

1 TRANSCRIPT OF PROCEEDINGS  
 2 BEFORE THE  
 3 TEXAS RACING COMMISSION  
 4 AUSTIN, TEXAS  
 5  
 6 \* \* \* \* \*  
 7 COMMISSIONERS MEETING  
 8 Thursday, April 20, 2006  
 9 \* \* \* \* \*  
 10  
 11 BE IT REMEMBERED THAT ON THE 20th day  
 12 of April, 2006, the above-described matter came on  
 13 for hearing in Conference Room 1100 of the Animal  
 14 Health Commission, 2105 Kramer Lane, Austin, Texas,  
 15 before THE HONORABLE R. DYKE ROGERS, CHAIRMAN, and the  
 16 following proceedings were reported by Amanda Anderson,  
 17 CSR in and for the State of Texas as follows:  
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1 APPEARANCES:  
 2 COMMISSIONERS  
 3 R. Dyke Rogers, Chair  
 4 Jesse R. Adams  
 5 Treva Boyd  
 6 G. Kent Carter, D.V.M.  
 7 Louis E. Sturns (Not Present)  
 8 Michael G. Rutherford, Vice Chair  
 9 Charles "Sonny" Sowell  
 10  
 11 EX-OFFICIO MEMBERS  
 12 Ernest Angelo, Jr., Public Safety Commission  
 13 Jimmy Archer, Office of the Comptroller of Public  
 14 Accounts  
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**1** P R O C E E D I N G S  
**2** THURSDAY, APRIL 20, 2006  
**3** 10:30 a.m.  
**4** I. CALL TO ORDER  
10:29:48 **5** CHAIR ROGERS: Would you call the roll,  
10:29:48 **6** please?  
**7** ROLL CALL  
10:29:50 **8** GLORIA GIBERSON: Jesse Adams.  
10:29:52 **9** JESSE ADAMS: Here.  
10:29:52 **10** GLORIA GIBERSON: Treva Boyd.  
10:29:52 **11** TREVA BOYD: Here.  
10:29:56 **12** GLORIA GIBERSON: Ernest Angelo.  
10:29:56 **13** ERNEST ANGELO: Here.  
10:29:54 **14** GLORIA GIBERSON: Kent Carter.  
10:29:54 **15** KENT CARTER, DVM: Here.  
10:29:58 **16** GLORIA GIBERSON: Mike Rutherford.  
10:30:00 **17** MIKE RUTHERFORD: Here.  
**18** GLORIA GIBERSON: Sonny Sowell. Jimmy  
**19** Archer.  
**20** JIMMY ARCHER: Here.  
10:30:04 **21** GLORIA GIBERSON: Louis Sturns. Dyke  
10:30:04 **22** Rogers.  
**23** DYKE ROGERS: Here.  
10:30:06 **24** CHAIR ROGERS: A quorum is present. We will  
10:30:06 **25** call the meeting to order. We will begin with the

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10:30:10 **1** consideration of and possible action on the following  
10:30:12 **2** items, Budget and Finance Update, Ms. Curtsinger.  
10:30:18 **3** SHELLEY HARRIS-CURTSINGER: Good morning,  
10:30:20 **4** Commissioners you have in your packets the update  
10:30:22 **5** through March 31st of 2006. We are 58.33% through the  
10:30:28 **6** fiscal year and pretty much in line for where we should  
10:30:32 **7** be at this time of the year. I will take any questions  
10:30:34 **8** if you have any questions.  
10:30:38 **9** CHAIR ROGERS: Any questions? Okay, thank  
10:30:42 **10** you. I think we're going to delay just a moment the  
10:30:46 **11** discussion of the Race Date Working Group until  
10:30:52 **12** Commissioner Sowell has an opportunity to be here, since  
10:30:56 **13** he was on that group.  
10:30:58 **14** We will move to Proceedings on  
10:31:00 **15** Rulemaking, consideration of and possible actions on the  
10:31:02 **16** following rules, petitions for rulemaking. We first  
10:31:06 **17** have a petition by Retama Park for amendments to 321.310  
10:31:16 **18** and 321.314 affecting Trifecta and Superfecta. Is there  
10:31:26 **19** someone from Retama Park who would like to address this?  
10:31:32 **20** Mr. Brown.  
10:31:34 **21** BRYAN BROWN: Good morning, Bryan Brown with  
10:31:36 **22** Retama Park. Currently, Rules 321.310 and 321.314 set  
10:31:46 **23** the minimum number of horses that have to be entered in  
10:31:50 **24** a race prior to us being able to offer Trifecta and  
10:31:54 **25** Superfecta wagers. That rule was changed a few years

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10:31:58 **1** ago. It used to be we had to have eight horses for  
10:32:02 **2** Superfecta and seven for Trifecta, and the Commission  
10:32:06 **3** saw fit to reduce that to the current levels. With the  
10:32:08 **4** declining horse population that we all have,  
10:32:12 **5** unfortunately, we do see more races than we would like  
10:32:16 **6** scratched down to 6 horse fields and 5 horse fields.  
10:32:20 **7** What happens when you do have scratches down  
10:32:24 **8** to those levels, there's a threefold impact on wagering.  
10:32:30 **9** One, with fewer horses you have fewer combinations so  
10:32:34 **10** bettors are less likely to bet as much money in a  
10:32:36 **11** particular race. The second is that we lose the  
10:32:40 **12** Trifecta, Superfecta at those levels.  
10:32:42 **13** When you do go to 6 horses in a race, you  
10:32:46 **14** lose the Superfecta. When you go to 5 horses in a race  
10:32:50 **15** you lose the Trifecta. In addition to that, when you  
10:32:54 **16** lose the Superfecta and Trifecta, bettors are less often  
10:32:58 **17** to bet the exacta and win bets. They like to bet  
10:33:02 **18** exactas and cover their bets with Trifectas and  
10:33:04 **19** Superfectas. When they can't do that, they may not even  
10:33:06 **20** bet the exacta. So I think Sammy can tell you when we  
10:33:10 **21** do scratch down to those levels or have the straight  
10:33:14 **22** cards or straight races with those levels, our wagering  
10:33:16 **23** on those races drops dramatically.  
10:33:20 **24** Therefore, we would propose the rule change  
10:33:22 **25** which does allow for us to have a Trifecta with five

