

# **OKLAHOMA HORSE RACING COMMISSION**

**RAY BAYLIFF, CHAIR**

**ROGER COLE, VICE-CHAIR**

**TERRY SIMONSON, ESQ., SECRETARY**

**GENE BLEDSOE, DC, MEMBER**

**RANDY CALVERT, ESQ., MEMBER**

**DEAN SPENCER, DDS, MEMBER**

---

---

## **AGENDA**

**Rescheduled Regular Meeting  
Thursday, May 6, 2004, 9:30 a.m.**

### **Meeting Location:**

Activity Center, Suite 40B, Shepherd Mall  
2401 N.W. 23<sup>rd</sup> Street  
(N.W. 23<sup>rd</sup> & Villa Avenue)  
Oklahoma City, OK 73107

---

---

### **Address of the:**

OKLAHOMA HORSE RACING COMMISSION  
SHEPHERD MALL, 2614 VILLA PROM  
(N.W. 23<sup>rd</sup> & Villa Avenue)  
OKLAHOMA CITY, OKLAHOMA 73107  
TELEPHONE: (405) 943-6472; FAX: (405) 943-6474  
E-MAIL: [OHRC@SOCKET.NET](mailto:OHRC@SOCKET.NET); WEBSITE: [WWW.OHRC.ORG](http://WWW.OHRC.ORG)

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** ..... Mr. Bayliff, Chair

**ROLL CALL** .....

**BUSINESS** .....

**A. MINUTES**

The Minutes of the March 18, 2004 Regularly Scheduled Commission Meeting will be considered for approval (**Item A.1**).

**B. CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION RELATING TO MATTERS PERTAINING TO REMINGTON PARK**

**1. Request from Remington Park to be Relieved from a Condition of Its CY 2004 Organization License**

The Commission received an April 5, 2004 letter (**Item B.1**) from Mr. R.D. Logan, General Manager at Remington Park (RP), regarding a condition of RP's CY 2004 organization license, namely the requirement that ten races be scheduled each day of the 28-day Mixed Breed race meeting. In the letter, Mr. Logan noted that "we are very concerned regarding our ability to comply on this matter, based upon the number of horses currently stabled at Remington Park and the number of registration papers on file. It is our position that we want to run the 10 races per day as mandated and will work diligently to achieve that goal, however, there are no provisions to allow us any variance from that format." Mr. Logan suggests that the Commission consider granting to the Executive Director and/or the Board of Stewards "the ability to override the 10 race mandate, as the need should arise."

**2. Thoroughbred Racing Association of Oklahoma's Permission for Purse Overpayment at Remington Park for CY 2004 Thoroughbred Race Meeting (August 6 through December 5, 2004)**

**Item B.2** is an April 2, 2004 letter from the Thoroughbred Racing Association of Oklahoma (TRAO), granting permission for purse overpayment by Remington Park that would enable daily Thoroughbred purses averaging \$100,000 per day for the CY 2004 Thoroughbred race meeting. **Item B.3** is an April 21, 2004 letter from TRAO, rescinding permission granted via April 2 TRAO letter. In the April 21 letter TRAO states that their Board of Directors' reason for its action is due to the recent filing of the "referendum petition by the Forrest Claunch-led forces (O.G.G.) seeking to prevent the implementation of SB 553." **Item B.4** is Commission Order 2003-OHRC-009 granting a conditional license to Remington Park for CY 2004, dated September 26, 2003. In the Order, Finding of Fact #36 states that:

A purse Overpayment and Underpayment Schedule, under which overpayments and underpayments would not exceed \$300,000 for the Thoroughbred race meeting and \$100,000 for the Quarter Horse, Appaloosa and Paint race meeting, is reasonable and appropriate for the race meetings conducted by the Licensee.

Also in the Order, Conclusion of Law #8 states that:

Under Commission Rule 325:10-1-33, the Commission must approve, and include in any license, a Purse Overpayment and Underpayment Schedule for each license.

