

# MINUTES

## OREGON RACING COMMISSION FEBRUARY 18, 1999

The Oregon Racing Commission met on Thursday, February 18, 1999, in Room 140 of the Portland State Office Building located at 800 NE Oregon Street, Portland, Oregon. The meeting began with hearings at 9:00 a.m. The commission adjourned for lunch and reconvened at 1:30 p.m. for the balance of the meeting. Commissioners in attendance were Steve Walters, Chair; Laura Fine, Vice Chair; Richard Reid and Tom Towslee. Baltazar Ortiz was excused. Agenda items were discussed in the following order with resulting actions:

### 1. Change in Commissioners

Chair Walters reported that he found out after last month's meeting that Commissioner Ortiz had requested that he not be reappointed at the end of his term, which was January 31, 1999, and regretted not being able to publicly express his thanks and gratitude to Commissioner Ortiz for his service. David Price was introduced as the new appointee by the governor, and his senate confirmation hearing is scheduled for Tuesday, February 23, 1999.

### 2. Approval of January 21, 1999, Minutes

ACTION: MOTION(Towslee) Approve minutes as submitted.

VOTE: 4 Aye, 0 Nay, 1 Excused

### 3. 1999 Summer Circuit Race Meet Applications

#### a. Eastern Oregon Livestock Show - June 11, 12, 13

Steve Barham presented the application and list of officials, stating the dates were in keeping with their normal season. Also included was their take-out schedule and request for use of bute and lasix. Mr. Barham recommended approval of the application.

ACTION: MOTION(Fine) Approve application and delegate authority to the executive director to approve any changes in officials.

VOTE: 4 Aye, 0 Nay, 1 Excused

#### b. Crooked River Roundup - July 7, 8, 9, 10

Steve Barham presented the application and list of officials, stating the dates were in keeping with their normal season. Also included was their take-out schedule and request for use of bute and lasix. Mr. Barham recommended approval of the application.

ACTION: MOTION(Reid) Approve application and delegate authority to the executive director to approve any changes in officials.

VOTE: 4 Aye, 0 Nay, 1 Excused

#### c. Harney County Fair - September 11, 12

Steve Barham presented the application and list of officials, stating the dates were in keeping with their normal season. Also included was their take-out schedule and request for use of bute and lasix. Mr. Barham recommended approval of the application.

ACTION: MOTION(Fine)

Approve application and delegate authority to the executive director to approve any changes in officials and purses.

VOTE:

4 Aye, 0 Nay, 1 Excused

#### **4. Multnomah Greyhound Park 1999 Plan for Operation and Maintenance of Training Track and Compound**

Carl Wilson stated the plan is similar to that presented last year, with the main exception being the training track is now the main track. Steve Barham recommended approval of the plan. This amount is also contingent upon an amount set forth in statute that goes into the training track fund. What the commission is approving is the use of funds up to the \$107,485 amount. In 1998 when the commission approved the budget, they also delegated authority to the executive director final approval based on actual expenditures.

ACTION: MOTION(Reid)

Approve expenditures up to \$107,485 for maintenance and operation of the training track and compound with final approval up to that amount by the executive director.

VOTE:

4 Aye, 0 Nay, 1 Excused

#### **5. New Portland Meadows Update**

Mike Dorough reported they are actively working on promoting the live signal. Through week 18, the live handle compared to a year ago is up 27%. The horse simulcast handle is up over 6%, the greyhound simulcast handle is down 16.7%, with the total handle up over 5%. Attendance figures are also up. Instate handle on the live still needs to grow, as it is down approximately 1%.

#### **6. Commission Action on Hearing Conducted for Joseph E. Founds**

ACTION: MOTION(Towslee) Adopt the board of judges recommendation in their order and follow requirements for first time drug offense.

VOTE:

4 Aye, 0 Nay, 1 Excused

#### **7. Discussion on Account Wagering Rules and Hub Implementation**

Chair Walters stated this was an item he requested be added to the agenda. We have had for over a year statutory authority to implement account wagering in Oregon as well as statutory authority to regulate a hub for interstate wagering. Neither of these statutes has been implemented through commission rules, although there had been considerable effort under the leadership of Commissioner Fine to try to put together some account wagering rules. It appears to be increasingly critical to move forward on both of those fronts. The concept of interstate wagering through various networks is close to becoming a reality, and Oregon is one of the few states that has expressed statutory authority to serve as a hub. Oregon also has a tax advantage over other possible locations. Therefore, Chair Walters stated he feels it is important for the commission to move with all deliberate speed to implement both the account wagering statute and the hub statute. His proposal would be for the commission to institute rulemaking to put in place some rules to implement both account wagering

and the hub. Commissioner Fine stated her willingness to make herself available to meet with the governor in order to help him and his office gain a more accurate picture of what account wagering could mean to Oregon, and to educate them on the critical need for these measures.

