

# OKLAHOMA HORSE RACING COMMISSION

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PHILLIP KIRK, MEMBER

DONNIE VON HEMEL, MEMBER

TERRY WIENS, ESQ., MEMBER

DOUGLAS WRIGHT, MEMBER

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## AGENDA

### Regularly Scheduled Meeting

**Thursday, January 24, 2019, 9:30 a.m.**

#### Meeting Location:

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

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#### 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  
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. Lucas, Chair**

**ROLL CALL ..... Mr. Lucas, Chair**

**BUSINESS ..... Mr. Lucas, Chair**

**A. MINUTES**

The drafted Minutes of the November 15, 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. APPEAL HEARING AND REFERRAL BY BOARD OF STEWARDS AT REMINGTON PARK ON THERONE TRENT ALEXANDER, OWNER/TRAINER, IN STEWARDS' ORDER 18-RP-086**

In Stewards' Order 18-RP-086 [Item B.1], the Board of Stewards at Remington Park found Mr. Alexander to be in violation of OAC 325:35-1-5(a), Trainer Responsibility, and OAC 325:35-1-21, Tricks/Schemes Prohibited, regarding his care of POPPIN BAYOU while the horse was undergoing training for the 2018 Remington Park Spring Quarter Horse, Paint and Appaloosa race meeting. The Board of Stewards imposed the maximum penalty within their authority of a Three Hundred Sixty Five Days [365] suspension, beginning Thursday, November 1, 2018 and continuing through Thursday, October 31, 2019.

The Board of Stewards referred the case to the Commission with the recommendation that the Commission instead, impose the greater penalty of revocation of Mr. Alexander's Owner/Trainer license.

**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. Therone Trent Alexander, and the Board of Stewards at Remington Park are entitled to be present and to present arguments.
2. The appellant, Mr. Therone Trent Alexander, 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. On the issue of the Referral by the Board of Stewards to the Commission, Mr. Therone Trent Alexander or his counsel will have fifteen (15) minutes to argue and the Board of Stewards' will have fifteen (15) minutes to make a responding argument.
5. 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. Alexander's Appeal of Stewards' Order 18-RP-086 and the Referral by the Board of Stewards at Remington Park.

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

**Possible Action:**

Possible action may include, but is not limited to: take no action; take preliminary action on the matter(s) and instruct the Commission Legal Advisor to draft Order(s) for consideration in further deliberations at the February 21, 2019 Commission meeting; or continue the matter(s).

**C. REFERRAL BY BOARD OF STEWARDS AT REMINGTON PARK REGARDING STEWARDS' ORDER 18-RP-097**

In Stewards' Order 18-RP-097 [Item C.1], the Board of Stewards at Remington Park found Mr. Enlow to be in violation of OAC 325:45-1-11, Trainer Responsibility, regarding the Paint horse, RP LIVE WIRE DASH, under his care and custody testing over the listed threshold for the drug, DEXAMETHASONE, following the 6<sup>th</sup> race at Remington Park, the finals of the Oklahoma Paint and Appaloosa Horse Futurity, on March, 24, 2018. Mr. Enlow was fined \$500.00. He does not dispute the Stewards' finding of a medication violation or the imposition of the fine.

The matter before the Commission is whether any mitigating circumstances exist to merit imposition of a different penalty than the ARCI recommended disqualification of the horse and loss of purse.

**Current Consideration**

The Referral 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., and OAC 325 (OHRC *Rules of Racing*).

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

1. The Trainer, Mr. Ray Allen Enlow, the Owner, Mr. Roy Kent Perkins, and the Board of Stewards at Remington Park are entitled to be present and to present arguments regarding the issue of the Referral to the Commission.
2. The Trainer, Mr. Ray Allen Enlow, or his counsel will present oral arguments first. The Owner, Mr. Roy Kent Perkins, or his counsel may present arguments next, with the Board of Stewards or their counsel proceeding with a responding argument. Each party will be allowed fifteen (15) minutes to present its case.

3. The Referral is not a new evidentiary hearing on the matter, just the penalty phase of the Stewards' Hearing. The parties are limited to making arguments/comments concerning the disqualification of the horse and the distribution of the purse money 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 the Referral by the Board of Stewards at Remington Park.

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

**Possible Action:**

Possible action may include, but is not limited to: take no action; take preliminary action on the matter and instruct the Commission Legal Advisor to draft an Order for consideration in further deliberations at the February 21, 2019 Commission meeting; or continue the matter.