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10:33:26 **1** horses in a field and a Superfecta with six horses in a  
10:33:30 **2** field. I'd be happy to answer any questions.  
10:33:34 **3** CHAIR ROGERS: Okay, why don't we hear from  
10:33:36 **4** Mr. Ferrara first and then we will come back to you if  
10:33:40 **5** we have anymore questions.  
10:33:42 **6** BRYAN BROWN: Thank you.  
10:33:46 **7** JOHN FERRARA: Good morning, Commissioners.  
10:33:48 **8** On the minimum number of horses set on exacta wagering,  
10:33:54 **9** like the Trifecta and Superfecta, it is set to protect  
10:33:56 **10** the integrity of racing to avoid making it easier to fix  
10:34:02 **11** a race. We already went down from eight to seven for  
10:34:08 **12** Superfecta, seven to six for Trifecta.  
10:34:12 **13** They're requesting to go down one more. The  
10:34:16 **14** problem that I have with it, in the state of Texas a  
10:34:20 **15** trainer can run two horses in a race -- separate betting  
10:34:26 **16** interest if they're different owners. So what we're  
10:34:30 **17** doing now is going down to five horses in a Trifecta.  
10:34:34 **18** If we have an entry it is now -- the Trifecta is in the  
10:34:40 **19** hand of four barns. If we have two entries uncoupled it  
10:34:44 **20** goes to three and the same thing for Superfecta.  
10:34:46 **21** If there's uncoupled entries, the barns  
10:34:50 **22** involved in the wagering has decreased and the  
10:34:54 **23** perception is there to the general public that it is now  
10:34:58 **24** easier to possibly fix a race. So I would like to  
10:35:06 **25** modify the rule to have the Board of Stewards look at a

10:35:10 **1** race and review it and examine it and have their  
 10:35:14 **2** approval to allow a six horse Superfecta or five horse  
 10:35:20 **3** Trifecta. All kinds of scenarios you can think about.  
 10:35:26 **4** The easiest one I can think about, five  
 10:35:30 **5** horse Trifecta trainer has two horses. He runs 4th or  
 10:35:34 **6** 5th. How easy for the general public to think that how  
 10:35:40 **7** easy for that man to hit that race, if he knew his horse  
 10:35:44 **8** could not compete with the field and run 4th and 5th.  
 10:35:48 **9** There are just too many scenarios that general public  
 10:35:52 **10** perception is, maybe, the integrity of the race is not  
 10:35:56 **11** protected.  
 10:35:56 **12** So I would like to request the Stewards have  
 10:35:58 **13** an opportunity to review each Superfecta with six and  
 10:36:02 **14** each Trifecta with five.  
 10:36:10 **15** JESSE ADAMS: John, would you have any  
 10:36:10 **16** problem with a stipulation in there that the Stewards  
 10:36:14 **17** would not inadvertently deny across the board? Do you  
 10:36:22 **18** see the problem I see?  
 10:36:26 **19** JOHN FERRARA: No, they will not do that  
 10:36:26 **20** because I'll advise them as far as some situations where  
 10:36:32 **21** I think it should not be allowed. And I just brought up  
 10:36:36 **22** entries, but there are other scenarios that are possible  
 10:36:40 **23** that should not be allowed. I was a Steward in Oaklawn  
 10:36:46 **24** Park. We had a five horse field. Don Von Hemel had a  
 10:36:50 **25** horse, Donny Von Hemel had a horse, and Kelly Von Hemel

10:36:52 **1** had a horse. They're off in separate barns but, again,  
 10:36:58 **2** to protect the perception of racing, we decided it was  
 10:37:02 **3** best interest not to have Trifecta wagering.  
 10:37:08 **4** JESSE ADAMS: I fully agree with your  
 10:37:12 **5** concerns. I just don't want to -- to be so under the  
 10:37:16 **6** control of the Stewards that it never gets a chance to  
 10:37:20 **7** operate. When it is a good five horse field that they  
 10:37:24 **8** are allowed.  
 10:37:26 **9** JOHN FERRARA: I don't think that's  
 10:37:28 **10** going to happen. Cause like I said, I think I'm going  
 10:37:30 **11** to instruct them --  
 10:37:34 **12** MARK FENNER: Commissioner, may I say  
 10:37:36 **13** something? First of all, does everybody have a copy of  
 10:37:42 **14** the proposal? I'd be happy to give you an extra if  
 10:37:46 **15** anyone doesn't. One of the conditions that's set out in  
 10:37:50 **16** the proposal of staff, is that the Board of Stewards or  
 10:37:54 **17** Judges may order the wagering to be canceled and the  
 10:37:56 **18** pool to be refunded if deemed in the interest of  
 10:38:00 **19** wagering integrity. And that interest of wagering  
 10:38:04 **20** integrity is something that the agency would develop  
 10:38:06 **21** some administrative policies on -- guidance for how the  
 10:38:10 **22** staff would implement that. I do not expect it would  
 10:38:14 **23** just be left to their --  
 10:38:14 **24** CHAIR ROGERS: So the intent would be  
 10:38:16 **25** that you would allow these but you wouldn't arbitrarily

