

# OKLAHOMA HORSE RACING COMMISSION

## REGULARLY SCHEDULED MEETING MAY 20, 2010

### MINUTES

#### CALL TO ORDER/ROLL CALL

Chairman Grimmert called the Regularly Scheduled Meeting of the Commission to order at 9:37 a.m. at the Shepherd Mall Activity Center, Oklahoma City, Oklahoma.

All Commissioners, except Mrs. Barkett, were present at the meeting. Mr. Leader, Commission Counsel, was present as well as the following Commission staff members: Mr. Constantin A. Rieger, Ms. Mary Ann Roberts, Mr. Mike Corey, Ms. Sue Chappell, Ms. Bonnie Morris and Ms. E J Brees. Approximately thirteen persons attended and signed the registry which is part of the record.

#### APPROVAL OF MINUTES

Commissioner Goumaz moved to approve the drafted Minutes, as presented, from the March 25, 2010 Regularly Scheduled meeting. Commissioner Bowers seconded the motion. The vote was as follows:

Aye: Mrs. Goumaz, Mr. Bowers, Mr. Bollenbach, Mr. Carter, Mr. Savage,  
Mr. Smicklas, Mr. Grimmert

Abstain: Mr. Burton

Mrs. Barkett was absent from the meeting.

The motion passed with 7 ayes and 1 abstention.

#### PROPOSED DIRECTIVE ON EQUINE PIROPLASMOSIS

Mr. Constantin Rieger, Commission Executive Director, opened the discussion of Equine Piroplasmosis, a bloodborne disease transmitted by ticks, stating that it is a problem in horse racing due to needle and syringe sharing or tools not being properly cleaned, leading to blood contamination. Mr. Rieger reported that, in addition to participating in discussions about incidents of Equine Piroplasmosis in other racing jurisdictions, including Colorado, New Mexico and Texas, he met recently with horsemen, racetrack officials and state veterinarians to discuss Equine Piroplasmosis and the Commission's development of an emergency rule or a Directive as a response to horses at the racetracks.

Mr. Rieger stated that the proposed Directive would be a proactive action, requiring that all horses entering Oklahoma racetracks have an annual negative Piroplasmosis test for both strains of the disease as recommended by Dr. Becky Brewer, State Veterinarian with the Department of Agriculture, Food and Forestry. The testing would cost between \$85 and \$100.

Mr. Rieger added that the Directive would require the racetracks to improve their procedures at the stable gate, which is the first line of defense. Horsemen would be required to have all the required documents, health certificates, negative tests, Coggins tests before the horse is allowed entry to the racetrack. Mr. Rieger reported that Remington Park recently had three horses, positive for Equine Piroplasmosis, on the racetrack. One was a filly, allowed entry with a fraudulent health certificate, that qualified for a Futurity Trial. Another horse, allowed on the track without a Coggins test, subsequently expired and three of its six companion horses tested positive. Those horses are currently quarantined on an Oklahoma farm.

Mr. Scott Wells, President and General Manager at Remington Park, advised the Commission that its stable crew received additional training from Dr. Perotka, the Racetrack Veterinarian, and Dr. Garrison, the Commission Supervising Veterinarian. Mr. Wells added that Remington Park permanently banned the trainer for presenting a fraudulent health certificate. Mr. Wells reported that Remington Park takes the security breaches as a very serious matter and plans to continue to retrain its Security personnel to look for valid signatures and points of destination.

Ms. Debbie Schauf, Executive Director of the Oklahoma Quarter Horse Racing Association, reported that she contacted the State Veterinarian in January to determine if testing would be required so that the information could be disseminated before the CY 2010 race meetings. Ms. Schauf said that the testing cost of approximately \$80 without shipping expenses for at least 4,000 horses would result in an additional \$320,000 cost for horse owners, a significant economic impact to the industry. Ms. Schauf stated that she was concerned that a Commission rule would place horsemen at a financial and competitive disadvantage with other racing jurisdictions.

