

# **OKLAHOMA HORSE RACING COMMISSION**

## **Regularly Scheduled Meeting**

**Thursday, March 18<sup>th</sup>, 2021**

### **Minutes**

#### **CALL TO ORDER**

Chairman Keener called the Regularly Scheduled Meeting of the Oklahoma Horse Racing Commission to order at 9:31 a.m. in the Eclipse Room at Remington Park in Oklahoma City, Oklahoma.

#### **ROLL CALL**

Commission Members answering roll call were Commissioner Goumaz, Commissioner Kirk, Commissioner Marcum, Secretary Sanders, Commissioner Von Hemel, Commissioner Wright, Vice Chair Lucas, and Chairman Keener. Commissioner Anderson was absent from the meeting.

Before engaging the Business Agenda, Chairman Keener gave the floor to Executive Director Kelly Cathey. Mr. Cathey announced the retirement of Remington Park's Chief Steward, Mike Corey after 33 years of service to the OHRC. Representatives from the OQHRA and TRAO presented plaques to Mr. Corey in appreciation of his service. After Mr. Corey gave words of appreciation and farewell, attendees were invited to stay for a brief reception following the meeting.

#### **A. MINUTES**

Chairman Keener announced one change with consideration of the Minutes from the Secretary Sanders made a motion to accept the drafted Minutes from the March 18<sup>th</sup>, 2021 with a revision to include reversing the Aye's and Nay's. Secretary Stated that the motion on item B.1 did pass but is presented incorrectly in the draft. Commissioner Wright seconded the motion and the vote was as follows:

Aye: Secretary Sanders, Commissioner Wright, Commissioner Goumaz, Commissioner Marcum, Commissioner Von Hemel, and Chairman Keener.

Nays: None

Abstain: Commissioner Kirk and Vice Chair Lucas

Motion passed 6-0

**B. CONTINUED DELIBERATIONS REGARDING THE APPEAL OF CRISTINO ESTRADA-REGALADO, OWNER/TRAINER REGARDING STEWARDS ORDERS 20-FMT-26B, 20-FMT-27B, AND 20-FMT-28B.**

Chairman Keener gave the background for the agenda item and opened the floor for a motion on an Executive Session. Vice Chair Lucas motioned to go into Executive Session with the Commission Legal Advisor, Ms. Balzer. Commissioner Goumaz seconded the motion and the vote was as follows:

Aye: Vice Chair Lucas, Commissioner Goumaz, Commissioner Kirk, Commissioner Marcum, Commissioner Von Hemel, Commissioner Wright, Secretary Sanders, and Chairman Keener.

Nay: None

Motion passed 8-0

The Commission went into Executive Session at 9:37 a.m.

Commissioner Von Hemel made a motion to come back to open session. Vice Chair Lucas seconded the motion and the vote was as follows:

Aye: Commissioner Von Hemel, Vice Chair Lucas, Commissioner Goumaz, Commissioner Kirk, Commissioner Marcum, Secretary Sanders, Commissioner Wright, and Chairman Keener.

Nay: None

Motion passed 8-0

The Commissioner resumed Regular Session at 9:56 a.m.

Vice Chair Lucas motioned to approve the Order as revised today. Commissioner Goumaz seconded the motion and the vote was as followed:

Aye: Vice Chair Lucas, Commissioner Goumaz, Commissioner Kirk, Commissioner Marcum, Secretary Sanders, Commissioner Von Hemel, Commissioner Wright, and Chairman Keener.

Nay: None

Motion passed 8-0

**C. PETITION FOR APPEAL OF MARCOS CARRIZALES, TRAINER REGARDING STEWARDS' ORDER 20-RP-23A.**

Chairman Keener recused herself and stated that Vice Chair Lucas would chair this portion of the meeting. Chairman Keener exited the meeting at 9:58 a.m.

After Chairman Keener's announcement, Mr. Carrizales' Attorney, Mr. Pasquali requested to be heard later on the agenda. Vice Chair Lucas stated that the Commission would take action on it later on in the agenda. Vice Chair Lucas, now presiding over the meeting, went forward and gave the background on the agenda item again, gave the protocol per the Oklahoma Administrative Procedures Act and then stated that the Commission would consider whether to accept or deny the "Aid to Commissioners" as presented by the Appellant on February 12<sup>th</sup>, 2021. After this, Vice Chair Lucas announced the Commissioners will hear and take action on the Appeal. Mr. Pasquali stated again that he wanted to appear later in the agenda. After some clarification with Legal Advisor, Ms. Balzer, Vice Lucas stated there was only one other item on the agenda and was concerned about the amount of time that would really afford. After more discussion, it was agreed to go forward with the agenda as presented.

