in compliance with the Oregon statutes, rules and application requirements.

ACTION: MOTION (Robson) Approve application as submitted.

VOTE: 5 Aye, 0 Nay

6. ODS Technologies, L.P. dba TVG 2009-2010 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Roger Nyquist, on behalf of TVG, was present to answer questions. Information and discussions included the following:

Mr. Nyquist stated his appreciation for the efforts of Executive Director Evers and Ms. Kauffman and the productive and proactive dialog they've shared since the submission of this year's TVG application.

TVG was acquired by Betfair on January 27, 2009. TVG and the industry already benefited substantially by their ownership, as follows:

- On May 1, 2009, TVG signed an agreement with TrackNet Media. This agreement allowed TVG to, once again, carry all three legs of the Triple Crown. The agreement also allowed them to carry a number of additional tracks, including Portland Meadows.
- TVG was now available on cable and via dish in 30 million homes across America and another 19 million homes internationally.
- Mr. Nyquist stated that with the approval of their license application today, he estimated the horse racing industry in Oregon would gain a financial benefit of approximately one million dollars.
- ⇒ Audrey Kauffman, Supervisor of Account Wagering Hubs, stated that the application met all of the ORC compliance requirements and she recommended approval.
- ⇒ Chair Johnson requested TVG's verbal confirmation of specific details in their operating plan to provide on the record verification that they were in compliance with the Oregon statutes, rules and application requirements.
- ⇒ Commissioner Williamson stated his concern that there was not a mitigation plan currently in their operating plan with Portland Meadows or the OHBPA after December 31, 2009.
- ⇒ Vice Chair Robson explained that the commission previously allowed TVG an 18 month contract and that the commission would have an opportunity to review and act on the second half of this year's contract once it's submitted. At this point, the licensing requirements had been met.

ACTION: MOTION (Williamson) Approve license application to expire on December 31, 2009, unless a source market fee agreement is reached between TVG and Portland Meadows, or the OHBPA, for the duration of the licensing period, then the license would expire on June 30, 2010. If no agreement is reached, the commission could still extend the license if it's agreed that a satisfactory source market fee is proposed by the licensee.

MOTION 2nd: None; Motion no longer considered.

ACTION: MOTION (Huber) Approve license application as submitted.

⇒ In response to Commissioner Williamson's question, Ms. Gabliks, AAG, explained that there was an agreement for the first six months between TVG and the OHBPA which satisfied sub "a" of the requirements. TVG stated in the application that they didn't have an agreement after December 31st at this time, so would meet the licensing requirement based on sub "c" to continue the current formula, not the agreement, but the formula in the agreement. Ms. Gabliks stated that the commission would be voting that it's an appropriate mitigation plan.

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

7. XpressBet, Inc. 2009-2010 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Gene Chabrier, Director of Regulatory Affairs, was present to answer questions. Information and discussions included the following:

XpressBet enjoyed a successful 2008 and appreciated being able to participate in the ORC rules making process, stating that the ORC sets a great model.

Pro site was launched in 2008, an online wagering platform with enhanced video and handicapping tools for their customers.

⇒ Audrey Kauffman, Supervisor of Account Wagering Hubs, stated that the application met all of the ORC compliance requirements and she recommended approval.

⇒ Chair Johnson requested XpressBet's verbal confirmation of specific details in their operating plan to provide on the record verification that they were in compliance with the Oregon statutes, rules and application requirements.

ACTION: MOTION (Huber) Approve application as submitted.

VOTE: 5 Aye, 0 Nay

8. Youbet.com, Inc. 2009-2010 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Joseph Hasson, on behalf of Youbet.com, was present to answer questions.

⇒ Audrey Kauffman, Supervisor of Account Wagering Hubs, stated that the application met all of the ORC compliance requirements and she recommended approval. She added that there were a few ongoing reports that they agreed to provide and that she would be forwarding to the commission.

- ⇒ Chair Johnson requested Youbet's verbal confirmation of specific details in their operating plan to provide on the record verification that they were in compliance with the Oregon statutes, rules and application requirements.

ACTION: MOTION (Huber) Approve application as submitted.
VOTE: 5 Aye, 0 Nay

9. eBet Technologies, Inc. 2009-2010 Application for Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub License

Joe Michaels, on behalf of Youbet.com, was present to answer questions. Information and discussions included the following:

Mr. Michaels stated that their application was approved by the commission in February for the first time and that there were no changes to the application with the exception that they will launch on June 1st 2009.

- ⇒ Audrey Kauffman, Supervisor of Account Wagering Hubs, stated that the application met all of the ORC compliance requirements and she recommended approval.
- ⇒ Chair Johnson requested eBet's verbal confirmation of specific details in their operating plan to provide on the record verification that they were in compliance with the Oregon statutes, rules and application requirements.

ACTION: MOTION (Robson) Approve application as submitted.
VOTE: 5 Aye, 0 Nay

Executive Director Evers thanked all of the ADWs for their openness and level of communication throughout the ORC license application process this year. He stated that the ADWs were very open to providing the information that the commission needed to properly regulate this industry.

