

OKLAHOMA HORSE RACING COMMISSION

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BECKY GOUMAZ, MEMBER

WENDY KEENER, ESQ., MEMBER

PHILLIP KIRK, MEMBER

DONNIE VON HEMEL, MEMBER

TERRY WIENS, ESQ., MEMBER

DOUGLAS WRIGHT, MEMBER

AGENDA

Regularly Scheduled Meeting
Thursday, October 18, 2018, 9:30 a.m.

Meeting Location:
Agriculture Board Room
Department of Agriculture, Food and Forestry
2800 N. Lincoln Boulevard
Oklahoma City, OK 73105

Address of the:

OKLAHOMA HORSE RACING COMMISSION
2800 N. LINCOLN BLVD., SUITE 220
OKLAHOMA CITY, OKLAHOMA 73105
(Located in Department of Agriculture, Food and Forestry Building)
TELEPHONE: (405) 522-8167; FAX: (405) 943-6474
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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 Mr. Lucas, Chair

INTRODUCTION OF NEW COMMISSIONER Mr. Lucas, Chair

Mr. Terry Wiens, Esq., of Edmond has joined the Commission to serve the remainder of Mr. Stanton Harrell's term that ends June 30, 2019.

ROLL CALL Mr. Lucas, Chair

BUSINESS Mr. Lucas, Chair

A. MINUTES

The drafted Minutes of the August 23, 2018 Regularly Scheduled 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. HEARING TO ADDRESS CY 2019 HORSEMEN'S AGREEMENTS NOT FILED WITH THE COMMISSION BY OCTOBER 1, 2018

Background

OAC 325:35-1-37, Agreements to be Filed, requires that:

Each Organization Licensee shall file a copy of its agreement with the Horsemen's Organization representing the horse Owners and Trainers at the race meeting by October 1 of the preceding year. In the event the Organization Licensee is unable to obtain and file such an agreement by October 1 of the preceding year due to the lack of initiative or impasse between parties or due to other reasons, the Commission may, upon notice to the prospective parties to the agreement, conduct a hearing with regard to the conditions of the race meeting and take such actions as it may deem

appropriate to ensure continuity of the racing program, including the recognition of the terms of the previous Horsemen's Representative agreement as the terms that will govern the relations between the Organization Licensee and the elected representative until such time the Commission approves an agreement submitted by the parties.

No Horsemen's Agreements for CY 2019 were received by October 1, 2018. On October 2, 2018, the Commission received an Agreement between Remington Park and the Thoroughbred Racing Association of Oklahoma. At the time the agenda was set, no other Agreements had been received.

The Procedure For This Hearing Shall Be Established As Follows:

1. Representatives of the prospective parties to the agreements will be subject to questioning by Commissioners, Commission Staff and Commission Counsel.

Possible Action:

Possible action includes but is not limited to: taking no action, continuing the matter, approving subsequently filed horsemen's agreements, recognizing the terms of the previous year's agreements between an Organization Licensee and the respective Horsemen's Representatives until such time that the Commission approves an agreement submitted by the parties, or any other action the Commission may deem appropriate.

C. CONTINUED DELIBERATIONS REGARDING CY 2019 RACING AND GAMING LICENSE APPLICATIONS FOR REMINGTON PARK, WILL ROGERS DOWNS AND FAIR MEADOWS AT TULSA

Background

At the August 23, 2018 meeting, representatives for Remington Park, Will Rogers Downs and Fair Meadows at Tulsa presented their respective applications for CY 2019 racing and gaming licenses. Commissioners and Commission Staff asked questions. The Commission then took preliminary action to award CY 2019 racing and gaming licenses to Remington Park, Will Rogers Downs and Fair Meadows at Tulsa, allot CY 2019 live race dates and direct Commission Staff to draft License Orders for continued deliberations for the next Commission meeting.

Current Consideration

The drafted racing and gaming license Orders have been distributed to the Commissioners.

Possible Executive Session for Deliberations in Individual Proceedings Regarding Racetrack Applications for Racing and the Companion Gaming Licenses

Pursuant to 75 O.S. § 312, 25 O.S. § 307(B)(8) and 311 (B)(1), an Executive Session is proposed for **continued deliberations in individual proceedings regarding CY 2019 organization license [racing] and the companion gaming applications from Remington Park, Will Rogers Downs and Fair Meadows at Tulsa (Tulsa County Public Facilities Authority).**

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

Possible Action:

Possible actions may include: taking no action; taking final action to allot CY 2019 live race dates and adopting the drafted CY 2019 racing and companion gaming license orders; conducting a Hearing with regard to conditions of race meetings and taking such actions as the Commission deems appropriate to ensure continuity of racing programs; adopting amended orders; or continuing deliberations to a future Commission meeting.

D. PROPOSED OPENING OF THE PERMANENT RULEMAKING PROCESS TO CONSIDER RULE AMENDMENTS FOR THE OHRC RULES OF RACING AS PROPOSED BY THE COMMISSION EXECUTIVE DIRECTOR

Mr. Kelly Cathey, Commission Executive Director, proposes opening the permanent rulemaking process to consider amendments in the *Rules of Racing* to:

- Chapter 15, Licensing
- Chapter 30, Claiming Races
- Chapter 35, General Conduct
- Chapter 60, Running the Race
- Chapter 65, Pari-Mutuel Wagering
- Chapter 70, Objections and Protests; Hearings and Appeals

Possible Action:

Possible action may include, but is not limited to: taking no action; approving the beginning of the permanent rulemaking process to consider amendments in the cited chapters as proposed, or as modified at the meeting, by authorizing publication in *The Oklahoma Register* and scheduling a Public Hearing; or continuing the matter.

