

OKLAHOMA HORSE RACING COMMISSION

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MALCOLM SAVAGE, ESQ., MEMBER

AGENDA

Regularly Scheduled Meeting
Thursday, August 16, 2007, 9:30 a.m.

Meeting Location:
Activity Center, Shepherd Mall
2401 N.W. 23 Street, Suite 40B
Oklahoma City, OK 73107

Address of the:
OKLAHOMA HORSE RACING COMMISSION
2401 NW 23rd Street, SUITE 78
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AGENDA POSTED IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING ACT.

All customers who attend public meetings of the Commission who need special accommodations, i.e., Sign Language Interpreter, amplification device, large print materials, Braille materials, audio cassette materials, readers or other special accommodations must notify the Commission by the deadline date and time for acceptance of agenda requests.

CALL TO ORDER.....Dr. Bledsoe, Chair

INTRODUCTION OF NEW COMMISSIONERSDr. Bledsoe, Chair

This is the first Commission meeting for Commissioner Wayne Carter of Calera and Commissioner Malcolm Savage, who succeed Dean Spencer and Roger Cole, respectively.

ROLL CALL.....Dr. Bledsoe, Chair

BUSINESS.....Dr. Bledsoe, Chair

A. MINUTES

The drafted Minutes of the June 21, 2007 Commission Meeting [**Item A.1**] will be considered for approval.

THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION.

B. Preliminary Consideration of CY 2008 Racing and Gaming Applications

By the June 1, 2007 deadline, the Commission received four renewal applications for organization licenses to conduct live racing and simulcasting in CY 2008. Gaming applications were also received from the same four applicants. **Item B.1** reflects the CY 2008 requested live race dates.

In the past, the Commission has determined that a full formal Public Hearing would be conducted only on original applications for organization and gaming licenses. On renewal applications, the Public Hearing is limited to a presentation by a racetrack representative followed by a question and answer period by Commissioners, Commission Counsel and Commission Staff.

The following is a summary of the race day applications received.

1. Remington Park

Remington Park, Inc. has applied to conduct two race meetings:

- a **Quarter Horse, Paint and Appaloosa race meeting**, 50 days in length, from March 7 through June 1, 2008 and
- a **Thoroughbred race meeting**, 67 days in length, from August 21 through December 14, 2008.

Items B.2 and B.3 contain the Commission Staff Brief, respectively, on the racing and gaming applications. **Item B.4** is the Oklahoma Quarter Horse Racing Association's objection to the 2008 racing license application.

2. **Backstretch, L.L.C. d/b/a Blue Ribbon Downs**

Blue Ribbon Downs has applied to conduct two race meetings:

- a **Quarter Horse, Paint and Appaloosa race meeting**, 3 days in length, from March 1 to March 15, 2008 and
- a **Thoroughbred, Quarter Horse, Paint and Appaloosa race meeting**, 67 days in length, from August 1 through November 30, 2008

Items B.5 and B.6 contain the Commission Staff Brief, respectively, on the racing and gaming applications. **Item B.7** is the Oklahoma Quarter Horse Racing Association's response to the 2008 racing license application.

3. **Will Rogers Downs, L.L.C.**

Will Rogers Downs, L.L.C. has applied to conduct one race meeting:

- a **Thoroughbred, Quarter Horse, Paint and Appaloosa race meeting**, 44 days in length, from February 16 through May 26, 2008

Items B.8 and B.9 contain the Commission Staff Brief, respectively, on the racing and gaming applications. **Item B.10** is the Oklahoma Quarter Horse Racing Association's response to the 2008 racing license application. **Item B.11** is WRD's response and drafted 2008 Horsemen's Agreement.

4. **Tulsa State Fair (Tulsa County Public Facilities Authority)**

The Tulsa State Fair (the Tulsa County Public Facilities Authority) has applied to conduct one fair race meeting:

- a **Thoroughbred, Quarter Horse, Paint and Appaloosa fair race meeting** at Fair Meadows at Tulsa, 34 race days in length, from May 20 through July 26, 2008.