Mr. Pasquali gave oral arguments concerning the Aid to Commissioner's and Steward's Attorney, James Rucker responded. After the oral arguments were complete, Ms. Balzer advised the Commission on their action options. The Commissioner members asked questions to further clarify the matter. Vice Chair Lucas then stated he would entertain a motion. Commissioner Goumaz stated that she would like to make a motion to go into Executive Session with Legal Counsel to discuss the matter. Secretary Sanders seconded the motion. The vote was as follows:

Aye: Commissioner Goumaz, Commissioner Sanders, Commissioner Kirk, Commissioner Marcum, Commissioner Wright, Commissioner Von Hemel, and Vice Chair Lucas.

Nay: None

Motion Passes 7-0

The Commission went into Executive Session concerning the "Aid to Commissioners" at 10:13 a.m.

Commissioner Goumaz made a motion to reconvene Open Session. Commissioner Kirk seconded the motion. The vote was as follows:

Commissioner Goumaz, Commissioner Kirk, Commissioner Marcum, Secretary Sanders, Commissioner Von Hemel, Commissioner Wright, and Vice Chair Lucas.

Motion Passes 7-0

The Commission returned to Open Session at 10: 27 a.m.

Once in open session, Commissioner Goumaz made the motion to deny the entrance of the "Aid to Commission". Secretary Sanders seconded the motion. The vote was as follows:

Aye: Commissioner Goumaz, Secretary Sanders, Commissioner Kirk, Commissioner Marcum, Commissioner Von Hemel, Commissioner Wright, and Vice Chair Lucas.

Nay: None

Motion passed 7-0.

Vice Chair Lucas announced we were now moving to oral arguments concerning Mr. Carrizales Petition to Appeal. Mr. Pasquali asked a question concerning documents he proffered to the Stewards. Vice Chair Lucas and Ms. Balzer addressed the question.

The Appeal hearing began at approximately 10:32 a.m. with a statement from the Attorney for Mr. Carrizales, Attorney Pasquali, was given the floor to present his argument to the Commission. Vice Chair Lucas opened the floor for questions. Steward's Attorney, James Rucker, gave a rebuttal and the Commission and staff were allowed to ask questions.

After the appeal hearing closed, Commissioner Goumaz made a motion to go into Executive Session with Legal Counsel. The motion was seconded by Secretary Sanders and the vote was as follows:

Aye: Commissioner Goumaz, Secretary Sanders, Commissioner Kirk, Commissioner Marcum, Commissioner Von Hemel, Commissioner Wright, and Vice Chair Lucas.

Nay: None.

Motion passed 7-0.

The Commission went into Executive Session at 10:56 a.m.

Vice Chair Lucas requested a motion to reconvene in open session. Commissioner Von Hemel made the motion and Secretary Sanders seconded. The vote was as follows

Aye: Commissioner Von Hemel, Secretary Sanders, Commissioner Goumaz, Commissioner Kirk, Commissioner Marcum, Commissioner Wright, and Vice Chair Lucas.

Nays: None

Motion passed 7-0

The Commission returned to Open Session at 11:25 a.m.

Vice Chair Lucas announced that we were back in open session on the matter of Item C concerning Marcos Carrizales and stated the possible actions on the item. The Vice Chair stated he would entertain a motion.

Commissioner Goumaz motioned to uphold the Steward's decision and instruct Commission legal advisor to draft orders with consideration and further deliberation at a future Commission Meeting. Vice Chair Lucas confirmed that the Final Order would show as Steward's Order 20-RP-23A. The motion was seconded by Commissioner Wright and the vote was as follows:

Aye: Commissioner Goumaz, Commissioner Wright, Commissioner Kirk, Commissioner Marcum, Secretary Sanders, Commissioner Von Hemel, and Vice Chair Lucas.

Nay: None.

Motion passed 7-0.

Vice Chair Lucas announced he was returning the gavel to Chairman Keener.

**D. CONSIDERATION OF THE REQUEST FROM WILL ROGERS DOWNS TO RELEASE EARNED INTEREST FROM ESCROW ACCOUNT.**

Chairman Keener returned to preside over the remainder of the meeting at 11:27 a.m.