Evers also thanked Audrey Kauffman, the new Supervisor of Account Wagering Hubs, who'd only been with the commission for approximately three months, but came with previous regulatory experience and a passion for fulfilling the commission's purpose.

Executive Director Evers concluded, "The better integrity we can bring to the ADW wagering platform, I think, the better it is for racing overall. So, thank you to the ADW's, thank you to Audrey; I think we're on the right path."

10. Legislative Update

a. Senate Bill 198

Executive Director Evers explained that, besides the budget bill, Senate Bill 198 (Bill) was the only other bill that the commission had before the legislature. A few changes were made as it went through the process, last month it passed out of the Senate and the Senate floor and yesterday passed out of the House committee to the House floor. He stated that he did not anticipate any problems and expected it to become law. He explained that the Bill gave the ORC authority to move to an immediate ADW license suspension when there's a violation of federal or state law or commission rule and player's money's at risk. The Bill also provided that if there's a violation of federal or state law or commission rule and player's money's *not* at risk, that the commission was required to give 14 days notice to remedy the

situation before the commission could take final action and that that action would be appealable. Evers added that the commission would use this authority very judiciously and did not anticipate needing to use it.

Commissioner Williamson stated his appreciation for Roger Nyquist's participation in the revisions of this Bill, adding that he felt those changes helped the ORC as well as the ADWs. He added that after the Bill passed out of the House floor, it would go back to the Senate floor for concurrence of House amendments, however; he did not anticipate any problems.

b. House Bill 3099

Commissioner Williamson explained that he wrote the letter based on the decision the commission made at the last meeting, but failed to check with the Governor's office first, which was also part of that motion. The Governor's office did contact him stating that they had an objection to the letter and explained that the land use for kennels, in general, was not being eliminated. He, therefore, withdrew the letter.

b. House Bill 5044

Executive Director Evers explained that House Bill 5044 was the commission's budget bill and that it was now included in the co-chair's recommendation, concluding that the commission was in great shape for the 2009-2011 budget.

11. Sub-Committee Update Reports

a. Advanced Deposit Wagering and Multi-jurisdictional Hubs

Nothing to report.

b. Best Practices

Commissioner Dudley stated that the commission would discuss Best Practices at the retreat to be held in Prineville after the commission meeting on July 7, 2009.

b. Budget and Hub Funds

Nothing additional to report.

c. Medication and Horse Welfare

Commissioner Huber stated that the committee met earlier that day for a couple of hours to continue their discussion on the topics previously outlined, such as track conditions and their impact on racing injuries; a necropsy program; and potential changes to medication rules. The committee planned to have another meeting next month and then hold an open forum to discuss these topics with the stakeholders, adding he would be sure to announce when that meeting or meetings would be held. The committee hoped to have recommendations for the commission to review by the end of summer.

12. Action on the Proposed Order for John L. Snow

ACTION: MOTION (Williamson) Adopt the Proposed Order which would reverse the Oregon Racing Commission's February 11, 2009 decision to assess civil penalty against John L. Snow and disqualify Devilish Wish, resulting in forfeiture of the purse.

VOTE: 5 Aye, 0 Nay

13. Action on the Proposed Order for Gregory R. Goosby

ACTION: MOTION (Robson) Adopt the Proposed Order with the caveat that he not be able to reapply for two years pending confirmation of the rule by counsel.

VOTE: 5 Aye, 0 Nay

14. Action on the Final Order by Default for Robert L. Lawrence

ACTION: MOTION (Huber) Adopt the Final Order by Default.

VOTE: 5 Aye, 0 Nay

15. Action on the Final Order for Kevin T. King

ACTION: MOTION (Huber) Adopt the Proposed Order and issue the Final Order.

VOTE: 5 Aye, 0 Nay

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

Commissioner Williamson stated a conflict of interest with this case; thus recused himself from consideration of this matter. Commissioner Williamson disconnected his telephone contact to the meeting at 2:47 pm.

Chair Johnson stated Mr. Boag, who was not represented by counsel, would have ten minutes to present his oral arguments and that the arguments would be limited to the issues raised in his exceptions and that this time was not provided to introduce new evidence or re-argue his case.

At 2:59 pm, the commission entered into executive session, pursuant to ORS 192.660(2)(f) and ORS 192.660(2)(h), and returned at 3:29 pm to continue the same agenda item, having taken no votes nor having made any decisions.

ACTION: MOTION (Robson) Adopt the Proposed Order to deny the license and extend the ability for him to reapply to two years, pending confirmation of the rule by Counsel.

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

17. Confirmation of Next Commission Meeting - June 18, 2009

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

18. Public Comment

⇒ Will Alempijevic, General Manager, on behalf of Portland Meadows, stated their appreciation to the commission for continuing to provide matched marketing funds, which proved to be very advantageous last year. He stated, for the record, that Portland Meadows did not support the license of TVG. He explained that he did not feel that the current mitigation plan that was executed between TVG and the OHBPA was suitable compensation for the source market.

There being no further business, the meeting was adjourned.