10:38:20 **1** cancel them just to be canceled. It would require a  
 10:38:24 **2** possible integrity issue to not approve a race?  
 10:38:28 **3** MARK FENNER: Correct.  
 10:38:32 **4** CHAIR ROGERS: Now does everybody have a  
 10:38:34 **5** copy of this amendment? I've read it but I don't see it  
 10:38:42 **6** in my packet anywhere. So I'm not certain where it was.  
 10:38:44 **7** MARK FENNER: Yes, we provided it in the  
 10:38:48 **8** packet that went just to the Commissioners.  
 10:38:50 **9** CHAIR ROGERS: Commissioner Boyd.  
 10:38:54 **10** TREVA BOYD: John, how long before a  
 10:38:54 **11** race -- remind me about the scratching, how long before  
 10:38:58 **12** a race do the Stewards have to look at that before they  
 10:39:02 **13** make that decision?  
 10:39:04 **14** JOHN FERRARA: There is no scratch time  
 10:39:06 **15** in most racetracks. So to be honest with you, the PP's  
 10:39:16 **16** that the Stewards get are usually -- within 2 hours it's  
 10:39:20 **17** on their desk. But I think most of the decisions will  
 10:39:24 **18** be made when there's late scratches and the horses come  
 10:39:28 **19** down from seven to six and six to five. That's when  
 10:39:32 **20** most of the decisions will be made whether to keep the  
 10:39:34 **21** Superfecta or keep the Trifecta.  
 10:39:38 **22** TREVA BOYD: Well, my question has to do  
 10:39:40 **23** with how much lead time they have to look at that  
 10:39:44 **24** though. When is it decided at which time there's going  
 10:39:48 **25** to be the number of races -- the number of horses in a

10:39:50 **1** race? What's the time frame in there that they've got  
 10:39:52 **2** to look at that? To make their decisions on whether  
 10:39:58 **3** to --  
 10:40:02 **4** JOHN FERRARA: Most of the time it's  
 10:40:04 **5** done the morning of the race before the windows open up.  
 10:40:08 **6** TREVA BOYD: Okay.  
 10:40:08 **7** JOHN FERRARA: As a matter of fact, in  
 10:40:10 **8** my past history we actually sat down with management and  
 10:40:14 **9** explained to them why we were not going to allow. We  
 10:40:18 **10** just didn't -- we kind of gave an explanation of why.  
 10:40:20 **11** But we always sat down the morning of the race before  
 10:40:24 **12** the windows opened up.  
 10:40:28 **13** TREVA BOYD: Thank you.  
 10:40:32 **14** ERNEST ANGELO: If I read it correctly,  
 10:40:38 **15** paragraph "N" covers that situation if a scratch occurs  
 10:40:40 **16** at the last minute or whatever. Is that not right?  
 10:40:44 **17** JOHN FERRARA: Yes.  
 10:40:46 **18** KENT CARTER, DVM: Clarify for me, how  
 10:40:48 **19** is that handled at the betting window or program? All  
 10:40:50 **20** that stuff so that the betting public is aware that  
 10:40:54 **21** things have changed from the program, how do people know  
 10:40:58 **22** that?  
 10:40:58 **23** JOHN FERRARA: Unfortunately, it's just done  
 10:41:00 **24** by announcements and a scroll on the T.V. screens.  
 10:41:06 **25** KENT CARTER, DVM: So if they go up and

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10:41:08 **1** Trifecta -- try to do a Trifecta once you guys have  
 10:41:10 **2** canceled it, the computers won't take it?  
 10:41:14 **3** JOHN FERRARA: It won't accept it, correct.  
 10:41:16 **4** CHAIR ROGERS: Any other questions? Thank  
 10:41:22 **5** you. Anybody else want to testify on this issue.  
 10:41:38 **6** DAVID HOOPER: Mr. Chairman, members of the  
 10:41:40 **7** Commission, I'm David Hooper, Executive Director, Texas  
 10:41:46 **8** Thoroughbred Association, but I'm speaking more as  
 10:41:46 **9** player than I am as a breed organization executive  
 10:41:50 **10** today. I would agree with what John Ferrara has laid  
 10:41:54 **11** out to you. I think it puts some discretionary ability  
 10:42:00 **12** with the Stewards. And to avoid situations whereby you  
 10:42:04 **13** end up with a five horse field and maybe you've got  
 10:42:08 **14** trainer "X", who has 2 horses in that race and trainer  
 10:42:12 **15** "Y", who has 2 horses in that race, and you know one of  
 10:42:16 **16** the horses from each one of the barns is stronger than  
 10:42:20 **17** the other one and they run, for whatever reason, in  
 10:42:22 **18** reverse order. There's just no way to be able to  
 10:42:26 **19** explain that situation to the public and it looks bad  
 10:42:30 **20** from a wagering integrity stand point.  
 10:42:32 **21** That's the type of situation that I think  
 10:42:34 **22** John is looking at. Whereby the Stewards would step in  
 10:42:38 **23** and say, we are not going to have a Trifecta on this  
 10:42:42 **24** race. Or we have a six horse field, we're not going to  
 10:42:44 **25** have a Superfecta on this race. Obviously, there needs

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10:42:48 **1** to be some dialogue with management before the  
 10:42:52 **2** cancellation of the particular type of wagering. But I  
 10:42:54 **3** think some of -- some of those parameters could be laid  
 10:43:00 **4** out in meetings between management and Stewards before  
 10:43:00 **5** the race starts.  
 10:43:00 **6** While you may not be able to address every  
 10:43:04 **7** type situation that comes up, you're going to be able to  
 10:43:08 **8** address most of the situations. I think that's a better  
 10:43:10 **9** approach to amending the current Trifecta and Superfecta  
 10:43:12 **10** rules than what has been presented to you by Retama, in  
 10:43:16 **11** just reducing the number of betting entries.  
 10:43:20 **12** CHAIR ROGERS: Thank you. Our concern,  
 10:43:24 **13** really, is that the integrity of the wagering is what it  
 10:43:28 **14** needs to be. Any comments from any Commissioners?  
 10:43:34 **15** Welcome at this point before we accept a motion.  
 10:43:38 **16** MIKE RUTHERFORD: I think it's a bad  
 10:43:40 **17** perception for racing. Personally, I'd be against it.  
 10:43:44 **18** CHAIR ROGERS: I think there are 2  
 10:43:46 **19** proposals.  
 10:43:46 **20** MIKE RUTHERFORD: I understand, I'm against  
 10:43:48 **21** dropping the number of horses.  
 10:43:50 **22** CHAIR ROGERS: Against either proposal?  
 10:43:52 **23** MIKE RUTHERFORD: Too many things out of our  
 10:43:54 **24** control can happen. I personally think it's a bad  
 10:43:58 **25** perception --