Items B.12 and B.13 contain the Commission Staff Brief, respectively, on the racing and gaming applications. **Item B.14** is the Oklahoma Quarter Horse Racing Association's objection to the 2008 racing license application.

The following chart summarizes the race days requested in the applications.

Renewal Applicants	Breed(s)	Number of Live Race Days Requested	Time Frame (2008)
REMINGTON PARK, INC. Oklahoma City	Quarter Horse, Paint and Appaloosa	50 race days	3/7/08 - 6/1/08
	Thoroughbred	67 race days	8/21/08 – 12/14/08
Backstretch, L.L.C. d/b/a BLUE RIBBON DOWNS Sallisaw	Quarter Horse, Paint and Appaloosa	3 race days	3/1/08 – 3/15/08
	Thoroughbred, Quarter Horse, Paint and Appaloosa	67 race days	8/1/08 – 11/30/08
WILL ROGERS DOWNS, L.L.C. Claremore	Thoroughbred, Quarter Horse, Paint and Appaloosa	44 race days	2/16/08 – 5/26/08
Tulsa State Fair (Tulsa County Public Facilities Auth.) ¹ FAIR MEADOWS AT TULSA	Thoroughbred, Quarter Horse, Paint and Appaloosa	34 race days	5/20/08 – 7/26/08

¹The full name is the Tulsa County Public Facilities Authority.

Because the issuance of organization licenses includes the allocation of live race dates, and because the Commission, in allocating race dates, attempts to avoid unnecessary overlap and simultaneous competition among racetracks, the Commission has determined that (1) information received regarding any particular application for an organization

license is considered as part of the record regarding all of the applications for organization licenses and (2) that deliberations on all organization license applications should take place together.

THE FOLLOWING PROCEDURES PERTAIN TO THE PRESENTATIONS REGARDING RACING AND GAMING RENEWAL APPLICATIONS FOR ORGANIZATION LICENSES.

Each racetrack will be given up to ten (10) minutes to make its presentation on its CY 2008 racing and gaming renewal applications. Following the presentation, Commissioners, Commission Counsel and Commission Staff may ask questions. The period taken with questions and answers will not be charged against the time allotted the Applicant.

Possible Action:

No action to grant or deny any of the license applications will be taken by the Commission at this meeting. Rather, the purpose of the proceedings today is to hear the Applicants' presentations, ask questions of both Applicants and industry representatives, and request and solicit additional information from Applicants and industry representatives.

Possible actions may include: requesting additional information for consideration at the October 18, 2007 Commission meeting, requesting Commission Staff to investigate further, and/or preparing additional reports on the applications.

C. Consideration of the Fiscal Year 2009 Agency Budget Request Proposal

Item C.1 contains the FY-2009 [July 1, 2008 through June 30, 2009] Agency Budget Request Proposal for Commissioners' consideration for approval. State agency budget requests for FY-2009 must be filed with the Office of State Finance, Legislative Staff and Cabinet Secretary by October 1, 2007.

Possible Action:

Possible action may include, but is not limited to: approving the drafted Agency Budget Request Proposal or approving an amended Agency Budget Request Proposal.

D. Recommendations from Oklahoma-Bred Advisory Council

The Oklahoma-Bred Advisory Council forwards the following recommendations for Commission consideration:

1. Funding Request for 2008 Stallion Register and Directory

In a June 29, 2007 letter (**Item D.1**), Mr. R.D. Logan, Executive Director of the Oklahoma Thoroughbred Association (OTA), requests Oklahoma-Bred funds for the CY 2008 Stallion Register and Directory to offset advertising costs for owners of up to a maximum of 70 accredited Oklahoma-Bred stallions to advertise their stallions. The opportunity to

pay a reduced amount would be available on a first-come, first served basis. The first 70 stallion owners of accredited Oklahoma-Bred Thoroughbreds would each pay a reduced amount for the advertisement {\$320 rather than \$335] with \$150 of the \$320 being paid from the Oklahoma Breeding Development Fund Special Account (OBDFSA) for a total of \$10,500 (70 Stallions at \$150/statistical page).

