

Arizona Racing Commission

632nd Regular Meeting

Thursday, January 8, 2015

MINUTES OF REGULAR MEETING

A public meeting of the Arizona Racing Commission was convened on Thursday January 8, 2015 beginning at 10:08 a.m. in the Building Conference Room, Suite 250, at 1110 West Washington Street, Phoenix, Arizona 85007.

PRESENT: **Chair** **Erin Owens**
 Vice Chair **Jay McClintock**
 Commissioner **Rory S. Goreé**
 Commissioner **Bill Feldmeier**
 Commissioner **Tom Lawless**

Also Present: Director William Walsh, Assistant Attorney General, Bridget Fitzgibbons Harrington.

A. Call to Order

Chair Owens called the 632nd Regular Meeting of the Arizona Racing Commission to order at 10:08 a.m. The following matters were discussed, considered and decided at the meeting:

Approval of the Minutes:

Minutes of the 631st Regular Meeting held on Monday, December 15, 2014. **Chair Owens** called for a motion to move the minutes. **Vice Chair McClintock** moved for approval. **Commissioner Feldmeier** seconded the motion. Motion carried.

B. New Business

1. Advanced Deposit Wagering Permits

Director Walsh explained that last spring the legislature had passed SB 1282 which made Advanced Deposit Wagering legal. The Department was in charge of writing the rules and various interested parties in the industry provided their input. In October the rules were brought before the Commission, they were voted on and passed. The Department then had the responsibility to put together an application for any entities who wished to apply. The law specifically called the entities, permittees. Obtaining a permittee license has a long and complicated application process. Joyce Cozby, Deputy Director and Pam Niederkorn, Audit Manager, both put forth the hard work in getting the permittees ready to come before the Commission for their approval. The businesses, Churchill Downs, TwinSpires, ODS dba TVG Network and Xpressbet are mature and well known in the industry. The Department felt comfortable with them coming to Arizona and operating their business here. They will be operating through agreements with Turf Paradise. TP Racing would like their ADW permit to coincide with their current permit which expires in May. There had been a question as to whether or not wagers on horse racing can be accepted in Pima County on race nights, Monday, Wednesday, Friday and Saturday after 7:30 p.m. If this cannot be worked out in a timely manner then accepting those wagers at certain times may have to be prohibited. **Director Walsh** recommended the Commission approve each of the ADWs, he felt they were mature reputable companies and there should not be any major problems with them. If any problems should arise they will be brought to the attention of the ADWs and the Commission. He introduced Pam Niederkorn, Audit Manager for the Arizona Department of Racing.

Arizona Racing Commission

632nd Regular Meeting

Thursday, January 8, 2015

Commissioner Goreé asked about an effective date of January 17, 2015, and some training.

Pam Niederkorn, Audit Manager for the Arizona Department of Racing, answered Commissioner Goreé by stating the original date that was recommended being January 17, and at the point of her writing the recommendation she was overlooking at all of the entities would have to be licensed. She felt that training could be done within the next week but there would be other issues that may come up such as licensing questions and technicalities that actually get in the way of them being able to begin wagering on that date.

Chair Owens asked if Ms. Niederkorn could explain how the dollar is tracked and what percentage goes back to the companies and what goes to the state.

Pam Niederkorn, explained that without speaking in specific percentages the ADW companies are acting as a hybrid in Arizona. They are like a permittee, OTB and a simulcast entity, essentially a simulcast guest. We look at them as a permittee in part because of the permit. Logistically we look at the way they work, like a Tote System and they will appear as a simulcast guest and because the permittee, Turf Paradise, the live wagering, live racing permittee, they have a contract with, has some control over how they offer wagering, when they offer, what that second offer and what tracks they can take. In that respect they become a teletrack or and OTB location as far as the money part goes the ADW entities essentially will keep whatever percentage the race track would normally keep or say we are talking about a win bet, let's call it 20% that is a source market fee, there is a contractual fee that they will pay back to Turf Paradise, there is a source market fee and essentially it is that clean and 2% of a live handle the ADW will pay 2% of a live handle. In Arizona there is a 0.6% fee paid to the Department. Once those two fees and the source market fee is paid that is where the company is making their profit and Rillito and TGP will share in source market fees. There are contracts and those contracts are in place.

Commissioner Feldmeier, asked if Ms. Niederkorn could walk him through the process.