Chairman Keener returned to provide the background on the item. Commissioner Goumaz gave the history on the matter and asked Mr. Enterline from Will Rogers Downs to assist with recalling when and why this agreement was executed. After Mr. Enterline's account, Commissioner Goumaz announced her support for

action but requested a more detailed account of the status of the account before the release is approved. Commissioner Goumaz further requested that the horsemen's groups sign off on the amounts given toward the account. Commissioner Goumaz gave her support on the matter but opened the discussion with the other Commissioners of how to proceed. It was stated that the Commission could give authority to the staff and Executive Director to move forward after a review of the records and determining how the fund has operated to this point. Commissioner Goumaz and Vice Chair Lucas agreed that as long as the Executive Director feels comfortable with the accounting of the funds he receives that he should go forward with the action and not have to come back unless there is an issue. Commissioner Goumaz stated if the Executive Director is uncomfortable, he can always bring the matter back to the Commission for action. The Commissioners then discussed next steps. The Commission stated their interest in hearing from the Horsemen's Groups. Representatives from OQHRA and TRAO, Kole Kennemer and Danielle Barber respectively, stated the Horsemen's Groups had questions and concerns. Their specific concerns regarded the documentation, having more context about the agreement that directed the creation of the fund, and the risks that are being taken with Horsemen's contributions to the funds. Commissioner Goumaz added that the account is set up as a trust which reduces the opportunity for risk. Counsel for Will Rogers Downs, Heath Hardcastle engaged the discussion and talked about the agreement with Bank of America, he further stated that the Commission required that an Escrow Account be established as a part of its licensing. He stated it is an extra layer that Remington Park is not subjected to. Mr. Hardcastle gave a summary of the various fees and monies, received into the account and then stated that there simply was not more paperwork surrounding the action it was just an additional layer of protection put in place and that to say now that we are going to do something else with the money is unfair. He believes that there is no risk and that all the costs have been born by his client. He restated that we can provide the accounting but that the interest should be released to his client as requested. Vice Chair Lucas asked a series of questions and engaged a discussion with Attorney Hardcastle. Other events and timelines were discussed amongst the Commission members, attorney's present, and attendees. Mr. Enterline stated that a group of outside auditor's pick up on the amount and noticed it was above \$100,000. They questioned Will Rogers Downs about why they weren't taking the money out. Mr. Enterline stated that further than that, no one was really thinking about it until a third party raise the issue. Commissioner Goumaz stated that in the future the Commission may want to consider whether this continues as a requirement or not.

Commissioner Goumaz made a motion to continue the matter to a future meeting and allow them to provide us an accounting that shows those funds and confirming that after the release of the funds that the exact dollar amount of the Horsemen's contributions are still in there. Furthermore, Commissioner Goumaz stated that the Commission would want a statement from the Horsemen's groups acknowledging their agreement with the exact dollar amount left in the account

and deeming it consistent with their contributions sitting in the account. Vice Chair Lucas seconded the motion. The vote was as follows:

Aye: Commissioner Goumaz, Vice Chair Lucas Secretary Sanders, Commissioner Kirk, Commissioner Marcum, Commissioner Von Hemel, Commissioner Wright, and Chairman Keener.

Nay: None.

Motion Passed: 8-0

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

There were none.

**F. ANNOUNCEMENTS**

Chairman Keener read through the announcements and stated that there would not be a meeting in the month of April.

**\*NO REGULARLY SCHEDULED MEETING IN APRIL 2021**

**3/22/2021** – Opening Day at Will Rogers Downs Thoroughbred Meet

**5/5/2021** – Oklahoma Bred Advisory Council, 1:30 p.m., Meeting Location to be announced

**5/6/2021** – Deadline for submitting agenda topic request for May 20<sup>th</sup>, 2021 Regularly Scheduled Commission Meeting

**5/20/2021** – Commission Regularly Scheduled Meeting, 9:30 a.m., Board Room, Department of Agriculture, Food and Forestry, 2800 N. Lincoln Boulevard, Oklahoma City, OK

**5/26/2021** – Last Day of Thoroughbred Race Meet at Will Rogers Downs

**5/29/21** – Last Day of Quarter Horse, Appaloosa and Paint Race Meets at Remington Park

5/31/21 – Holiday [Memorial Day]

**ADJOURNMENT**

Chairman Keener declared the meeting adjourned at 11:54 a.m.

APPROVED THIS 20th DAY OF MAY 2021.

  
Wendy Keener, Chairman

On Behalf of the Commission:  
ATTEST:

  
Kelly G. Cathey, Executive Director  
KGC/nlm/ 5/20/21

In conformity with the Oklahoma Open Meeting Act, advance notice of this regular Commission meeting was originally transmitted to the Oklahoma Secretary of State on October 22nd, 2020; and public notice of this meeting, together with the agenda was posted in prominent view in the lobby of the Department of Agriculture, Food and Forestry, Oklahoma City on March 12th, 2021. The announcement of the CY 2021 Commission meetings was posted on the OHRC website on October 22nd, 2020. The agenda for this meeting was posted on the OHRC Website, [www.ohrc.org](http://www.ohrc.org), on March 12th, 2021.