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10:43:58 **1** CHAIR ROGERS: Okay.  
 10:44:00 **2** MIKE RUTHERFORD: -- for racing.  
 10:44:02 **3** CHAIR ROGERS: I would remind you that there  
 10:44:04 **4** are actually 2 proposals that are kind of in front of  
 10:44:08 **5** us. One is to drop the number, the other is to drop the  
 10:44:12 **6** number with the ability for the Stewards to override  
 10:44:16 **7** that. Or, we can have no motion at all. This  
 10:44:22 **8** particular item -- what we're talking about here would  
 10:44:28 **9** be publishing this for comment to determine whether it's  
 10:44:32 **10** a good change or not a good change.  
 10:44:34 **11** So I guess I would be in favor of publishing  
 10:44:38 **12** it. Publishing it in the Texas Register with the staff  
 10:44:42 **13** amendments proposal. Then we get the comments and then  
 10:44:46 **14** we'll have a second to determine whether it's a good  
 10:44:50 **15** idea or bad idea. That's just my opinion, any other  
 10:44:54 **16** discussion?  
 10:44:58 **17** KENT CARTER, DVM: I like your idea.  
 10:45:02 **18** CHAIR ROGERS: I would entertain a motion to  
 10:45:04 **19** approve staff's amendment for publication in the Texas  
 10:45:08 **20** Register as a proposed rule change.  
 10:45:10 **21** KENT CARTER, DVM: So moved.  
 10:45:12 **22** TREVA BOYD: I second.  
 10:45:16 **23** CHAIR ROGERS: Moved by Commissioner Carter  
 10:45:18 **24** second by Commissioner Boyd; any other discussion? All  
 10:45:16 **25** in favor?

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**1** COMMISSION: Aye.  
**2** CHAIR ROGERS: All opposed?  
 10:45:24 **3** MIKE RUTHERFORD: Aye.  
 10:45:24 **4** CHAIR ROGERS: Motion passes.  
 10:45:26 **5** We have a petition by the Texas Quarter  
 10:45:28 **6** Horse Association for amendment to 303.93 Quarter Horse  
 10:45:38 **7** Rules. Is there a representative from the Quarter Horse  
 10:45:42 **8** Association to testify on this issue?  
 10:45:44 **9** ROB WERSTLER: Good morning, Commissioners,  
 10:45:48 **10** Rob Werstler, representing Texas Quarter Horse  
 10:45:52 **11** Association. This rule change is really not a rule  
 10:45:54 **12** change, it's a date change, moving it back a little bit,  
 10:45:56 **13** giving stallion owners a little more time to get the  
 10:46:00 **14** horses in the program. Just an in-house, housekeeping  
 10:46:02 **15** item.  
 10:46:04 **16** CHAIR ROGERS: That's kind of a practice you  
 10:46:06 **17** do now pretty much anyway. We're just going to clean it  
 10:46:10 **18** up to make our rules fit your practice?  
 10:46:12 **19** ROB WERSTLER: Right.  
 10:46:16 **20** CHAIR ROGERS: Anybody else would like to  
 10:46:18 **21** testify on this issue? The motion would be to approve  
 10:46:28 **22** the amendment for publication in the Texas Register as a  
 10:46:32 **23** proposed rule change.  
**24** MIKE RUTHERFORD: So moved.  
**25** KENT CARTER, DVM: I second.

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10:46:34 **1** CHAIR ROGERS: Moved by Commissioner  
10:46:36 **2** Rutherford, second by Commissioner Carter; all in favor?  
10:46:42 **3** COMMISSION: Aye.  
10:46:44 **4** CHAIR ROGERS: Proceedings on Racetracks,  
10:46:50 **5** consideration of and possible action on the following  
10:46:52 **6** matters, allocation of cross-species purse money by the  
10:46:56 **7** Texas Greyhound Association for 2006. I recognize Ms.  
10:47:04 **8** Whiteley.  
10:47:12 **9** DIANE WHITELEY: Good morning,  
10:47:14 **10** Commissioners, I'm Diane Whiteley with the Texas  
10:47:18 **11** Greyhound Association. This is our annual cross-species  
10:47:22 **12** allocation. What it relates to is out-of-state  
10:47:28 **13** greyhound races that are shown at Texas horse  
10:47:32 **14** racetracks. We receive that money every week. Five  
10:47:36 **15** 1/2% from the horse racetracks and then we make an  
10:47:40 **16** allocation, splitting that money between 3 greyhound  
10:47:44 **17** tracks, and in addition to that, we also receive, under  
10:47:50 **18** law, up to 20% as an administrative fee. The only  
10:47:54 **19** change that you have that was in your packet and -- I  
10:47:58 **20** don't know if Charla Ann got the amendments in. Our  
10:48:02 **21** board voted last Friday after this was sent to you, to  
10:48:06 **22** raise our administrative fees from 15% to the allowable  
10:48:10 **23** 20%. They were at 20% all the time until about 2 years  
10:48:12 **24** ago. We dropped to 15% but due to financial  
10:48:16 **25** obligations, we raised them back to 20%. I am going to