Pam Niederkorn, stated it was much like opening a banking account. You would place a telephone call to a live teller and create a username and password. The live teller would confirm your identity and allow you to wager. The transaction is a recorded conversation and you are called back to confirm the wager as well as proof of the wager being made. An example would be the teller terminal in Oregon places a wager for you and issues a ticket. A teller is in contact with their tote vender, all three of the companies are using the major three tote venders in the United States that are acting in regard as a simulcast entity and they are accepting a wager they are talking to a tote to convey that wager and the tote will acknowledge that wager and it is a wager that is recorded in the tote system it has 12 to 20 digit identifying numbers just as paper ticket would if you went into a race track and it could be negotiated by the number but the record of the bet is in the person's account so if it is a winner you would be credited immediately into their account and the money comes as the bet is made the money comes out of the patrons account.

Commissioner Feldmeier asked how to set up an account.

Pam Niederkorn responded that each of the entities has a mechanism in place and you are able to set up an account just like creating an account with a bank and it is secure.

Commissioner Feldmeier asked if the place in Oregon was a clearing house.

Arizona Racing Commission

632nd Regular Meeting

Thursday, January 8, 2015

Pam Niederkorn, replied, no, that the place in Oregon is a phone bank. The businesses we are speaking of are considered simulcast guests. They have a teller at the tote terminal and they are selling a ticket and the terminal is talking to the tote system, their own tote system which also transfers it back to the host tote system.

Commissioner Feldmeier asked how long this process has been in use and if we are one of the last in the country to use this technology.

Pam Niederkorn responded that the technology has been in use in this country approximately 16 years, and that we are one of the last to make use of this technology.

Commissioner Feldmeier asked why we were delayed in getting this in place.

Director Walsh stated that the law had to change and there had been great resistance in changing the law.

Commissioner Feldmeier said it sounded like this would be good for the industry and asked why there had been resistance.

Director Walsh explained that for years there had not been a law one way or another in this particular area and the Attorney General's office issued an opinion. The race tracks went to the legislature trying to change the law, exactly like we have done here. The issue with Pima County came up at the time and the Pima County could not come up with agreement. As an example, one of the tracks had been concerned that people would be coming to their tracks and be in their clubhouse placing a bet with another entity in another state and that they would not be benefitting from that. In 2007 a law was passed that made telephone wagering expressly illegal and it had remained illegal from 2007 until this past spring. The allowance of telephone wagering was necessary to help the industry. Director Walsh had previously stated that the bill had been omnibus and it had a number of other issues in it that would have taken money from the general fund. Governor Brewer line item vetoed the internet betting and she expressed clearly that internet wagering would not be permitted. The law was broadly written so that internet wagering would not be allowed but telephone wagering would be allowed and an app could be downloaded to your telephone so you could wager that way. There does not seem to be any opposition to that form of wagering.

Chair Owens asked if two percent of the money would go to the state.

Pam Niederkorn replied, yes that two percent of the money would go to the state. She stated that any race that would run at Turf Paradise would pay the same tax that Turf Paradise currently pays on races and two percent of the handle would go to the state.

Chair Owens asked if any of the money could be captured and reallocated to areas that we are not funding today.

Director Walsh replied that the two percent is being forwarded to the Department for their budget. That amount of money in rough numbers is approximately \$225,000.00 for this year. That is not even ten percent of our budget.

Chair Owens asked about the 0.6%.

Arizona Racing Commission

632nd Regular Meeting

Thursday, January 8, 2015

Director Walsh replied the two percent is only on Turf Paradise races. The 0.6% is a fee charged to all wagers no matter where they come from. The Department has adjusted it up or down to fit our appropriation to operate the Department minus the \$225,000.00 previously mentioned. The Department is funded in three different ways. The license fees, which run in the three to four hundred thousand dollar range and the \$225,000.00, the two percent that comes from Turf Paradise wagers plus the 0.6% which makes up the balance.

Chair Owens stated she was glad that the state was benefiting but it was a shame that the stakeholders in the industry had been left out of the Governor's plan at the time.

Director Walsh stated he felt the racing industry would not resurrect itself in Arizona until the County Fairs return, breeding becomes stronger and Prescott reopens.

Director Walsh and **Commissioner Feldmeier** each stated and were in agreement that Arizona needs to evolve with the industry trends and keep up with the rest of the world or racing will decline. **Director Walsh** stated the difficulty of changing the mindset of those who oppose some of the changes in the way wagering is done.

Commissioner Feldmeier asked what the next step in the evolution would be.

