

OKLAHOMA HORSE RACING COMMISSION

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PHILLIP KIRK, MEMBER

DONNIE VON HEMEL, MEMBER

DOUGLAS WRIGHT, MEMBER

AGENDA

Regularly Scheduled Meeting
Thursday, August 27th, 2020, 9:30 a.m.

Meeting Location:

One Remington Park Place – Eclipse Room/Suites Floor
Oklahoma City, Oklahoma 73111

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.OK.GOV

AGENDA POSTED IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING ACT

All citizens 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 Ms. Keener, Chair
ROLL CALL Ms. Keener, Chair
BUSINESS Ms. Keener, Chair

A. MINUTES

1. The drafted Minutes of the **June 18th, 2020** Regularly Scheduled Commission Meeting will be considered for approval.
2. The drafted Minutes of the **June 26th, 2020** Special Scheduled Commission Meeting will be considered for approval.

THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION AND ACTION, IF ANY, DEEMED APPROPRIATE BY THE COMMISSION.

B. PRELIMINARY CONSIDERATION OF CY 2021 RACING AND GAMING APPLICATIONS

The Commission received renewal applications from Remington Park and Will Rogers Downs for their respective organization license for gaming operations, live racing and simulcasting for CY 2021 as well as Fair Meadows Tulsa CY 2021 renewal applications for their live racing, simulcasting and gaming recipient licenses.

In the past, the Commission has determined that a full formal Public Hearing would be conducted only on original applications for organization and gaming licenses. On renewal applications, the Public Hearing is limited to a presentation by a racetrack representative followed by a question and answer period by Commissioners, Commission Counsel and Commission Staff.

The following is a summary of the race day applications received.

1. Remington Park

Remington Park [RP] applied to conduct two race meetings:

- A Quarter Horse, Paint and Appaloosa race meeting, 50 days in length [422 QH and 78 PT/APP races], from March 12 through June 5, 2021 and
- A Thoroughbred race meeting, 67 days in length [600 TB races], from August 20 through December 19, 2021. Remington Park also submitted a Racetrack Gaming Operator License application. Staff Briefs have been completed on Remington Park's CY 2021 racing and gaming license applications.

2. Will Rogers Downs

Will Rogers Downs [WRD] applied to conduct two race meetings:

- A Thoroughbred race meeting, 29 days in length [270 TB races], from March 22 through May 26, 2021 and
- A Quarter Horse, Paint and Appaloosa race meeting, 28 days in length [270 QH and 60 PT/APP races], from September 5 through November 14, 2021. Will Rogers Downs also submitted a Racetrack Gaming Operator License application. Staff Briefs have been completed on Will Rogers Downs's CY 2021 racing and gaming license applications.

3. Tulsa State Fair (Tulsa County Public Facilities Authority)

The Tulsa State Fair (the Tulsa County Public Facilities Authority) applied to conduct one fair race meeting:

- A Thoroughbred, Quarter Horse, Paint and Appaloosa fair race meeting at Fair Meadows at Tulsa, 34 race days in length [170 QH, 170 TB and 68 PT/APP races estimated], from June 4 through July 25, 2021. Fair Meadows at Tulsa [FMT] also submitted a Recipient Racetrack Gaming License application. Staff Briefs have been completed on the Tulsa County Public Facilities Authority's CY 2021 racing and gaming license applications.

The chart on the next page summarizes the proposed race days as reflected in the applications and the amendments thereto.

Applicants for Renewal Racing Licenses	Race Meetings	Number of Live Race Days Requested and Number of Races Per Breed Requested	Number of Required Races By Breed To Conduct Gaming	Race Meeting Time Frame (2021)
REMINGTON PARK Global Gaming RP, L.L.C. Oklahoma City	Quarter Horse Paint and Appaloosa	<u>50 Race Days</u> 422 QH Races 78 PT/APP Races	No fewer than 500 races within a period of 12 consecutive weeks	3/12/21 – 6/5/21 (Closing overlaps two (2) days with the opening of Fair Meadows)
	Thoroughbred	<u>67 Race Days</u> 600 TB Races	No fewer than 600 races	8/20/21 – 12/19/21
WILL ROGERS DOWNS Will Rogers Downs, L.L.C. Claremore	Thoroughbred	<u>29 Race Days</u> 270 TB races	No fewer than 270 races	3/22/21 – 5/26/21
	Quarter Horse Paint and Appaloosa	<u>28 Race Days</u> 270 QH Races 60 PT/APP Races	No fewer than 270 QH races No fewer than 60 PT and AP races	9/11/21 – 11/13/21
TULSA STATE FAIR (Tulsa County Public Facilities Authority) Fair Meadows at Tulsa	Quarter Horse Thoroughbred Paint and Appaloosa	<u>34 race days</u> 170 QH Races [EST.] 170 TB Races [EST.] 68 PT/APP Races [EST.]	No fewer than 400 total races with no fewer than an average of 4 races per day for TB horses	6/4/21 – 7/25/21 (Opening overlaps one (1) day with the closing of Remington Park)

THE FOLLOWING PROCEDURES PERTAIN TO THE PRESENTATIONS REGARDING RACING AND GAMING RENEWAL APPLICATIONS FOR ORGANIZATION LICENSES.