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10:48:20 **1** get letters out to all the kennels and go visit with  
10:48:24 **2** them to let them understand why we're doing this. It  
10:48:28 **3** will decrease their purses a little bit. How the split  
10:48:32 **4** is done is based on how much horse handle each of the  
10:48:34 **5** greyhound tracks handles. So it's based on kind of a  
10:48:40 **6** rateable formula. This is the same as it was last year.  
10:48:46 **7** There have been no changes other than our admin fee went  
10:48:50 **8** from 15 to 20. All three of the greyhound tracks have  
10:48:54 **9** agreed with this, we really appreciate their  
10:48:56 **10** cooperation. So there are no changes other than our  
10:49:00 **11** admin fee from last year.  
10:49:04 **12** CHAIR ROGERS: Okay. Before we get very far  
10:49:10 **13** on this, I don't think it's our job to get into micro  
10:49:14 **14** managing your program. But when I look at these  
10:49:16 **15** numbers, I have some concern about how they work.  
10:49:18 **16** Because the criteria for establishing how they get  
10:49:24 **17** divided really isn't based on horse handle the way I  
10:49:28 **18** understand it, but on point values. And I think the  
10:49:32 **19** average point value purse payout at each one for the  
10:49:38 **20** proceeding year and the impact it would have on revenues  
10:49:42 **21** of different tracks. While I know that we've got to do  
10:49:46 **22** something with this today and I'm all in favor of  
10:49:48 **23** approving it as you presented it, we would like to leave  
10:49:52 **24** this open to some further discussion with the Working  
10:49:56 **25** Group we've got working now to determine -- to talk

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10:49:58 **1** about the viability of how this is done.  
10:50:00 **2** In some cases you've got as much as 15%  
10:50:04 **3** of your handle is -- or 50% of the purse is from this  
10:50:10 **4** fund. I think it's something that -- while I think we  
10:50:14 **5** ought to approve it today, I think we ought to leave  
10:50:18 **6** this open to some further discussion down the line, and  
10:50:24 **7** would encourage the Working Group to look at that, which  
10:50:26 **8** you are a member of also.  
10:50:28 **9** DIANE WHITELEY: My thoughts on this is,  
10:50:30 **10** this is historically how its been done. Meaning, that  
10:50:32 **11** if the horse tracks are generating "X" number in  
10:50:36 **12** greyhound handle then in order to foster cross-species  
10:50:40 **13** simulcasting, if one greyhound track does a better job  
10:50:44 **14** of doing horse simulcasting, they would get a bigger  
10:50:48 **15** split. But I totally understand what your saying, I'm  
10:50:52 **16** very much in agreement with that. I think all these  
10:50:54 **17** things in light of economics and purses needs to be  
10:50:58 **18** looked at. And I'm very much in favor of doing that.  
10:51:00 **19** CHAIR ROGERS: Commissioners, any comments?  
10:51:08 **20** TREVA BOYD: Mr. Chairman, so what we could  
10:51:12 **21** do is approve this today contingent upon the Working  
10:51:18 **22** Group getting into next -- the "07" schedule.  
10:51:22 **23** CHAIR ROGERS: I think the motion would be  
10:51:24 **24** to approve the allocation for the cross-species purse  
10:51:28 **25** money for 2006 the way its been proposed. I'm just

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10:51:32 **1** saying you can always amend that at some point should  
10:51:36 **2** that need arise. I'd like to have that left open to a  
10:51:40 **3** possible later discussion after the Work Group. But we  
10:51:42 **4** will be approving it presently and I think kennels, that  
10:51:46 **5** way, know what they can expect presently.  
10:51:48 **6** DIANE WHITELEY: There is a clause in there  
10:51:50 **7** if there's a significant decrease at the end of  
10:51:52 **8** performances, that it gets looked at. I think that  
10:51:56 **9** gives you some leeway if performances change after we  
10:51:58 **10** have this Working Group to modify this contract.  
10:52:02 **11** CHAIR ROGERS: But I think they have to --  
10:52:04 **12** you're presently -- you're running right now without a  
10:52:08 **13** full agreement, so we have to approve something  
10:52:10 **14** presently?  
10:52:12 **15** DIANE WHITELEY: Yes.  
10:52:12 **16** CHAIR ROGERS: Okay, I would entertain a  
10:52:14 **17** motion to approve this as they propose for 2006.  
10:52:18 **18** TREVA BOYD: So moved.  
10:52:22 **19** JIMMY ARCHER: I second.  
10:52:24 **20** CHAIR ROGERS: Motion made by Commissioner  
10:52:28 **21** Boyd, second by Commissioner Archer; all in favor?  
10:52:30 **22** COMMISSION: Aye.  
10:52:32 **23** CHAIR ROGERS: Thank you, Ms. Whiteley. I  
10:52:34 **24** would say again, I think this is something the Working  
10:52:36 **25** Group needs to take a serious look at.

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10:52:36 **1** DIANE WHITELEY: I agree.

10:52:38 **2** CHAIR ROGERS: Why don't we skip down to "G"

10:52:44 **3** Racetrack Inspections, Mr. Neely.

10:52:54 **4** TOM NEELY: Good morning, Commissioners, I'm

10:53:00 **5** Tom Neely, Director of Enforcement. I would refer you

10:53:02 **6** down to the report of racetrack inspection activities.

10:53:04 **7** The item about the middle of that report for Corpus

10:53:08 **8** Christi. There is some outstanding lighting issues

10:53:12 **9** there that are currently being worked on and we are --

10:53:16 **10** we're satisfied that progress is being made at this

10:53:18 **11** point. The other item from Corpus, under veterinary,

10:53:22 **12** was a leaking water pipe that had been resolved.

10:53:28 **13** Further down into enforcement we have one outstanding

10:53:32 **14** issue with some stable lighting at Lone Star Park which

10:53:36 **15** is currently being worked on. And the other issue at

10:53:38 **16** Lone Star was veterinary. They are now in compliance

10:53:44 **17** and that issue has been resolved.

10:53:46 **18** CHAIR ROGERS: All seven of those issues?

10:53:48 **19** TOM NEELY: Yes, sir.

10:53:50 **20** ERNEST ANGELO: What type of issues do you

10:53:52 **21** have in that case with veterinary?

10:53:54 **22** TOM NEELY: I believe it just had to do with

10:53:56 **23** some storage and facility requirements.

10:54:00 **24** CHAIR ROGERS: Any other questions? Thank

10:54:04 **25** you. Ms. King would you -- I was kind of hoping

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10:54:10 **1** Commissioner Sowell would be here by now. So would you

10:54:14 **2** give us a little update on the Working Group meeting

10:54:18 **3** held April 5th.