**C. CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION REGARDING THE FY 2005 CONTRACT FOR PARI-MUTUEL AUDITING SERVICES BETWEEN OHRC AND SA&I**

**Item C.1** is a proposed contract from the Office of the State Auditor and Inspector regarding pari-mutuel auditing services for FY-2005. **Item C.2** is a related memorandum from Mr. Mel Webb, OHRC Director of Law Enforcement.

**D. CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION REGARDING ADVERTISEMENT AND PUBLIC HEARING FOR PROPOSED REVOCATION OR AMENDMENT TO RULES OF RACING OAC 325 UNDER PERMANENT RULEMAKING REQUIREMENTS**

Commission Staff requests that two current rules in OHRC *Rules of Racing* be considered for revocation or amendment due to the amount of time used by the Board of Stewards and Stewards' Clerk on financial responsibility complaints that may be handled through other means. **Items D.1 and D.2** are April 22, 2004 memos from the Boards of Stewards at Remington Park and Blue Ribbon Downs, respectively, regarding their estimation of time spent on such complaints.

**325:35-1-10. Financial responsibility**

No licensee shall willfully and deliberately fail or refuse to pay any monies when due for any service, supplies or fees connected with such licensee's operations within an enclosure of an organization licensed by the Commission; nor shall s/he falsely deny any such amount due or the validity of the complaint thereof with the purpose of hindering or delaying or defrauding the person to whom such indebtedness is due. Failure to satisfy these financial responsibilities in a timely manner may result in a fine and/or suspension.

**325:35-1-10.1. Filing and processing of financial responsibility complaints**

- (a) Any creditor filing a financial responsibility complaint against an occupation licensee for alleged failure to pay any monies owed for any service or supplies connected with such licensee's operation within an enclosure of a racetrack licensed by the Commission must file such complaint on a form prescribed by the Commission, and
  - (1) a verified statement and documentation of the services or supplies provided and the fees alleged to be due, or
  - (2) a judgment from a court of competent jurisdiction.
- (b) Such complaints, with the required verification, shall be filed with the Board of Stewards at a Commission-licensed racetrack where the goods or services were performed or delivered. When either party to such a complaint seeks the issuance of a subpoena, a request for the issuance of a subpoena shall be filed with the Board of Stewards, and any member of the Board of Stewards shall be empowered to issue the requested subpoena. It shall be the responsibility of the person requesting the subpoena to serve the subpoena. When such service is to be accomplished by mail, it shall be sent by way of certified mail,

return receipt requested, and the return receipt shall be addressed to the issuing Board of Stewards.

**COMMISSION STAFF RECOMMENDATION:**

That the Commission authorize the publication of notice in the *Oklahoma Register* for the May 17, 2004 issue and the scheduling of a Public Hearing on Monday, June 21, 2004 [which cannot occur sooner than 30 days after publication] of the Commission's intent to revoke two rules through permanent rulemaking procedures. Based on possible comments in opposition to revocation to be made at the Public Hearing, amendment to the Rules may be presented as an alternative to revocation. Public Hearing comments and any proposed rule amendments would then be brought back for consideration at the July 15, 2004 Commission meeting.

**E. STATUS REPORT BY PARTIES REGARDING THE PETITION FROM MR. JOHN LOWDER REQUESTING A DECLARATORY RULING CONCERNING THE PURSE DISTRIBUTION AT FAIR MEADOWS AT TULSA**

Mr. Lowder presents a Declaratory Ruling Petition regarding a complaint about purse distribution at Fair Meadows at Tulsa (FMT) for the Years of 1997, 1998, 1999 and 2000.