Each racetrack will be given up to ten (10) minutes to make its presentation on its CY 2021 racing and gaming renewal license applications with a concentration on changes proposed or made since the CY 2020 applications. Following the presentation,

Commissioners, Commission Counsel and Commission Staff may ask questions. The period taken with questions and answers will not be charged against the time allotted the Applicant.

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 deliberations in individual proceedings regarding CY 2021 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 preliminary action to allot CY 2021 live race dates and directing Commission Staff to draft CY 2021 racing and companion gaming license orders subject to staff reports and consideration of the Staff Briefs and draft orders for consideration in further deliberations at the October 15, 2020 meeting; or continuing consideration to the October 15, 2020 meeting.

C. CONTINUED DELIBERATIONS FOR SAMMY K. HOWARD, OWNER/TRAINER REGARDING THE APPEAL OF STEWARDS' ORDER 19-WRD-079A.

Background

At the June 18th, 2020 meeting, the Commission took preliminary action to affirm Stewards Order 19-WRD-079A, including the fines, suspension, and disqualifications of both horses. Furthermore the Commission directed its legal advisor to prepare a proposed Final Order with Findings of Facts and Conclusions of Law for continued deliberations at the August 27th, 2020 Commission Meeting.

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. Howard's appeal of Stewards' Order 19-WRD-79A.

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; adopting the Final Order as proposed, adopting the Final Order as modified, or continue the matter.

D. CONTINUED DELIBERATIONS FOR ERIC ROMAN CHAPA, REGARDING THE APPEAL OF STEWARDS' ORDER 20-RP-018.

Background

In Steward's Order 20-RP-018, dated April 23, 2020, Mr. Chapa was denied a 2020 Oklahoma Horse Racing Commission License as a Jockey.

At the May 21st, 2020 meeting, the Commission heard oral argument from parties and convened in Executive session for deliberations. After a vote to return to open session, the Commission voted to continue the matter to the August 2020 meeting.

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. Chapa's appeal of Stewards' Order 20-RP-018.

- a. Motion and Vote to Go Into Executive Session for the Purpose Stated Above
- b. 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 October 15th, 2020 Commission meeting; or continue the matter(s).

E. PETITION FOR APPEAL OF RICK ROBINSON, TRAINER, REGARDING STEWARD'S ORDERS 19-WRD-059B, 19-WRD-073A, 20-WRD-025, 20-WRD-026, 20-WRD-027, 20-WRD-028, 20-

WRD-029, 20-WRD-030, 20-WRD-031, 20-WRD-032, 20-WRD-033, 20-WRD-034, 20-WRD-035, and 20-WRD-042.

Background

In September 2019, thirteen horses trained by Mr. Robinson tested positive for Albuterol, a prohibited substance, following fourteen races. At Appellant's request, all fourteen (14) cases were consolidated for a hearing on the merits held before the Board of Stewards on Wednesday, March 11, 2020. The Board of Stewards fined and suspended Mr. Robinson in each case. The Stewards disqualified the horses from their respective finishes in the races and ordered that they be placed on the Stewards and/or Veterinarian's List.

On May 29, 2020 the Commission issued an Order, Denying the Request for Temporary Stay for Stewards' Orders; 19-WRD-059B, 19-WRD-073A, 20-WRD-025, 20-WRD-026, 20-WRD-027, 20-WRD-028, 20-WRD-029, 20-WRD-030, 20-WRD-031, 20-WRD-032, 20-WRD-033, 20-WRD-034, 20-WRD-035, 20-WRD-042, pending final determination of the Commission.

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., and OAC 325 (OHRC Rules of Racing), Chapter 70, Objections and Protests, : Hearings and Appeals.

The procedure for the consideration of the Petition for Appeal is set as follows:

1. The appellant, Mr. Robinson, and the Board of Stewards at Will Rogers Downs are entitled to be present and to present arguments.
2. The appellant, Mr. Robinson, or his counsel - will present oral arguments first, with Counsel for the Board of Stewards proceeding next. Each party will be allowed fifteen (15) minutes in total oral argument, including any rebuttal argument.
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 Commissioner, 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. Robinson. An executive session may be proposed following oral argument for each Preliminary Motion and the Petition for Appeal.

- a. Motion and Vote to Go Into Executive Session for the Purpose Stated Above
- b. 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 October 15th, 2020 Commission meeting; or continue the matter(s).