10:54:20 **4** CHARLA ANN KING: I'd be happy to. The

10:54:22 **5** Working Group for the Horse Race dates met on April 5th

10:54:26 **6** and we had a good group with lots of participants

10:54:30 **7** including two members of the Commission, breed registry,

10:54:32 **8** horsemen's partnership who sponsored -- hosted the

10:54:34 **9** meeting which we thank them for that, the Racetrack

10:54:38 **10** Associations and commission staff. We worked over the

10:54:40 **11** charges as provided by our Chairman; assessing the

10:54:44 **12** effectiveness of previous years' racing calendar,

10:54:48 **13** assessing handling of purse statistics, assessing racing

10:54:50 **14** and stabling opportunities, and assessing the length of

10:54:52 **15** race meets and the issue of overlap.

10:54:54 **16** In preparation for the meeting, staff

10:54:56 **17** developed materials that a lot of you may be interested

10:55:00 **18** in. We put together a 2001 to 2005 review and analysis

10:55:06 **19** of Horse Racing Performance Data and we have the books

10:55:08 **20** available. It's very detailed and we really should

10:55:14 **21** compliment staff for the job they did. They provided a

10:55:18 **22** lot of historical information and a lot of analysis that

10:55:22 **23** had not been available this early in the process --

**24** really get things very concrete to figure out where have

10:55:26 **25** we been and where are we going. So we can get that to

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10:55:28 **1** you if your interested in it.

10:55:30 **2** To facilitate the discussion that day, we

10:55:32 **3** made sure that we tried to see all of our stakeholder

10:55:36 **4** groups. The racetracks as one group, horse owners and

10:55:40 **5** trainers as another, and breeders. And we worked

10:55:42 **6** through a list of issues so it was a pretty open

10:55:46 **7** discussion. I won't go into too much detail. But the

10:55:50 **8** group first discussed, at length, the health of the

10:55:52 **9** industry from each stakeholders' perspective. We talked

10:55:56 **10** about racetrack profitability and how it's been affected

10:56:00 **11** by purse levels in other states.

10:56:00 **12** We talked about the competitive nature of

10:56:02 **13** our export signals, which the competitiveness of that is

10:56:08 **14** dropping. We talked about illegal internet account

10:56:10 **15** wagering and its impact on the industry. We talked

10:56:12 **16** about the Texas Bred Incentive Program and the Breeding

10:56:16 **17** Registries. It's dropping and we talked about who's

10:56:20 **18** been leaving the business. So that was a pretty lengthy

10:56:22 **19** discussion and everybody participated.

10:56:24 **20** We talked a little bit about the

10:56:26 **21** Commission's decisions and their affect on race dates

10:56:30 **22** and simulcast purse splits, and the escrow horse purse

10:56:34 **23** allocations, and that was one of the most exciting parts

10:56:36 **24** of the meeting (laughter). The group also discussed

10:56:38 **25** what could be done to improve the health of the racing

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10:56:42 **1** industry. We looked at both short term and long term

10:56:44 **2** options.

**3** CHAIR ROGERS: Let the record reflect that

**4** Commissioner Sowell has arrived.

**5** (10:56 a.m. CHARLES SOWELL present.)

10:57:00 **6** CHARLA ANN KING: We went for about 3 hours.

10:57:00 **7** We're planning our next meeting to be held at Retama,

10:57:06 **8** May 17th. We're going to talk about our prioritized

10:57:08 **9** list of factors to use when we're making the decision

10:57:12 **10** about the race date calendar. So far we're thinking

10:57:16 **11** about the number of race opportunities, the set purse

10:57:18 **12** level, the out of state racing schedules and its impact

10:57:20 **13** on the field size and meet format. But the stake

10:57:24 **14** holders are right now developing a prioritized list of

10:57:28 **15** factors that they want us to consider as a group. So

10:57:32 **16** that will be coming to us shortly. So that's from the

10:57:36 **17** staff perspective but the Commissioners may have a

10:57:40 **18** comment they would like to make, Commissioner Adams and

**19** Commissioner Sowell.

10:57:48 **20** JESSE ADAMS: Mr. Chairman, I would like to

10:57:50 **21** begin by saying that I want to thank Mr. Azopardi for

10:57:54 **22** allowing us to use his offices for the joint group

10:58:00 **23** meeting.

10:58:02 **24** CHARLES SOWELL: And he fed us.

10:58:06 **25** JESSE ADAMS: Yes, he fed us. It was a very

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10:58:08 **1** large group. He had the space to accommodate us so I  
 10:58:12 **2** want to publicly thank him for that. I also wanted to  
 10:58:14 **3** thank the staff for an excellent job for preparing the  
 10:58:18 **4** support documents that were used throughout the  
 10:58:20 **5** meetings. It was very detailed. Obviously, a lot of  
 10:58:22 **6** time and effort went into it. I want to make sure they  
 10:58:26 **7** got proper public acknowledgement for the amount of work  
 10:58:30 **8** they did put into it.  
 10:58:32 **9** The attendance -- to echo Charla Ann's  
 10:58:38 **10** comment about attendance -- the attendance at the  
 10:58:40 **11** Working Group was excellent. We did have representation  
 10:58:42 **12** from every horse breed group as well as all the other  
 10:58:48 **13** parties involved. All the tracks were present as well  
 10:58:52 **14** as jocks and the trainers. And so we had a great, great  
 10:58:54 **15** group. I look forward to the next meeting when we get  
 10:58:58 **16** into the meat of the issue. This first meeting was very  
 10:59:02 **17** broad brushed and was very open. As far as the actual  
 10:59:10 **18** setting of dates, we're a good ways from attacking that  
 10:59:14 **19** issue but I thought it went very well.  
 10:59:18 **20** CHAIR ROGERS: Commissioner Sowell.  
 10:59:20 **21** CHARLES SOWELL: Yes, I would add that I was  
 10:59:22 **22** very impressed with the candor and the openness that  
 10:59:28 **23** seemed to be the mode that everybody was operating in.  
 10:59:32 **24** It was a very constructive meeting. And I thought that  
 10:59:34 **25** a lot of very good dialogue took place and it was in a