Ms. Schauf stated that a primary concern was the timing of the Directive's effective date so that the race meetings are not adversely affected by the Directive. She added that there is currently only one national laboratory accredited to do the testing with a typical week turnaround time for getting the test results.

Mr. Rieger reported that the Department of Agriculture, Food and Forestry is currently in the process of adopting an Executive Order to mandate that all race horses coming to Oklahoma racetracks must have a negative test result. He added that it would extend the current Executive Order that only deals with horses entering Oklahoma from the five counties in Texas identified with positive test results.

Dr. Rudy Garrison, Commission Supervising Veterinarian, discussed the symptoms of Equine Piroplasmosis, including debilitation, weight loss, and anemia. He stated that the disease is caused by an intracellular parasite that invades the red blood cells. The disease may remain latent in the horse until the horse becomes stressed or another disease process causes the parasite to overwhelm the horse's system. He added that there is no current treatment and the ultimate outcome is euthanasia.

Dr. Garrison stated his support for the Commission developing a Directive, stating that it would catch some unknown positives and get those horses out of the population. He added that the Directive would also be a proactive response to a perception that it is possible to run a horse positive for Equine Piroplasmosis in Oklahoma.

The issue of future participation in a race meeting for a horse testing positive was discussed. Ms. Schauf stated that a horse owner might be willing to pay the quarantine expenses acceptable to the Department of Agriculture, Food and Forestry for the horse to participate in racing in the future. Mr. Rieger said that the determination would be made by the Department of Agriculture, Food and Forestry, not the Commission.

Mr. Neal Leader, Senior Assistant Attorney General and Commission Counsel, suggested changes to the proposed Directive, including the consequences of a positive test, the procedures for checking papers at the stable gate, the procedures for annual retesting, the Directive's inclusion in the racetrack Condition Book.

Commissioner Goumaz made a motion to adopt the Directive on Equine Piroplasmosis with the addition of an August 1, 2010 effective date with Commission Staff to propose amendments at the June 17, 2010 Commission Meeting. Commissioner Smicklas seconded the motion. The vote was as follows:

Aye: Mrs. Goumaz, Mr. Smicklas, Mr. Bollenbach, Mr. Bowers, Mr. Carter,  
Mr. Burton, Mr. Savage, Mr. Grimmett  
Mrs. Barkett was absent from the meeting.  
The motion passed on an 8 to 0 vote.

### **DISSOLVING TWO AD HOC COMMITTEES AND AUTHORIZING THE CHAIR TO APPOINT AN AD HOC COMMITTEE ON MEDICATIONS**

In the past, the Commission Chair appointed Ad Hoc Committees on equine medication issues: the Drug Testing Ad Hoc Committee in 2005 and the Medication Rules Ad Hoc Committee in 2008. To an extent, those Committees had overlapping memberships of Commissioners. The memberships also included representatives of the horsemen's organizations and the Commission Executive Director.

Commissioner Carter made a motion to dissolve the Drug Testing Ad Hoc Committee and the Medication Rules Ad Hoc Committee and authorize the Chair to appoint an Ad Hoc

Committee on Medications. Commissioner Burton seconded the motion. The vote was as follows:

Aye: Mr. Carter, Mr. Burton, Mr. Bollenbach, Mr. Bowers, Mrs. Goumaz,  
Mr. Savage, Mr. Smicklas, Mr. Grimmatt  
Mrs. Barkett was absent from the meeting.  
The motion passed on an 8 to 0 vote.

Chairman Grimmatt reported that he will announce the appointments at the June 17, 2010 Commission meeting.

### **AUTHORIZING THE CHAIR TO APPOINT AN AD HOC COMMITTEE FOR THE PRIMARY EQUINE DRUG TESTING RENEWAL CONTRACT**

The current five-year primary equine drug testing contract will begin its fifth and final year on July 1, 2010. Former Chairman Calvert suggested that, prior to the beginning of the renewal process for the next multi-year contract, the Commission consider appointing an Ad Hoc Committee comprised of three Commissioners, the Commission Executive Director and the Commission Fiscal Administrative Officer to work on the specifications for the bidding process and the review of the applicants.