In the past two years, the Commission authorized funding in CY 2006 for 60 stallions and 65 stallions in 2007.

The Oklahoma-Bred Advisory Council recommends that up to \$10,500 from the Oklahoma Breeding Development Fund Special Account be allocated to help a maximum of 70 Stallions owners of accredited Oklahoma-Bred Thoroughbred stallions to offset part of the cost of advertising their stallions in the OTA CY 2007 Stallion Register and Directory.

Possible Action:

Possible action may include, but is not limited to: taking no action, approving or rejecting the request in whole or in part, or deferring consideration to a later date.

2. Oklahoma Classics 2007 Foal Nomination Form

Also included in OTA's June 29, 2007 letter (**Item D.2**) is the request for approval of the proposed 2007 Oklahoma Classics Foal Nomination Form. **Item D.3** contains the proposed 2007 Form.

The Oklahoma-Bred Advisory Council recommends approval of the form.

Possible Action:

Possible action may include, but is not limited to: taking no action, approving or rejecting the request in whole or in part, or deferring consideration to a later date.

E. CY 2008 Commission Meeting Dates

Commission Staff recommends that the Commission consider scheduling eight monthly meetings in CY 2008 for the months of January, February, March, May, June, August, October and November. In the past, the meetings have been scheduled for the third Thursday of the month except for the month of January in which the meeting has been scheduled for the fourth Thursday of the month. Commission Staff also suggests that the March meeting be scheduled on the fourth Thursday to accommodate the permanent rulemaking process during a Legislative Session. As such, the proposed CY 2008 meeting dates would be: January 24, February 21, March 27, May 15, June 19, August 21, October 16 and November 20. **Item E.1** is a CY 2008 calendar.

Possible Action:

Possible action may include, but is not limited to: scheduling eight meetings on the suggested dates, scheduling the meetings on different dates, or continuing the matter to the October 18, 2007 Commission meeting.

F. Hearing on Claim from Mr. David Alsip, Claimant, for Payment of a Pari-Mutuel Wager by Remington Park

Mr. David Alsip has filed a written, verified claim to be paid the winnings from Remington Park Pari-Mutuel Ticket 9683-95489-46690, dated May 23, 2007, for a Pick-4 Wager placed on a simulcast race, the 1st Race at Hollywood Park, in the amount of \$853.70. Mr. Alsip's ticket reflects that he purchased it at 14:56 with the first race at Hollywood Park scheduled for 15:20. **Item F.1** is the record in the matter.

According to the Commission's *Rules of Racing* Rule 325: 65-1-37(2), Claims for Payment from Pari-Mutuel Pool:

"In the case of a claim made for payment on a pari-mutuel wager, the Commission shall adjudicate the claim and may order payment thereon from the pari-mutuel pool or by the organization licensee, or may deny the claim, or may make such other order as it may deem proper."

The Commission has set a Hearing to afford the Claimant, Mr. David Alsip, an opportunity to present his claim.

Mr. Alsip's ticket has already been refunded, and he has accepted a \$108.00 refund. He seeks the balance of \$853.70 [\$745.70].

Ms. Carrie Stallbories, Mutuel Manager at Remington Park, advises that on May 23, 2007 the phone lines at the AmTote Ohio hub became inoperable for approximately three hours. This affected a large number of bets from racetracks and Off-Track Wagering facilities from being merged into the betting pools of certain host racetracks, including Hollywood Park's betting pool.