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10:59:44 **1** very collegiate and friendly atmosphere. I think it was  
 10:59:50 **2** about as good a meeting as I ever attended. It was very  
 10:59:52 **3** good.  
 10:59:54 **4** CHAIR ROGERS: Good, okay, thank you. Under  
 11:00:06 **5** Government Code 551.071 the Commission may open an  
 11:00:10 **6** Executive Session to confer with its attorney regarding  
 11:00:14 **7** contemplated or pending litigation on any matter listed  
 11:00:16 **8** on the agenda.  
 11:00:20 **9** And under the Texas Racing Act 179e, Section  
 11:00:26 **10** 6.03 Vernon's Texas Civil Statutes, the Commission may  
 11:00:30 **11** open an Executive Session to review a totalisator  
 11:00:34 **12** contract.  
 11:00:36 **13** Under Government Code 551.071 the Commission  
 11:00:38 **14** may open Executive Session to confer with its attorney  
 11:00:42 **15** regarding contemplated or pending litigation by Trinity  
 11:00:46 **16** Meadows Raceway, Inc., against the Commission. The  
 11:00:50 **17** Commission may also discuss this item in open meeting  
 11:00:52 **18** and take action in the open meeting. So in order to  
 11:00:56 **19** have the discussion both about the pending legal matter  
 11:01:00 **20** and about a review of the totalisator contract, I would  
 11:01:06 **21** accept a motion to go into Executive Session to review  
 11:01:10 **22** agenda items B through F.  
 11:01:14 **23** Totalisator contract pursuant to the Texas  
 11:01:16 **24** Racing Act, Article 179e, Section 6.03 as well as to  
 11:01:20 **25** obtain legal advise or to confer with its attorneys

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11:01:22 **1** regarding contemplated litigation by Trinity Meadows  
 11:01:28 **2** Raceway, Inc., against the Commission pursuant to  
 11:01:30 **3** Section 551.071.  
 11:01:36 **4** JESSE ADAMS: So made.  
 11:01:38 **5** CHARLES SOWELL: I second.  
 11:01:40 **6** CHAIR ROGERS: That motion is made by  
 11:01:42 **7** Commissioner Adams, second by Commissioner Sowell. We  
 11:01:44 **8** are going into Executive Session at 11:04 a.m.  
 11:01:46 **9** (11:04 a.m. EXECUTIVE SESSION.)  
 11:01:48 **10** (12:11 a.m. BACK IN REGULAR SESSION.)  
 12:10:40 **11** CHAIR ROGERS: Okay, we'll come back into  
 12:11:16 **12** regular session, note that it is 11 minutes after 12.  
 12:11:22 **13** We will begin with totalisator contracts. I would  
 12:11:28 **14** accept a motion to approve the totalisator contract  
 12:11:32 **15** between Retama Park and AmTote.  
 12:11:34 **16** CHARLES SOWELL: So moved.  
 12:11:36 **17** TREVA BOYD: I second.  
 12:11:38 **18** CHAIR ROGERS: Moved by Commissioner Sowell  
 12:11:40 **19** and seconded by Commissioner Boyd; all in favor?  
 12:11:42 **20** COMMISSION: Aye.  
 12:11:44 **21** CHAIR ROGERS: Motion passes.  
 12:11:46 **22** We accept a motion to approve the  
 12:11:48 **23** totalisator contract between Lone Star at Grand Prairie  
 12:12:00 **24** and AmTote base contract.  
 12:12:02 **25** ERNEST ANGELO, JR.: So moved.

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12:12:04 **1** JESSE ADAMS: I second.  
 12:12:06 **2** CHAIR ROGERS: Move approval motion made by,  
 12:12:08 **3** by Commissioner Angelo and seconded by Commissioner  
 12:12:10 **4** Adams; all in favor?  
 12:12:12 **5** COMMISSION: Aye.  
 12:12:14 **6** CHAIR ROGERS: Motion passes.  
 12:12:16 **7** Would accept a motion to conditionally  
 12:12:18 **8** approve the addendum to the totalisator contract between  
 12:12:20 **9** Lone Star Park and AmTote. This amendment is to provide  
 12:12:22 **10** for the tabletop wagering terminals with swipe readers.  
 12:12:24 **11** The terminal would be conditional. Before the terminals  
 12:12:26 **12** were implemented they must pass agency standards and  
 12:12:28 **13** testing procedures. Do I have a motion to that affect?  
 12:12:30 **14** JESSE ADAMS: So moved.  
 12:12:32 **15** MIKE RUTHERFORD: I second.  
 12:12:34 **16** CHAIR ROGERS: Moved by Commissioner Adams,  
 12:12:36 **17** seconded by Commissioner Rutherford; all in favor?  
 12:12:38 **18** COMMISSION: Aye.  
 12:12:40 **19** CHAIR ROGERS: Okay, motion passes.  
 12:12:42 **20** Would entertain a motion to approve a  
 12:12:44 **21** totalisator contract between Lone Star Park at Grand  
 12:12:46 **22** Prairie and AmTote that covers the Horse Wizard Product.  
 12:12:48 **23** This approval is conditional and the parties must  
 12:12:50 **24** successfully pass the agency standards and testing  
 12:12:52 **25** procedures before being implemented, including items