**D. JOINT REQUEST FROM WILL ROGERS DOWNS AND THE THOROUGHBRED RACING ASSOCIATION OF OKLAHOMA TO AMEND CY 2019 LIVE RACE DAYS FOR THE THOROUGHBRED RACE MEETING**

In a December 3, 2018 letter [Item D.1], Ms. Danielle Barber, Executive Director of the Thoroughbred Racing Association of Oklahoma, and Mr. Mark Enterline, Consulting General Manager for Will Rogers Downs, request amending the CY 2019 live race days for the Thoroughbred race meeting.

Specifically, the request is to amend the start date from Monday, March 18, 2019, to a week later on Monday, March 25, 2019 and add two Wednesdays, March 27, 2019 and April 3, 2019. This would maintain the total of 28 live race days.

The allocated dates, showing the proposed changes, are shown below:

March ~~18, 19~~, 25, 26, 27  
 April 1, 2, 3, 8, 9, 10, 15, 16, 17, 22, 23, 24, 29, 30  
 May 1, 4, 6, 7, 11, 13, 14, 18, 20, 21, 25

**Possible Action:**

Possible action may include, but is not limited to: take no action; approve the request, in whole or in part; approve different dates; or continue the matter.

**E. RECOMMENDATIONS FROM THE OKLAHOMA-BRED ADVISORY COUNCIL**

**1. Thoroughbred Racing Association of Oklahoma’s Funding Request for CY 2019 Thoroughbred Stakes Races at Will Rogers Downs**

In a December 28, 2018 letter [Item E.1], Ms. Danielle Barber, Executive Director, Thoroughbred Racing Association of Oklahoma, requests that Oklahoma-Bred funds be added to the following six stakes races to be run during WRD’s CY 2019 Thoroughbred race meeting with a payout percentage breakdown of 60/20/11/6/3, totaling \$60,000 subject to availability of funds at the time the races are conducted as follows:

<u>Stakes Races</u>	<u>Purse Supplements</u>	<u>Broodmare Awards</u>	<u>Stallion Awards</u>	<u>Total</u>
The More Than Even Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
TRAO Classic Sprint Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
The Great Lady M Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
Cherokee Nation Classic Cup Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
Will Rogers Downs Handicap Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
Cinema Handicap Stakes	\$ 5,000	\$ 3,400	\$ 1,600	\$10,000
	<b>\$30,000</b>	<b>\$20,400</b>	<b>\$ 9,600</b>	<b>\$60,000</b>

**The Oklahoma-Bred Advisory Council unanimously recommends \$60,000 in funding from the Oklahoma Breeding Development Fund Special Account for the six listed stakes races subject to availability of funds at the time the races are conducted.**

**Possible Action:**

Possible action may include, but is not limited to: take no action; approve, in whole or in part, the recommendation; amend the funding amount; deny the funding request; or continue the matter.

**2. Thoroughbred Racing Association of Oklahoma and Fair Meadow at Tulsa’s Funding Request for CY 2019 Thoroughbred Stakes Races to be Conducted at Fair Meadows at Tulsa**

In an December 28, 2018 letter [Item E.2], Ms. Danielle Barber, Executive Director of the Thoroughbred Racing Association of Oklahoma, requests a total of \$20,000 in added Oklahoma-Bred funding for two stakes races to be conducted during Fair Meadows at Tulsa’s CY 2019 race meeting with the payout percentages at 60/20/11/6/3 subject to availability of funds at the time the races are conducted as follows:

	<b>Purse Supplements</b>	<b>Broodmare Awards</b>	<b>Stallion Awards</b>	<b>Total</b>
Muscogee [Creek] Nation Stakes	\$ 5,000	\$3,400	\$1,600	\$10,000
Route 66 Stakes	\$ 5,000	\$3,400	\$1,600	\$10,000
	<b>\$10,000</b>	<b>\$6,800</b>	<b>\$3,200</b>	<b>\$20,000</b>

**The Oklahoma-Bred Advisory Council unanimously recommends \$20,000 in funding from the Oklahoma Breeding Development Fund Special Account for the two stakes races.**

**Possible Action:**

Possible action may include, but is not limited to: take no action; approve, in whole or in part, the recommendation; amend the funding amount; deny the funding request; or continue the matter.

**F. DISTRIBUTION OF BREAKAGE AND UNCLAIMED TICKET PROCEEDS  
GENERATED OUTSIDE OF A RACE MEETING**

**Background**

At the May 18, 2017 Commission meeting, a hearing was held to address the distribution formulas being applied for breakage and unclaimed ticket proceeds generated outside of race meetings [Item F.1]. Both the OQHRA and TRAO were represented by Attorneys, which provided the Commission with briefs and oral arguments on the matter. The Board ruled the distribution formula to be 90 percent to Thoroughbreds and 10 percent to Quarter Horses, Paints and Appaloosas at Remington Park and Will Rogers Downs, effective January 1, 2017, and no change in the distribution formula for Fair Meadows at Tulsa. On October 30, 2018, the District Court of Oklahoma County voided said order based upon a procedural consideration.