According to the Commission's *Rules of Racing* Rule 325:65-7-2(f), Guest Jurisdiction Participation in Interjurisdiction Common Pools:

"If, for any reason, it becomes impossible to successfully merge the bets placed into the interjurisdiction common pool, the organization licensee shall make payoffs in accordance with payoff prices that would have been in effect if prices for the pool of bets were calculated without regard to wagers placed elsewhere; except that, with permission of the Commission, the organization licensee may alternatively determine to either pay winning tickets at the payoff prices at the host track, or declare such accepted bets void and make refunds in accordance with the applicable rules."

Mr. Lloyd Rolfes II, Director of Internal Compliance at Remington Park, advised Mr. Alsip that declaring such accepted bets as void and refunding in accordance with the applicable rules has been Remington Park's policy for dealing with such circumstances since mutuel simulcast betting started at Remington Park.

Mr. Jeff Foster, Commission Gaming Agent, investigated Mr. Alsip's claim. In addition to talking with Ms. Stallborries, Mr. Foster contacted Mr. William Mulcahy, Executive Vice President of AmTote, who advised in a letter that the communications hub in Ohio that AmTote uses to transfer wagers to their simulcast partners suffered several communications failures with a total failure occurring at approximately 3:20 p.m. Oklahoma time. Mr. Mulcahy's letter stated that the telephone service providers experienced service failures several times and were unable to pinpoint the problem. This resulted in a complete communications failure, resulting in some of the communications [wagers] between tracks making it through and others not.

Hearing Procedure

The Hearing before the Commission will be conducted pursuant to the authority and jurisdiction of the Administrative Procedures Act, Title 75, Section 301 et seq.; the Oklahoma Horse Racing Act, Title 3A O.S. Section 200 et seq.; and OAC 325 (OHRC *Rules of Racing*), in particular Chapter 65, Pari-Mutuel Wagering. The procedure for hearing the claim is as follows:

1. The Claimant, Mr. David Alsip, is entitled to be present and to present evidence, witnesses and arguments in support of his claim and may do so through counsel, if desired.
2. The Respondent, Remington Park, is entitled to be present and to present evidence, witnesses and arguments in support of Remington Park's decision not to pay the pari-mutuel claim and may do so through counsel, if desired.
3. The Claimant and the Respondent will be allowed ten (10) minutes each to present their case.
4. The Claimant, the Respondent and any other persons giving testimony are subject to questioning by Commissioners, Commission Counsel and Commission Staff.

Possible Executive Session

Pursuant to 75 O.S. § 312, 25 O.S. § 307(B)(8) and 311 (B)(1), an Executive Session is proposed **for the purpose of deliberation in an individual proceeding regarding Mr. David Alsip's Claim for Payment of a Pari-Mutuel Wager by Remington Park.**

1. **Motion and Vote to Go Into Executive Session for the Purpose Stated Above**
2. **Vote to Reconvene in Open Session**

Possible Action:

Possible action may include, but is not limited to: taking no action, taking preliminary or final action to grant or deny the request, in whole or in part, or continuing the matter.

G. Appeal Hearing of Ray Allen Enlow

The record in the matter [**Item G.1**] reflects that the Board of Stewards at Fair Meadows at Tulsa [FMT] held a Stewards' Hearing on July 11, 2007 to consider the alleged violations that Mr. Enlow did enter the horse, ZELENAS ALIBI, to race on Sunday, June 24, 2007. ZELENAS ALIBI was a six-year-old maiden that had started twenty-three times. The Board of Stewards scratched the horse from racing on Thursday, June 21, 2007, finding that the entry violated one of FMT eligibility rules: no entries for maidens six-years-old and older.

Following the Hearing, the Board of Stewards at Fair Meadows at Tulsa, in Order No. 07-FMT-024, dated July 20, 2007, found Mr. Enlow in violation of OHRC Pari-Mutuel *Rules of Racing* 325:25-1-10, Horses Ineligible to Start in a Race, and 325:25-1-24, Late Scratch in an Overnight Race. The Board of Stewards fined Mr. Enlow the sum of two hundred, fifty dollars (\$250.00) which has not been paid.