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12:13:20 **1** that have already been identified.  
**2** JESSE ADAMS: So moved.  
**3** CHARLES SOWELL: I second.  
 12:13:24 **4** CHAIR ROGERS: Moved by Commissioner Adams,  
 12:13:26 **5** seconded by Commissioner Sowell; all in favor?  
**6** COMMISSION: Aye.  
 12:13:32 **7** CHAIR ROGERS: Okay, motion passes.  
 12:13:34 **8** The next 2 will be somewhat different. We  
 12:13:38 **9** need to approve or motion to approve the totalisator  
 12:13:42 **10** contract between Manor Downs and United Tote but with  
 12:13:48 **11** the following conditions: that approval is only until  
 12:13:52 **12** the next Commission meeting; that the parties must  
 12:13:56 **13** return to the next meeting for further approval; and  
 12:13:58 **14** that the Commission specifically withholds approval to  
 12:14:02 **15** any and all provisions that are inconsistent with or in  
 12:14:06 **16** violation of Texas Law and, or the Texas Racing  
 12:14:08 **17** Commission Rules.  
**18** MIKE RUTHERFORD: So moved.  
**19** ERNEST ANGELO, JR.: I second.  
 12:14:10 **20** CHAIR ROGERS: Moved by Commissioner  
 12:14:12 **21** Rutherford, seconded by Commissioner Angelo; all in  
 12:14:16 **22** favor?  
**23** COMMISSION: Aye.  
 12:14:20 **24** CHAIR ROGERS: Motion to approve the  
 12:14:24 **25** totalisator contract between Gulf Greyhound Park and

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12:14:28 **1** United Tote for Gulf Greyhound and Gillespie County Fair  
 12:14:32 **2** and Festival Association with the same conditions as  
 12:14:36 **3** above. Only until the next Commission meeting.  
**4** The parties will come back for further  
 12:14:40 **5** approval and we will specifically withhold approval for  
 12:14:44 **6** any and all provisions that are inconsistent with or in  
 12:14:46 **7** violation of Texas Law and or the Texas Racing  
 12:14:50 **8** Commission Rules.  
**9** JESSE ADAMS: So move.  
**10** CHARLES SOWELL: I second.  
 12:14:54 **11** CHAIR ROGERS: Motion made by Commissioner  
 12:14:56 **12** Adams, seconded by Commissioner Sowell; all in favor?  
**13** COMMISSION: Aye.  
 12:15:02 **14** CHAIR ROGERS: Motion passes.  
 12:15:04 **15** We have a motion or we have -- let's bring  
 12:15:08 **16** it back up to date here. Commissioners we have a  
 12:15:12 **17** request before us from Trinity Meadows to enter into an  
 12:15:14 **18** agreed order that would treat their license as suspended  
 12:15:18 **19** instead of revoked. Do I hear a motion to that affect?  
 12:15:30 **20** CHARLES SOWELL: So moved.  
 12:15:32 **21** CHAIR ROGERS: Is there a second to that  
**22** motion?  
 12:15:34 **23** Motion dies for lack of a second. Is there  
 12:15:38 **24** another motion on this or further discussion? Okay,  
 12:15:44 **25** then that motion will not pass.

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12:15:48 **1** I'd like to make a couple of statements for  
 12:15:52 **2** the record. Trinity Meadows' request focuses on a very  
 12:15:56 **3** narrow issue of law and I think a court, and not the  
 12:16:02 **4** Commission, should decide that point. I would like to  
 12:16:06 **5** point out that nine years after bankruptcy is a long  
 12:16:10 **6** time to wait before enforcing the issue. We now have an  
 12:16:14 **7** entirely new set of Commissioners, new Executive  
 12:16:16 **8** Secretary, new General Counsel and I think that delay  
 12:16:18 **9** puts the Commission at an unfair disadvantage.  
**10** I know that Mr. Dunnigan and Mr. Elliot, you  
 12:16:24 **11** may not have had anything to do with the reasons why the  
 12:16:28 **12** license was revoked, but the actions were taken by a  
 12:16:32 **13** prior Commission. We appreciate the fact that you gave  
 12:16:34 **14** us an opportunity to look at this issue but there's not  
 12:16:38 **15** any further action that will be taken at this time.  
 12:16:42 **16** CHARLES SOWELL: Mr. Chairman let me  
 12:16:44 **17** withdraw that motion. I did that by mistake. I was  
 12:16:48 **18** reading one of the tote memos here and mistakenly  
 12:16:52 **19** thought we were still on that topic. I did not intend  
 12:16:56 **20** to offer that motion so I would like to withdraw it.  
 12:17:00 **21** CHAIR ROGERS: So noted.  
 12:17:02 **22** The last order of business will be to decide  
 12:17:06 **23** our next Commission meeting. It's being proposed that,  
 12:17:08 **24** that meeting be held the week of June 26th through the  
 12:17:16 **25** 30th.

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12:17:18 **1** MIKE RUTHERFORD: July 4th weekend?  
 12:17:24 **2** CHAIR ROGERS: There's a discussion to have  
 12:17:26 **3** that toward the first of that week.  
 12:17:28 **4** ERNEST ANGELO: First part's better for me,  
 12:17:30 **5** Monday better than any other time.  
 12:17:32 **6** TREVA BOYD: Monday is good for me, Tuesday  
 12:17:36 **7** is not.  
 12:17:38 **8** CHAIR ROGERS: 26 Monday; is that okay?  
 12:17:42 **9** CHARLES SOWELL: That's fine with me.  
 12:17:42 **10** CHAIR ROGERS: We're set for June 26th. Any  
 12:17:46 **11** other business to come before us today? We're  
 12:17:52 **12** adjourned.  
**13**  
**14** (Meeting Adjourned at 12:17 p.m.)  
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**22**  
**23**  
**24**  
**25**

1 THE STATE OF TEXAS )

2 COUNTY OF TRAVIS )

3 I, AMANDA ANDERSON, Certified Shorthand

4 Reporter in and for the County of Travis, State of

5 Texas, do hereby certify that the above and foregoing

6 contains a true and correct transcription of all

7 portions of evidence and other proceedings requested in

8 writing by counsel for the parties to be included in

9 this volume of the Reporter's Record, in the

10 above-styled and numbered cause, all of which occurred

11 in open court or in chambers and were reported by me.

12 I further certify that the total cost for

13 the preparation of this Reporter's Record

14 is \$\_\_\_\_\_ and was/will be paid by Texas Racing

15 Commission.

16 WITNESS MY OFFICIAL HAND this the 1st day of

17 MAY, 2006.

18

19

20 \_\_\_\_\_  
AMANDA ANDERSON, Texas CSR #8404

Expiration Date: 12/08

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