Director Walsh responded the other two ways that he had seen being successful in bringing money to other states would be by allowing Racinos, slot machines at race tracks or by instant wagering which would be wagering on races that have previously been run. The idea of instant wagering had been looked into by our Attorney General's office and the opinion that came down stated, instant wagering as described was not legal in Arizona.

Bridget Harrington, Assistant Attorney General, stated she was uncomfortable with the current discussion about internet betting and other issues. She referred back to the agenda and stated the ADWs are the items up for discussion and the other issues currently being discussed could be placed on the next agenda for discussion.

Chair Owens expressed she felt this was an open and viable discussion without being negative concerning the ADWs and good information to help with understanding what the future may be for ADWs.

Commissioner Feldmeier asked **Director Walsh** for a copy of the Attorney General's opinion. **Director Walsh** said he would provide the Commissioner with a copy.

Vice Chair McClintock moved to approve an ADW permit for TP Racing L.L.L.P (Turf Paradise) be approved for one year. **Commissioner Feldmeier** seconded the motion. Motion carried.

Commissioner Goreé asked if they should place an expiration date on the previous motion.

Chair Owens questioned if the expiration date would be determined as they received their license.

Director Walsh asked that they make the expiration date one year from the time they are licensed.

Arizona Racing Commission

632nd Regular Meeting

Thursday, January 8, 2015

Vice Chair McClintock moved to approve an ADW permit for Churchill Downs Technology Initiative Company (Twinspires) for one year. Commissioner **Goreé** seconded the motion. Motion carried.

Vice Chair McClintock moved to approve an ADW permit for ODS Technologies dba TVG Network for one year. Commissioner **Goreé** seconded the motion. Motion carried.

Vice Chair McClintock moved to approve an ADW permit for Xpressbet, LLC for one year. Some discussion took place concerning the expiration date from the date of licensing. **Chair Owens** made another motion to approve an ADW permit for Xpressbet, LLC for one year. Commissioner **Goreé** seconded the motion. Motion carried.

Vice Chair McClintock made a motion for the ADW permits to run for one year from the time they are implemented. Commissioner **Feldmeier** seconded the motion. Motion carried.

2. County Fair Racing Permit Applications

Director Walsh stated that several county fairs run their meets at commercial race tracks and there are two county fairs on the agenda today requesting permits for the years 2015, 2016 and 2017.

Vice Chair McClintock moved to approve Central Arizona County Fair Association/Pinal County Fair. **Chair Owens** modified the motion to approve the Central Arizona County Fair Association/Pinal County Fair at Turf Paradise, race dates in 2015 to include February 7, 14, 21 and 28, with the years 2016 and 2017 dates to be determined. **Vice Chair McClintock** seconded the motion. Motion carried.

Vice Chair McClintock moved to approve the Cochise County Fair Association at Rillito Park, race dates in 2015 to include February 7, 8, 14 and 15, with the years 2016 and 2017 to be determined. Commissioner **Goreé** seconded the motion. Motion carried.

3. 2015 Dates for Arizona Racing Commission Meetings

Director Walsh stated that last spring the 2015 meeting dates for the Arizona Racing Commission had been approved. He said no specific dates had been selected for the months of July, August and December, and at the last meeting there was a desire to schedule dates for those months so that it would give everyone a target date to reference. He reported that reservations had been made for the Conference Room 250 on July 9th, August 13th, and December 10th.

Chair Owens expressed her appreciation for scheduling the entire year so there is consistency in meeting dates making it easier for everyone to plan for those dates. **Chair Owens** called for a motion to approve the additional three dates of July 9th, August 13th, and December 10th for Arizona Racing Commission meetings.

Vice Chair McClintock asked if the April 9th meeting date could be moved to April 16th since he would be unable to attend the April 9th meeting. **Director Walsh** said he would have staff look into reserving the Conference Room on April 16th. **Chair Owens** called for a motion to approve the additional meeting dates. Commissioner **Goreé** seconded the motion. Motion carried.

Arizona Racing Commission

632nd Regular Meeting

Thursday, January 8, 2015

C. Informational Reports

1. Turf Paradise Capital Improvements

Chair Owens asked Vince Francia to report on the safety issues that had been discussed at a previous Commission Meeting.

Vince Francia, General Manager of Turf Paradise, stated he would like to update the Commissioners on the safety issues that they had been able to complete and the progression of ongoing projects. He wished to assure the Commission that they have processes, procedures and protocol in place and they follow them. He also stated the track works with Safety Steward Gary Baze, the HBPA and a safety committee that meets every two weeks. He stated that water valves had been replaced and electrical improvements had been made and added he would be happy to address any safety issues on a meeting to meeting basis.