E. CY 2019 COMMISSION MEETING DATES

Background

At the August 23, 2018 meeting, the Commission set the eight CY 2019 meetings for the dates of January 10, February 21, March 28, May 16, June 13, August 22, October 17 and November 21. As follow-up to the meeting, Commission Staff sent the dates to the Department of Agriculture, Food and Forestry to reserve the Board Room, and was advised that all dates were available but January 10.

Current Consideration

Commission Staff recommends that the Commission consider scheduling the January, 2019 meeting for January 17, the next Thursday of that month. The Board Room would be available that day. **Item E.1** is a CY 2019 calendar.

Possible Action:

Possible action may include, but is not limited to: scheduling January, 2019 on the suggested date, scheduling the meeting on a different date, or continuing the matter to the November 15, 2018 Commission meeting.

F. APPEAL HEARING FOR GARY K. WALKER REGARDING STEWARDS' ORDER 18-WRD-069

Background

Item F.1 is the record regarding Stewards' Order 18-WRD-069 in which Mr. Walker was found to be in violation of OAC 325:35-1-5(a), Trainer Responsibility; OAC 325:25-1-12, Horses Ineligible to Enter or Start; OAC 325:45-1-6(a)(2), Use of Permitted Substances; and OAC 325:45-1-6.2(b)(4), Listed Thresholds for Quarter Horses, Paints and Appaloosas, for his horse, MOORES ROCK FLASH, testing positive for Flunixin following the 6th race at Fair Meadows at Tulsa on Saturday, June 16, 2018. The Board of Stewards fined Mr. Walker one thousand dollars (\$1,000).

On September 12, 2018, the Commission received a Petition for Appeal and Request for Temporary Stay of Payment of Fine from Mr. Gary K. Walker. In his Appeal, Mr. Walker noted that his "challenge ... centers only on the penalty assessed, not the fact that the overage occurred."

On September 18, 2018, the Commission issued an Order, Notice of Issuance of Temporary Stay of Fine of Payment, for Stewards' Order 18-WRD-069, pending final determination of the Commission.

Mr. Walker is not represented by counsel. The Board of Stewards is represented by Mr. James Rucker, Deputy General Counsel, Department of Agriculture, Food and Forestry.

Current Consideration

The Hearing before the Commission will be conducted pursuant to the authority and jurisdiction of the Oklahoma 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*), OAC 325:70-1-22, Grounds for Appeal from Decision of the Stewards, and OAC 325:70-1-24, Appeal Hearing Procedure.

The procedure for the Hearing before the Commission is set as follows:

1. The appellant, Mr. Gary Walker, and the Board of Stewards at Will Rogers Downs are entitled to be present and to present arguments.
2. The appellant, Mr. Gary Walker, or his counsel will present oral arguments first, with the Board of Stewards or their counsel proceeding next. Each party will be allowed fifteen (15) minutes to present its case.

3. The Appeal is not a new evidentiary hearing on the matter. Both parties are limited to making arguments/comments concerning the evidence presented at the Board of Stewards' Hearing. However, the Commission may consider new evidence not found in the record of the Board of Stewards' Hearing, provided that the proponent makes an offer of proof briefly explaining the new evidence, including an explanation of how the evidence satisfies the requirements set forth in OAC 70-1-22(2).
4. All parties are subject to questioning by Commissioners, Commission Staff and Commission Counsel.

Possible Executive Session

Pursuant to 25 O.S. § 307 (B)(8) and 311 (B)(1), an Executive Session may be proposed for the purpose of deliberations in an individual proceeding regarding Mr. Walker's Appeal of Stewards' Order 17-WRD-069.

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 action in the matter and instructing Commission Legal Advisor to draft an Order for consideration in further deliberations at the November 15, 2018 Commission meeting; or continuing the matter.

G. REPORTS

1. Current Status of Emergency Rule Amendment

The Commission submitted its emergency rule amendment on correcting the teeth floating definition in 325:40-1-2 to Governor Fallin and the Legislature on August 31, 2018. Governor Fallin approved the emergency rule effective October 11, 2018.

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

I. **ANNOUNCEMENTS**

ADJOURNMENT.....Mr. Lucas, Chair

NOVEMBER-DECEMBER, 2018 CALENDAR

11/1/18 – Deadline for submitting agenda topic requests for November 15, 2018 Regularly Scheduled Commission Meeting

11/7/18 – Oklahoma-Bred Advisory Council Meeting, 1:30 p.m., Commission Conference Room, Department of Agriculture, Food and Forestry, Oklahoma City

11/10/18 – Will Rogers Downs’ Quarter Horse, Paint and Appaloosa race meeting is scheduled to conclude

11/12/18 – HOLIDAY [Veterans’ Day]

11/15/18 – Commission Regularly Scheduled Meeting, 9:30 a.m., Board Room, Department of Agriculture, Food and Forestry, 2800 N. Lincoln Boulevard, Oklahoma City, OK

11/22-23/18 – HOLIDAY [Thanksgiving]

12/16/18 – Remington Park’s Thoroughbred race meeting is scheduled to conclude

12/24-25/18 – HOLIDAY [Christmas]

There is no December, 2018 Regularly Scheduled Meeting