Commissioner Goumaz made a motion to authorize the Chair to appoint an Ad Hoc Committee for the Primary Equine Drug Testing Renewal Contract and to also include the Staff Attorney on the Committee. Commissioner Smicklas seconded the motion. The vote was as follows:

Aye: Mrs. Goumaz, Mr. Smicklas, Mr. Bollenbach, Mr. Bowers, Mr. Burton,  
Mr. Carter, Mr. Savage, Mr. Grimmatt  
Mrs. Barkett was absent from the meeting.  
The motion passed on an 8 to 0 vote.

Chairman Grimmatt reported that he will announce the appointments at the June 17, 2010 Commission meeting.

### **FAIR MEADOWS AT TULSA'S REQUEST TO CHANGE A NON-PARI-MUTUEL RACE DAY TO A PARI-MUTUEL RACE DAY AND ELIMINATE A PARI-MUTUEL RACE DAY**

In a May 5, 2010 letter, Mr. Ron Shotts, Director of Racing at Fair Meadows at Tulsa, requested approval to change June 30, 2010 from a non-pari-mutuel race day to a pari-mutuel race day and cancel Wednesday, July 7, 2010. Fair Meadows at Tulsa would

maintain the number of live race days at thirty-four [34] and total races at approximately 410.

Commissioner Goumaz made a motion to approve Fair Meadows at Tulsa's request to change June 30, 2010 from a non-pari-mutuel race day to a pari-mutuel race day and cancel July 7, 2010 as a race day. Commissioner Bowers seconded the motion. The vote was as follows:

Aye: Mrs. Goumaz, Mr. Bowers, Mr. Carter, Mr. Bollenbach, Mr. Burton, Mr. Savage, Mr. Smicklas, Mr. Grimmett  
Mrs. Barkett was absent from the meeting.  
The motion passed on an 8 to 0 vote.

### **REQUESTS FROM REMINGTON PARK AND WILL ROGERS DOWNS TO EXTEND APPLICATION DEADLINE FOR SUBMISSION OF CY 2011 RACING AND GAMING LICENSE APPLICATIONS**

In a May 6, 2010 e-mail, Mr. Fred Hutton, Director of Racing/Racing Secretary at Remington Park, requested an extension of the application deadline to June 15, 2010 because the 2011 racing and gaming renewal applications were not distributed by the Commission until May 7, 2010. In a May 7, 2010 e-mail, Mr. Scott Wells, President and General Manager of Remington Park, amended the request to thirty days [July 1, 2010]. Mr. Heath Hardcastle, Counsel for Will Rogers Downs, submitted a May 6, 2010 e-mail, requesting an extension of the application deadline of thirty days [July 1, 2010].

The Executive Director stated that the applications had revisions that took longer than anticipated. As a result, the applications were not mailed to the participants until May 7, 2010.

Commissioner Carter made a motion to approve the requests of Remington Park and Will Rogers Downs to extend the submission date to July 1, 2010 for the CY 2011 racing and gaming applications. Commissioner Goumaz seconded the motion. The vote was as follows:

Aye: Mr. Carter, Mrs. Goumaz, Mr. Bollenbach, Mr. Bowers, Mr. Burton, Mr. Savage, Mr. Smicklas, Mr. Grimmett  
Mrs. Barkett was absent from the meeting.  
The motion passed on an 8 to 0 vote.

**PROPOSED FY-2011 PARI-MUTUEL AND GAMING AUDITING CONTRACTS BETWEEN THE COMMISSION AND THE OFFICE OF STATE AUDITOR AND INSPECTOR (SA&I)**

The proposed auditing contracts between the Commission and the Office of State Auditor and Inspector for FY-2011 [July 1, 2010 through June 30, 2011] included a \$46,000 pari-mutuel auditing budget and a \$244,375 gaming auditing budget. The amounts were the same as in the current FY-2010 contracts.