At the September 25, 2003 Commission meeting, the current status of the complaint was discussed by respective counsel for Mr. Lowder (Mr. Larry Brawner), Fair Meadows at Tulsa (Mr. Michael Keester) and the Oklahoma Horsemen's Benevolent and Protective Association (Mr. Daniel Hoehner), the latter of which is in the process of approving a Voluntary Dismissal to end its participation in the complaint. By a 5-0 vote, the Commission tabled consideration of the Request for sixty days to allow discussion time among the attorneys. **Item E.1** is a December 9, 2003 Commission letter to the parties regarding the deferral of further discussion to the February 19, 2004 meeting due to the focus of the January 8, 2004 Commission meeting on the application for original organization license by Backstretch, LLC d/b/a Blue Ribbon Downs. **Item E.2** is a February 18, 2004 letter from Mr. Larry Brawner, Counsel for Mr. Lowder, asking that the status report be deferred to the March, 2004 meeting due to a court scheduling conflict. **Item E.3** is a March 3, 2004 from Mr. Michael Keester, Counsel for Fair Meadows at Tulsa, requesting that the status report be deferred to the April, 2004 meeting due to his surgical leave from work. The April, 2004 meeting, originally scheduled for April 16, was subsequently cancelled and the May, 2004 meeting, originally scheduled for May 20, was rescheduled to May 6, 2004.

At the May Commission meeting, the parties, or their Counsel, will be asked for a status report concerning the discussion among the attorneys since the September 25, 2003 Commission meeting.

**F. CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION REGARDING LEGISLATIVE BILLS WHICH MAY IMPACT HORSE RACING**

**Item F.1** contains an updated Bill Tracking List, as of April 28, 2004, regarding still active legislation that may impact the horse racing industry. The next Legislative deadline will be Thursday, April 29, 2004, for rejecting engrossed amendments and requesting a conference.

**G. CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION REGARDING APPOINTMENT OF NOMINATING COMMITTEE TO PRESENT SLATE OF COMMISSION OFFICERS FOR FY-2005**

Chairman Bayliff will appoint a Nominating Committee which will present a slate of Commission Officers (Chair, Vice Chair and Secretary) for FY-2005 (July 1, 2004 through June 30, 2005) consideration for election at the next Commission meeting.

**H. CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE DEEMED APPROPRIATE BY THE COMMISSION REGARDING POSSIBILITY OF RESCHEDULING CERTAIN COMMISSION MEETINGS IN CY 2004**

**Item H.1** is a calendar of Commission meetings scheduled for the balance of Calendar Year 2004. **Item H.2** is the updated list of CY 2004 live race day allotments at the three Commission-licensed racetracks. In the past, each racetrack has hosted a monthly Commission meeting during its live race meeting so that horsemen in that part of the State could more easily attend as well as provide an opportunity for Commissioners and Commission Staff to meet horsemen. The April, 2004 meeting, which was cancelled primarily due to the Commission staff workload focus on the Task Force for Implementation of SB 553 Mandates, was scheduled to be held at Blue Ribbon Downs. The July 15, 2004 meeting will be held at Fair Meadows at Tulsa with the starting time to be determined after July 6, the deadline for submitting agenda items.

**COMMISSION STAFF RECOMMENDATION:**

**That the Commission consider rescheduling the following monthly meetings to be held during live racing at the respective Commission-licensed racetracks:**

**BLUE RIBBON DOWNS**

**Friday, August 20**

**Mixed Breed race meeting #2**

**REMINGTON PARK**

**Thursday, September 23**

**Thoroughbred race meeting**

**I. REPORTS**

**1. Task Force on Implementation of SB 553 Mandates for the Horse Racing Commission**

Mr. Hare will present a report on activities to date.

**2. Purchase of Will Rogers Downs by Cherokee Nation Enterprises**

On March 24, 2004, the Commission was advised by phone by Mr. David Stewart, Chief Executive Officer of Cherokee Nation Enterprises (CNE), that the Cherokee Nation had purchased Will Rogers Downs in Claremore. Mr. Stewart followed the phone call with a March 26, 2004 letter (**Item I.1**) advising the Commission that "in the very near future, CNE will be applying for a horse racing license for WRD. CNE is very excited about the future and the benefits that Cherokee Nation and will Rogers Downs can provide to the local economy and the horse racing industry, as a whole. We look forward to a mutually rewarding working relationship with the Horse Racing Commission and the exciting opportunities we all face as a result of our acquisition of the track." Following that letter, the Commission sent Mr. Stewart applications for original organization license for both CY 2004 and CY 2005.