ACTION: MOTION(Fine)

Authorize notice for rulemaking on account wagering implementation and hub implementation be prepared to be published in the April 1 Oregon Bulletin, and then with the direction that the commission consider emergency rules at the March meeting.

VOTE:

4 Aye, 0 Nay, 1 Excused

### **8. House Bill 3175**

This is legislative counsel draft no. 3436 and is "requiring the commission to regulate the breeding of greyhounds for racing and cause the various places in this state where greyhounds are bred for racing to be visited and inspected at least once each fiscal year. The commission shall adopt rules to govern the breeding of greyhounds for racing. The rules shall be consistent with the provisions of this chapter and take into account public safety, the health, the welfare of the animals, humane practices and any other matter relating to the best interests and good conduct of racing." Steve Barham went on to say basically we are already doing that right now, and in fact, are probably doing a lot more. He stated he would urge the commission to support this bill and direct him, when it comes time for hearing, to say that. He felt it would be a good time and a good place to tell the story of what Oregon has done regarding the humane issues in greyhound racing. He would also recommend that if, in fact, it's not put in or amended by someone else, that the commission include the raising and kenneling of greyhounds after breeding. Again, this is something we are already doing.

ACTION: MOTION(Fine)

Delegate authority to Steve Barham to express views of the commission to the legislature.

VOTE:

4 Aye, 0 Nay, 1 Excused

### **9. Commission Action on Simulcast Rulemaking Hearing**

Given the activities going on in the legislature at this time, Chair Walters suggested the commission defer action on this rule until such time as we see what is going to happen in the legislature. Steve Barham suggested rather than deferring action that the commission table it until some date in the future, such as May, and at that time can table it again if the commission so desires.

ACTION: MOTION(Reid)

Table any action on simulcast rulemaking until the May meeting.

VOTE:

4 Aye, 0 Nay, 1 Excused

### **10. Request from Darrell and Vicki Lee**

The following is a transcript of the portion of the meeting dealing with the request submitted by Darrell and Vicki Lee:

SW Steve Walters, Chair, ORC

LF Laura Fine, Vice Chair, ORC

SW: The last item on our agenda is a request from Darrell and Vicki Lee with respect to commission action taken with respect to their licenses. The three requests, for those of you who are not familiar with it, were that the commission set the revocation and suspension orders aside or (2) grant a new trial on the facts that were found by the commission in issuing those orders or (3) lift the revocation orders. This was an

unusual request, and we have never been asked to issue relief just like this before. So, I asked our counsel to advise us regarding our obligations. We have had a request to lift this from the agenda, but what I would propose that we do now is convene in executive session to obtain legal advice from our counsel regarding our legal authority with respect to these requests. So, without objection we will reconvene in executive session to receive legal advice from our counsel. Are those the magic words for going into executive session? Okay. We are going to be in executive session pursuant to ORS 192.660(1)(f).

(The commission left to reconvene in executive session in the ORC office in Suite 310)

SW: We are back in open session. We received legal advice from counsel in executive session and we took no action. With respect to the request by Mr. and Mrs. Lee the legal advice that we have from our counsel is that we are without legal authority to revisit a prior administrative order in the manner requested by their letter. And so I think that what the commission is inclined to do is simply not take action on that request because, again based on the advice of counsel, we are without legal authority to respond to any of the requests. We recognize, however, that Mr. and Mrs. Lee have requested that this item be taken off the agenda, and so we would propose to put it back on the agenda for the March meeting and provide them the opportunity to make whatever presentation they wanted with respect to the advice that we have received that we are without legal authority to grant this request. So, that would be what we propose to do with this agenda item without objection from other members of the commission.

LF: Mr. Chair, I just want to say I think that's my understanding as well of what we have been told by our legal counsel, and we do respect that this was asked to be taken off the agenda. So, we are not taking any action today, but just as a courtesy wanted to advise you at this time that this is our understanding of the law, and we will put it on the agenda next month unless we hear otherwise.

#### OTHER ITEMS BEFORE THE COMMISSION:

Commissioner Fine raised the question as to whether or not there would be a quorum for the March meeting. After discussing schedules for the commissioners, it was decided to change the meeting date from March 18 to March 25.

There being no further business, the meeting was adjourned.