Mr. Constantin Rieger, Commission Executive Director, recommended that action be deferred until the agency receives notification of its FY-2011 budgetary appropriations level.

Commissioner Savage made a motion to defer consideration of the FY-2011 pari-mutuel and gaming auditing contracts with the Office of the State Auditor and Inspector to the June 17, 2010 meeting after the agency receives its FY-2011 budgetary appropriations level. Commissioner Bowers seconded the motion. The vote was as follows:

Aye: Mr. Savage, Mr. Bowers, Mr. Bollenbach, Mr. Burton, Mr. Carter  
Mrs. Goumaz, Mr. Smicklas, Mr. Grimmatt  
Mrs. Barkett was absent from the meeting.  
The motion passed on an 8 to 0 vote.

**PROPOSED OPENING OF THE PERMANENT RULEMAKING PROCESS TO CONSIDER PROPOSED RULE AMENDMENT TO OHRC RULES OF RACING**

In an April 30, 2010 letter, Mr. Justin Cassity, Executive Director, of the Thoroughbred Racing Association of Oklahoma (TRAO), requested that the Commission consider a rule amendment to Rule 325:30-1-17, Entry of Claimed Horse. The current regulatory language requires that, when a Thoroughbred horse is claimed at a racetrack in Oklahoma, if the horse is entered within thirty (30) days of being claimed, the horse must be entered into a race with a minimum of a twenty-five percent (25%) increase in claiming value. In Fall 2009, TRAO conducted a survey of its membership, suggesting three alternatives to the current rule. The TRAO reported that the majority of its members favor a rule amendment that no increase in the claiming price be required with the new Owner/Trainer being able to enter the horse in any race at any level per their discretion.

Mr. Constantin Rieger, Commission Executive Director, discussed his experience in Louisiana, which state implemented a similar rule allowing trainers and owners to run their horses back at any level. Mr. Rieger added that, when a horse was claimed for a higher amount and then run for a lower amount, the horse's potential ailment could contribute to wear and tear, causing more breakdowns. Mr. Rieger recommended that the rule process

move forward with the consideration of *not* allowing a horse to run for less than the claiming price during the next 30 day period.

Commissioner Burton made a motion to defer consideration of the Thoroughbred Racing Association of Oklahoma's proposed rule amendment to Rule 325:30-1-17, Entry of Claimed Horse, to the June 17, 2010 meeting so that the Commission Executive Director could conduct a more indepth survey of RCI racing jurisdictions and Commission Counsel Leader could draft options for regulatory language. Commissioner Carter seconded the motion. The vote was as follows:

Aye: Mr. Burton, Mr. Carter, Mr. Bollenbach, Mr. Bowers, Mrs. Goumaz,  
Mr. Savage, Mr. Smicklas, Mr. Grimmett  
Mrs. Barkett was absent from the meeting.  
The motion passed on an 8 to 0 vote.

### **FY-2011 MEMBERSHIP ON THE OKLAHOMA-BRED ADVISORY COUNCIL**

Each year, the Commission appoints organizations and individuals to the Oklahoma-Bred Advisory Council for the next fiscal year (July 1 through June 30). The following organizations and individuals were appointed as members of the Advisory Council for FY-2010 (July 1, 2009-June 30, 2010):

Remington Park  
Will Rogers Downs  
Oklahoma Appaloosa Racing  
Oklahoma Horsemen's Association  
Oklahoma Quarter Horse Association  
Oklahoma Quarter Horse Racing Association  
Oklahoma Thoroughbred Association  
Oklahoma Office of State Auditor and Inspector  
Thoroughbred Racing Association of Oklahoma

Commissioner Carter made a motion to reappoint the current members of the Oklahoma-Bred Advisory Council to FY-2011 terms. Commissioner Goumaz seconded the motion. The vote was as follows:

Aye: Mr. Carter, Mrs. Goumaz, Mr. Bollenbach, Mr. Bowers, Mr. Burton,  
Mr. Savage, Mr. Smicklas, Mr. Grimmett  
Mrs. Barkett was absent from the meeting.  
The motion passed on an 8 to 0 vote.