F. APPEAL HEARING FOR ROMUALDO LOPEZ-GARCIA REGARDING STEWARD'S ORDER 20-WRD-022.

Background

The Quarter Horse "DF LAWTON", owned by Mr. Lopez-Garcia, tested positive for the prohibited substance "Clenbuterol" following a race held on October 19, 2019.

On April 22, 2020. the Board of Stewards at Will Rogers Downs, in accordance with OAC 325:45-1-11 (a) Trainer Responsibility, found Mr. Lopez-Garcia to have cared for, had custody of, or treated "DF LAWTON", a horse which is the subject of a substance violation. The Board of Stewards fined Mr. Lopez-Garcia ten thousand dollars (\$10,000) and suspended his license for Three hundred sixty five (365) days, beginning Wednesday, April 22, 2020, and continuing through Wednesday, April 21, 2021.

It was further ordered that "DF LAWTON" be disqualified from first (1st) place and shall remain unplaced in the eighth (8th) race at Will Rogers Downs on Saturday, October 19, 2019. "DF LAWTON" was placed on the Steward's and/or Veterinarian's List for no less than one hundred eighty (180) days.

On May 6, 2020, the Commission Granted a Temporary Stay of Enforcement, Order 2020 OHRC-0009. This Order is in place pending final determination of the Commission.

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., and OAC 325 (OHRC Rules of Racing), Chapter 70, Objections and Protests, Hearings and Appeals. 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 consideration of the Petition for Appeal is set as follows:

1. The appellant, Mr. Lopez-Garcia, and the Board of Stewards at Will Rogers Downs are entitled to be present and to present arguments.
2. The appellant, Mr. Lopez-Garcia, or his counsel will present oral arguments first, with Counsel for the Board of Stewards or their counsel proceeding next. Each party will be allowed fifteen (15) minutes in total for oral argument, including rebuttal argument. 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. Lopez-Garcia's appeal of Stewards' Order 20-WRD-022. An executive session may be proposed following oral argument for each Preliminary Motion and the Petition for Appeal.

- a. Motion and Vote to Go Into Executive Session for the Purpose Stated Above

- b. 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 October 15th, 2020 Commission meeting; or continue the matter(s).

G. PROPOSED OPENING OF THE PERMANENT RULEMAKING PROCESS TO CONSIDER RULE AMENDMENTS FOR THE OHRC RULES OF RACING AND RULES FOR RACETRACK GAMING 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 and Rules for Racetrack Gaming to:

Rules of Racing:

**Chapter 1, Commission Powers and Jurisdiction
Chapter 15, Licensing
Chapter 20, Racing Officials and Racing Personnel
Chapter 25, Entries and Declarations
Chapter 35, General Conduct
Chapter 45, Prohibited Practices and Equine Testing
Chapter 60, Running the Race
Chapter 65, Pari-Mutuel Wagering
Chapter 70, Objections and Protests: Hearings and Appeals
Chapter 75, Oklahoma Bred Program**

Rules for Racetrack Gaming:

**Chapter 80, Gaming Licensing Requirements
Chapter 85, Gaming Machine Specifications and Use and Operation Requirement
Chapter 90, Gaming Operations**

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.

H. CY 2021 COMMISSION MEETING DATES.

Commission Staff recommends that the Commission consider scheduling eight monthly meetings in CY 2021 for the months of January, February, March, May, June, August, October and November. The proposed CY 2021 meeting dates include January 21, February 18, March 18, May 20, June 17, August 26, October 21 and November 18.

Possible Action:

Possible action may include, but is not limited to: scheduling eight meetings on the suggested dates, scheduling meetings on different dates, or continuing the matter to the October 15, 2021 Commission meeting.

I. THE COSTS OF QUANTITATIVE TESTING FOR FUROSEMIDE AND PHENYLBUTAZONE.

Mr. Kelly Cathey, Commission Executive Director, proposes that the Commission issue a directive that organization licensees may assess a fee to be paid by the licensed owners for reimbursement of the costs of quantitative testing for Furosemide and Phenylbutazone.

Possible Action:

Possible action may include, but is not limited to: take no action; adopting the Directive as proposed, adopting the Directive as modified, or continue the matter.

J. ANY MATTER NOT KNOWN ABOUT OR WHICH WOULD NOT HAVE BEEN REASONABLY FORESEEN PRIOR TO POSTING THE AGENDA.

K. ANNOUNCEMENTS:

****No Meeting in September 2020****

8/21/2020 – Remington Park Thoroughbred Race Meeting is scheduled to begin.

9/12/2020 – Will Rogers Downs Quarter Horse, Paint and Appaloosa Race Meeting is scheduled to begin.

10/1/2020 – Deadline for submitting agenda topics for the October 15th, 2020 Meeting.

10/15/2020 – Regularly Scheduled Commission Meeting.

ADJOURNMENT.....Ms. Keener, Chair