**3. Added Monies to Races at Blue Ribbon Downs**

The Commission was advised on April 6, 2004 by fax (**Item I.2**) from Mr. Blaine Story, Assistant General Manager at Blue Ribbon Downs (BRD) that the Choctaw Nation will be adding \$300.00 per race to the horsemen's purses for the remainder of the current Mixed Breed race meeting at BRD.

**4. Surety Bond Release for Race Horses, Inc.**

The Commission was advised on April 2, 2004 by fax (**Item I.3**) from Mrs. Mary Watkins, President of Race Horses, Inc. (RHI) that the surety bond for RHI was released by the surety company and the \$200,000 security proceeds were returned to RHI.

**J. NEW BUSINESS: Any Matter Not Known About or Which Could Not Have Been Reasonably Foreseen Prior to Posting the Agenda**

**K. ANNOUNCEMENTS ..... Mr. Bayliff, Chair**

1. The next Regularly Scheduled Commission Meeting is set for 9:30 a.m., Thursday, June 17, 2004 at the Activity Center in Shepherd Mall. June 8, 2004 is the published deadline for receipt by the Commission office of requests for agenda consideration for the scheduled June 17 meeting.
2. The next meeting of the Task Force for Implementation of SB 553 Mandates for the Horse Racing Commission is scheduled for Thursday, May 13, at 9:00 a.m. in Suite 88 at Shepherd Mall.

**L. CONTINUED DELIBERATIONS ON APPEAL OF BOARD OF STEWARDS' DECISION BY MR. JIM LIMBAUGH**

At the March 18, 2004 Commission meeting, the Appeal Hearing for Mr. Jim Limbaugh was held regarding a financial complaint he filed in November, 2003 with the Board of Stewards at Blue Ribbon Downs against Mr. Bill Jeff Conley, Sr., Owner/Trainer. At the Hearing, Mr. Limbaugh represented himself, and the Board of Stewards was represented by Mr. Bill McNutt, Assistant Steward. After the Appeal Hearing, the Commission voted to go into Executive Session.

After initial deliberations, the Commission voted to return to Open Session at which time the Commission voted 5-0 to take preliminary action to affirm the Order of the Board of Stewards at Blue Ribbon Downs regarding Mr. Limbaugh's financial complaint against Mr. Conley and directed Commission Counsel and Staff to prepare a draft Order with Findings of Fact and Conclusions of Law consistent with discussion in Executive Session for presentation to the Commission for consideration in continued deliberations at the April 16, 2004 Commission meeting. **Item L.1** is the drafted preliminary Order.

**Commission Continued Deliberation Regarding Appeal of Mr. Jim Limbaugh**

Continued deliberation may take place in Open Session, or if the Commission desires, may take place in Executive Session. If the Commission elects to conduct deliberation in Open Session, no motion to do so is necessary. If the Commission desires to conduct deliberation in Executive Session, it will vote to do so.

**Possible Executive Session For Purpose of Continued Deliberation in Individual Proceeding Regarding Appeal of Mr. Jim Limbaugh**

Pursuant to 75 O.S. §312, 25 O.S. §307(B)(8), and §311(B)(1), an Executive Session is proposed for continued deliberation regarding Mr. Jim Limbaugh's Appeal. [A motion and the recorded vote of each Commissioner is required to go into and return from an Executive Session if the Commission opts to so deliberate in order to reach a final or intermediate Order in an individual proceeding.]

**1. Purpose of Executive Session**

This Executive Session is proposed for the purpose of continued deliberation regarding Mr. Limbaugh's Appeal.

**2. Proposal for Executive Session**

[Requires motion and vote by the Commission, which motion must include the naming of persons requested to attend the Executive Session to assist Commissioners.]

**3. Vote to Reconvene in Open Session**

**4. Commission Consideration of and Possible Action on Mr. Jim Limbaugh's Appeal**

Possible actions may include, but are not limited to: no action taken, continuation of the matter, or entrance of final Findings of Fact and Conclusions of Law and a final Order.

**ADJOURNMENT.....Mr. Bayliff, Chair**