On July 25, 2007, the Commission received a Petition for Appeal and Request for Stay from Mr. Enlow [**Item G.2**]. A Temporary Stay [**Item G.3**] was issued on July 30, 2007 pending a full Appeal Hearing before the Commission.

The Appeal Hearing before the Commission will be conducted pursuant to the authority and jurisdiction of the Administrative Procedures Act, Title 75, § 301 et seq., the Oklahoma Horse Racing Act, Title 3A O.S. § 200 et seq., OAC 325 (OHRC *Rules of Racing*) and OAC 325:70-1-22, Grounds for Appeal from Decision of the Stewards. The procedure for the Appeal Hearing before the Commission is as follows:

1. The Appeal is not a new hearing and is limited to the record.
2. The Appellant, Mr. Enlow, and the Board of Stewards are entitled to be present and to present arguments or to do so through counsel, if desired.
3. The Appellant, Mr. Enlow, will present oral arguments first, with the Board of Stewards proceeding next. Each party will be allowed fifteen (15) minutes to present arguments.
4. All parties are subject to questioning by Commissioners, Commission Staff and Commission Counsel.

Possible Executive Session

Pursuant to 75 O.S. § 312, 25 O.S. § 307(B)(8) and 311 (B)(1), an Executive Session is proposed **for the purpose of deliberation in an individual proceeding regarding Mr. Enlow's Appeal of a Stewards' Order.**

1. **Motion and Vote to Go Into Executive Session for the Purpose Stated Above**
2. **Vote to Reconvene in Open Session**

Possible Action:

Possible action may include, but is not limited to: taking no action, continuing the matter, or taking preliminary or final action in the matter.

H. Executive Session to Discuss Ongoing Investigation of Illegal, Unlicensed Racetrack Operations in Oklahoma

Possible Executive Session

Pursuant to provisions of 25 O.S. § 307 (B)(4), the Commission may hold an Executive Session for confidential communications between the Commission and its attorney concerning the ongoing investigation of illegal, unlicensed racetrack operations in the State. Commission Counsel, Senior Assistant Attorney General Neal Leader, has advised that discussion in open session will seriously impair the ability of the Commission to conduct the ongoing investigation.

The Motion to go into Executive Session requires a Commission determination that public discussion of the ongoing investigation would, as advised by Counsel, seriously impair the ability of the Commission to proceed with the investigation of the illegal racetrack operations in the State.

1. Motion and Vote to Go Into Executive Session for the Purpose Stated Above
2. Vote to Reconvene in Open Session

Possible Action:

This is not an action item. The Commission will be taking no action.

I. Any Matter Not Known About or Which Could Not Have Been Reasonably Foreseen Prior to Posting the Agenda

J. ANNOUNCEMENTS

On August 1, 2007, the Commission, through the Executive Director, approved Blue Ribbon Downs' request to reschedule its first three race days of the Fall 2007 race meeting from August 3, 4, 5 to December 7, 8, 9 to provide more time for completion of major renovations to the racing surface. On August 3, 2007, the Commission, again through the Executive Director, further approved Blue Ribbon Downs' request to delete September 3, 2007 [Labor Day] as a live race day and schedule December 3, 2007 as a live race day.

ADJOURNMENT..... Dr. Bledsoe, Chair

PLEASE SEE CALENDAR ON NEXT PAGE

SEPTEMBER-OCTOBER, 2007 CALENDAR

9/3/07 – HOLIDAY [Labor Day]

9/5/07, Oklahoma-Bred Advisory Council Meeting, 11:00 a.m., Shepherd Mall Activity Center, 2401 N.W. 23, Suite 40B, Oklahoma City, OK

9/29/07, Oklahoma Classics, a series of seven stakes races for accredited Oklahoma-Bred Thoroughbreds, Remington Park

10/18/07, Commission Regularly Scheduled Meeting, scheduled to begin at 9:30 a.m., Shepherd Mall Activity Center, 2401 N.W. 23, Suite 40B, Oklahoma City, OK 73107