**APPOINTMENT OF NOMINATING COMMITTEE TO PRESENT A PROPOSED SLATE OF NOMINEES FOR COMMISSION OFFICERS FOR FY-2011**

Commissioner Goumaz made a motion to authorize Chairman Grimmatt to appoint the Nominating Committee. Commissioner Carter seconded the motions. The vote was as follows:

Aye: Mrs. Goumaz, Mr. Carter, Mr. Bollenbach, Mr. Bowers, Mr. Burton,  
Mr. Savage, Mr. Smicklas, Mr. Grimmatt  
Mrs. Barkett was absent from the meeting.  
The motion passed on an 8 to 0 vote.

After the vote, Chairman Grimmatt appointed Commissioners Bowers, Smicklas and Barkett to the Nominating Committee to present a proposed slate of nominees at the June 17, 2010 meeting for election of FY-2011 Commission Officers.

**LEGISLATIVE REVIEW OF LEGISLATIVE BILLS AFFECTING THE HORSE RACING INDUSTRY**

Mr. Rieger congratulated Commission Smicklas for his efforts in shepherding SB 820 through the legislative process. SB 820 adds another purpose for use of Oklahoma-Bred funds in which non-profit entities in Oklahoma can receive funds for the care of retired and unwanted Oklahoma-Bred racing stock. Mr. Rieger noted that eligibility criteria for the non-profit entities will be developed.

Mr. Rieger announced that the Commission had not received information on its FY-2011 budget appropriations level.

**ANY MATTER NOT KNOWN ABOUT OR WHICH COULD NOT HAVE BEEN REASONABLY FORESEEN PRIOR TO POSTING THE AGENDA**

Mr. Smicklas asked that an agenda topic for the June 17, 2010 meeting be discussion on possible actions since the Commission had received no response to its March 1, 2010 letter to the Governor regarding reduced contributions to the Tulsa Participating Tribal Fund.

**ANNOUNCEMENTS**

BMM North America, Inc. d/b/a BMM Compliance accepted its CY 2010 Independent Testing Laboratory License on April 7, 2010.

The next Commission meeting, scheduled for June 17, 2010, will be held at Fair Meadows at Tulsa starting at 4:00 p.m. upstairs in Central Park Hall, the building in front of the grandstand [and the same location as the June, 2008 meeting]. Fair Meadows will host a reception for everyone following the meeting in the Sports Loft within the simulcast facility. Commissioners will then have an opportunity to watch live racing.

The proposed rule amendments to five racing rules, adopted by the Commission at the March 25, 2010 meeting, were forwarded to the Governor and Legislature on April 2, 2010. Governor Henry approved the proposed rule amendments on May 3, 2010. Legislative approval was originally scheduled for May 26, 2010; however, the Senate did not meet on Thursday, April 22, 2010, so the Legislative approval date is now scheduled for May 27, 2010. The effect is that the final adoption notice cannot be published until the July 1, 2010 issue of *The Oklahoma Register*, making the effective date of the amendments July 11, 2010 rather than June 25, 2010. The proposed regulatory text for these rule amendments has been added to the Commission website.

## ADJOURNMENT

By acclamation, the Commission meeting was adjourned at 11:21 a.m.

Approved this 17<sup>th</sup> day of June, 2010.

  
Mr. Patrick Grimm, Chairman

On Behalf of the Commission:

ATTEST:

  
Constantin A. Rieger, Executive Director

CAR/ejb/5/27/10; bjm/6/10/10, 6/18/10