**Current Consideration**

Because the Commission's May 18, 2017 order was voided by the District Court, the Commission will readdress the matter involving the distribution of breakage and unclaimed ticket revenue that remains in question.

**Possible Executive Session**

Pursuant to 25 O.S. § 307 311 (B)(1), an Executive Session may be proposed for the purpose of continued deliberations in an individual proceeding regarding the distribution of breakage and unclaimed ticket revenue generated outside of a race meeting.

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

**Possible Action:**

Possible action may include, but is not limited to: confirm the previous ruling; amend the previous ruling; take no action; or continue the matter to the February 21, 2019 Commission meeting.



**G. REPORTS**

1. The Governor, Lt. Governor, and numerous statewide officials were sworn in on Monday, January 14, 2019. This included Ms. Blayne Arthur, who Governor Stitt named to replace Jim Reese as Cabinet Secretary for Agriculture, Food and Forestry.
2. The first day of the First Regular Session of the 57<sup>th</sup> Legislature will be Monday, February 4, 2019, at 12:00 Noon.

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

**I. ANNOUNCEMENTS**

1. A Public Hearing is scheduled for Monday, February 4, 2019, for proposed rule amendments to 12 chapters in the *Rules of Racing* in the Board Room, Department of Agriculture, Food and Forestry in the following 30 minute intervals:

Chapter 1, Commission Powers and Jurisdiction	8:30 to 9:00 a.m.
Chapter 15, Licensing	9:00 to 9:30 a.m.
Chapter 20, Racing Officials and Racing Personnel	9:30 to 10:00 a.m.
Chapter 25, Entries and Declarations	10:00 to 10:30 a.m.
Chapter 30, Claiming Races	10:30 to 11:00 a.m.
Chapter 35, General Conduct	11:30 to 12:00 Noon
Chapter 40, Veterinarian Practices and Restrictions	1:30 to 2:00 p.m.
Chapter 45, Prohibited Practices and Equine Testing	2:00 to 2:30 p.m.
Chapter 60, Running the Race	2:30 to 3:00 p.m.
Chapter 65, Pari-Mutuel Wagering	3:00 to 3:30 p.m.
Chapter 70, Objections & Protests; Hearings & Appeals	3:30 to 4:00 p.m.
Chapter 75, Oklahoma-Bred Program	4:00 to 4:30 p.m.
2. The Oklahoma-Bred Advisory Council is scheduled to meet on Wednesday, February 6, 2019, starting at 1:30 p.m., in Conference Room 201 in the Department of Agriculture, Food and Forestry building.

3. The Commission’s next regular meeting is scheduled for February 21, 2019 to be held in the Board Room at the Department of Agriculture, Food and Forestry.
4. The Commission Executive Director executed renewed CY 2019 license Orders for the following four independent (gaming machine) testing laboratories:
  - BMM North America, Inc. DBA BMM Compliance
  - Gaming Laboratories International, LLC
  - Nick Farley and Associates DBA Eclipse Compliance Testing
  - Slovenian Institute of Quality and Metrology
5. The Oklahoma Quarter Horse Racing Association has scheduled its annual awards banquet for Saturday, March 2, 2019 at the Grand Casino in Shawnee. The Commission will present the CY 2018 Year-End Awards for Quarter Horses, Paints and Appaloosas.

**ADJOURNMENT..... Mr. Lucas, Chair**

**PLEASE SEE CALENDAR ON NEXT PAGE**

**MID-JANUARY THROUGH FEBRUARY, 2019 CALENDAR**

**1/21/19** – HOLIDAY [Martin Luther King, Jr. Day]

**2/4/19** – Public Hearing on proposed rule amendments to 12 chapters in the *Rules of Racing*, Department of Agriculture, Food and Forestry, 2800 N. Lincoln Boulevard, Oklahoma City

**2/6/19** – Oklahoma-Bred Advisory Council Meeting, 1:30 p.m., Conference Room 201, Department of Agriculture, Food and Forestry, 2800 N. Lincoln Boulevard, Oklahoma City

**2/7/19** – Deadline for submitting agenda topics for 2/21/19 Commission meeting

**2/18/19** – HOLIDAY [Presidents' Day]

**2/21/19** – Commission Regularly Scheduled Meeting, 9:30 a.m., Board Room of the Department of Agriculture, Food and Forestry, 2800 N. Lincoln Boulevard, Oklahoma City