Commissioner Feldmeier asked if everything from the Memo dated December 13, 2013 had been completed.

Director Walsh introduced Safety Steward Gary Baze and asked if he would be able to address some of the safety issues and concerns from his report dated December 13, 2013.

Gary Baze, Safety Steward, reported that the outside fence rail had been brought up to its proper height, a uniform chain-link fence had been put in the path coming up from the 6 ½ gap, obstacles such as old railing had been removed, brush had been trimmed, the start gate had been refurbished, oleanders had been trimmed, and a blinking light warning system on the training track was in place, storm damage to the North East barn had been repaired, gap rails sharp edges had been covered, backside lighting had been taken care of, the 16 stalls in the receiving barn were being maintained with the exception of two having minor holes but the other 14 are excellent, the coyote and gopher issues are continuously addressed, and the backside drainage problem consists of moving water to the ditches to get it out of the way. The two issues that have not been addressed are the Turf Course starting gate and the perimeter lighting. The starting gate needs to have some restoration such as replacing the padding; realigning tailgate doors and repairing the bent front stall gates. Mr. Baze would like to see the perimeter lighting around the race track and have it lit up like a high school football field. He stated individuals that had been interviewed responded that they would like to see more light. Mr. Baze reported that there is one light being worked on between the 7/8th pole and the 6 ½ pole. He also stated the light at the 5/8th gap is positioned too low to the ground and has the opposite affect by blinding the riders; it needs to be situated higher and with softer light. The two other areas that could use some light are the 5/16th pole in the middle of the last turn and the 3/16th pole the turn for home. He stated everything else had been addressed.

Chair Owens asked how long it had been since he had communicated these areas to Turf Paradise. She also asked how long Mr. Baze has been in his position.

Mr. Baze responded that ever since he had been working at Turf Paradise he has taken things to Mr. Francia and that steps have been taken and things are getting done. Mr. Baze responded that he had been with the agency in the Safety Stewards position for approximately three years.

Arizona Racing Commission

632nd Regular Meeting

Thursday, January 8, 2015

Chair Owens asked Mr. Francia to give a time frame for when the outstanding items would be addressed. **Mr. Francia** responded that the Turf Course Gate pads had arrived and were being installed and that the other items were being attended to, however this was the first time he had heard about the concerns regarding the lighting around the main course. He said he would get together with Mr. Baze about the lighting. He stated that the safety was a priority and not a matter of convenience. **Mr. Jerry Simms** was in agreement with Mr. Francia.

Commissioner Feldmeier asked for an update at the next meeting concerning the two outstanding safety issues at Turf. **Chair Owens** stated she would like the safety issue to be a regular agenda item, receiving updates from all of the tracks. **Director Walsh** stated we would place safety issues on the agenda as a regular agenda item.

2. Permittee Reports

- a. American Greyhound Racing - no report
- b. County Fairs - no report
- c. Rillito Park - no report
- d. Tucson Greyhound Park -no report
- e. Turf Paradise - Dave Johnson, Vice President reported on the 2014-2015 handle through January 5th. He stated the race meet was down 16% on their live product which is less than one million dollars, but felt that it was still a big number to be expected because this race meet compared to last race meet they were running less 15 live days and running only 8 races per day instead of 9, despite that they were still doing well. The OTB network having even less live race days and they still are up 2% over a million dollars. The majority of that was on simulcast races. Comparing the live race days and the same number of race days this year to the same number of race days last year, they are trending very well and they are staying over 4% of which is over a million dollars.

Chair Owens asked if Mr. Johnson had any guess on how he thought the ADWs would affect the percentages. Mr. Johnson responded that he had done some analysis and compared it to other racing jurisdictions that had OTB networks similar to ours and thought it would probably affect the OTB networks by a 10% to 15% decline in handle wagers and then it should be back to where it had been in the next two years and it should be more than made up with the ADWs.

3. Optional Industry Stakeholder Association Updates

- a. Arizona Greyhound Association - no report
- b. Arizona Quarter Racing Association - Lloyd Yother reported that Loretta Brasher had broken her ankle over the holidays. Nothing more to report.
- c. Arizona Thoroughbred Breeders Association - no report
- d. Horsemen's Benevolent & Protective Association - Lloyd Yother reported they continue to work together with Turf Paradise in trying to make things better for the horsemen at the track. He said that it seemed to him that the state and management were more concerned as to what they could make off of the deal and he wanted everyone to know that without the horsemen, owners, trainers and breeders they may not have ADWs and that they had not given up on Instant Racing. He felt that without the horses no one would win and the state would not get any money and Turf Paradise would not have a race track. They needed to take into consideration that without the horsemen, they wouldn't have anything.
- e. Jockey's Guild - Director Walsh reported that he had spoken with Mike Weiss at Rillito and some issues were being worked on.

Arizona Racing Commission

632nd Regular Meeting

Thursday, January 8, 2015

D. Commission Reports

1. Director's Report

Director Walsh reported that he had been informed by the new Chief of Staff from the Governor's office that they will be moving in a new direction with respect to the Department of Racing, so as of Monday, January 12th there would be a new Director. Director Walsh expressed how much he had enjoyed his job, the people he worked with from the Commissioners, Horsemen, Dogmen, the Industry, and especially his staff. He praised his staff for their commitment, professionalism and trustworthiness. He said his staff made his job easier and the Department looked good because of them. His accomplishments in office were to toughen up the medication rules to make it safer for horses, jockeys, protecting the owners and tracks. The new medication rules are in line with ARCI. A bill was passed with its primary focus being to get Yavapai up and running and a couple of areas of the bill helped the industry, simulcasting, giving the tracks some leeway, it allowed horsemen to be able to pick dates and the number of races that would meet their needs. He stated he was pleased that he was able to be a part in getting the bill passed that will see the ADWs get up and running. That he and his staff were able to work hard and get the rules for the ADWs written. He had been able to accomplish the implementation of a new position for a Safety Steward and hired Gary Baze to fill that position. He felt he had brought a professional crew to the track. He said he asked two things of his staff, they needed to get along well with one another so he would not have to deal with those types of things and that most importantly they treat all of the licensees with dignity and respect. He quoted Adlai Stevenson by saying, "it hurts too much to laugh, but I am too old to cry, too young to say it doesn't hurt." I guess I am not too old to cry. He said he will miss everyone and thanked them.

Commissioner Goreé added that he and Director Walsh were confirmed on the same day. He said that Director Walsh was the only Director he had known. He felt that Director Walsh had done a tremendous job and he could see the care the Director had for the animals and for the industry. He thanked Director Walsh for making him a better person and for a job well done.

Chair Owens agreed with Commissioner Goreé's comment. She stated she appreciated how humble the Director was and how he commended his staff as a good leader would do. She felt he really did care and that his true character is what he brought to the table. She felt like the Director was always reliable, reasonable and fair, those were qualities you would see in a human who tried to act with integrity and she appreciated that.

Chair Owens asked about how to handle some information that three of the Commissioners had received and she felt that in all fairness all members should be informed. She wanted to know how to pass on that information because if in the future it would be necessary to place it on the agenda.

Director Walsh replied that she should contact Joyce Cozby.

E. Call to the Public

Mel McDonald gave accolades to Director Walsh. He stated he had been concerned over some materials Steve Nolan had turned over to the Attorney General and the Governor's Office. When asked to have copies of what he was turning over, Mr. Nolan declined to share. He said he was impressed with what Safety Steward, Gary Baze had to report and was grateful to know there was someone out on the tracks keeping a vigilant eye on any safety issues. He stated he was pleased to

Arizona Racing Commission

632nd Regular Meeting

Thursday, January 8, 2015

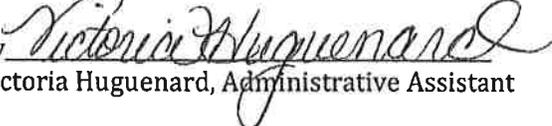
see the chain of command being used between Mr. Baze and the track. Mr. McDonald was uncertain as to whether or not Chair Owens would continue to be on the Commission due her term coming to an end, he wished her well and told her he was honored to have had the pleasure of working with her over the years.

Dale Popp, General Manager, Tucson Greyhound Park, expressed his surprise at the news concerning Director Walsh. He stated that he had only been in his current position for about a year, but felt the Director had always been fair in his decision making. He hoped that the new Director would be able to measure up to the standards he had set.

Chair Owens made a motion for the next Arizona Racing Commission meeting be held on Thursday, February 12, 2015 at 10:00 a.m. and again thanked Director Walsh for his dedication and love of the sport.

Vice Chair McClintock made a motion to adjourn. **Commissioner Goreé** seconded the motion. Motion carried.

This public meeting adjourned 11:39 a.m.
Dated this 12th day of February, 2015

Arizona Racing Commission
By 
Victoria Huguenard, Administrative Assistant