

09:54:49 1 TRANSCRIPT OF PROCEEDINGS
 2 BEFORE THE
 3 TEXAS RACING COMMISSION
 4 AUSTIN, TEXAS
 5
 6
 7
 8 *****
 9 COMMISSIONERS MEETING
 10 Monday, June 26, 2006
 11 *****
 12
 13 BE IT REMEMBERED THAT ON THE 26th day of June
 14 2006, the above-described matter came on for hearing at
 15 the offices of the Animal Health Commission, 2105 Kramer
 16 Lane, Austin, Texas 78758, before THE HONORABLE R. DYKE
 17 ROGERS, CHAIRMAN, and the following proceedings were
 18 reported by Caroline Chapman, CSR in and for the State
 19 of Texas as follows:
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1 APPEARANCES:
 2 COMMISSIONERS
 3 R. Dyke Rogers, Chair
 4 Jesse R. Adams (Not present)
 5 Treva Boyd
 6 G. Kent Carter, D.V.M.
 7 Louis E. Sturns
 8 Michael G. Rutherford, Vice Chair
 9 Charles L. 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 V. EXECUTIVE SESSION..... 79
 Under Government Code §551.071, the Commission may
 2 open an executive session to confer with its
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 3 litigation on any matter listed in this agenda.
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 5 totalisator contract.
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1 P R O C E E D I N G S
2 Monday, June 26, 2006
3 10:30 a.m.
4 CALL TO ORDER
5 ROLL CALL
10:36:07 **6** CHAIR ROGERS: Okay. Ms. Giberson, will you
10:36:09 **7** call the roll, please?
10:36:10 **8** GLORIA GIBERSON: Jesse Adams.
10:36:13 **9** Treva Boyd.
10:36:13 **10** TREVA BOYD: Here.
10:36:14 **11** GLORIA GIBERSON: Kent Carter.
10:36:16 **12** KENT CARTER: Here.
10:36:16 **13** GLORIA GIBERSON: Ernest Angelo.
10:36:18 **14** ERNEST ANGELO: Here.
15 GLORIA GIBERSON: Mike Rutherford.
10:36:19 **16** MIKE RUTHERFORD: Here.
10:36:19 **17** GLORIA GIBERSON: Sonny Sowell.
10:36:21 **18** CHARLES SOWELL: Here.
10:36:21 **19** GLORIA GIBERSON: Jimmy Archer.
10:36:23 **20** JIMMY ARCHER: Here.
21 GLORIA GIBERSON: Louis Sturns.
10:36:24 **22** LOUIS STURNS: Here.
10:36:24 **23** GLORIA GIBERSON: Dyke Rogers.
10:36:26 **24** CHAIR ROGERS: Here.
10:36:26 **25** There is a quorum present, so we will call

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10:36:29 **1** the meeting to order.
10:36:30 **2** The first piece of action will be
10:36:32 **3** discussion, consideration, possible action on the
10:36:35 **4** following matters, budget and finance.
10:36:36 **5** I would recognize Ms. Curtsinger to give us
10:36:41 **6** a budget update, please.
7 II. GENERAL BUSINESS
8 Discussion, consideration and possible action on the
9 following matters:
10:36:43 **10** A. Budget and Finance Update
10:36:43 **11** MS. CURTSINGER: Good morning,
10:36:44 **12** Commissioners.
10:36:45 **13** CHAIR ROGERS: Morning.
10:36:46 **14** MS. CURTSINGER: We are now 75 percent
10:36:48 **15** through the current 2006 fiscal year. The Agency is on
10:36:53 **16** track budget wise, as you'll see in your packet.
10:36:56 **17** One item that I want to point out is that we
10:36:58 **18** have just about spent everything in our capital budget,
10:37:01 **19** 91 percent. And this is on purpose. We've made most of
10:37:05 **20** the projected purchases. So you'll see that that is a
10:37:08 **21** little bit further along than most of the budgetary
10:37:11 **22** items.
10:37:11 **23** We are also looking forward towards our
10:37:13 **24** legislative appropriations request. We have had our
10:37:17 **25** first initial meeting with the LBB. And I would like,

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10:37:21 **1** also, to introduce you to Sarah Keyton. She is our
10:37:25 **2** analyst. And she is in the audience, if you'd like to
10:37:28 **3** speak to her.
10:37:28 **4** We have submitted our baseline
10:37:31 **5** reconciliation, and it is being reviewed by the LBB. We
10:37:35 **6** will be working on our operating budget for FY07 and our
10:37:40 **7** legislative appropriations for FY08 and '09. Our
10:37:45 **8** instructions -- we've received our instructions. And we
10:37:48 **9** have been requested to turn in a reduction in our budget
10:37:51 **10** for 08-09 by 10 percent.
10:37:54 **11** One of our first exceptional items will be
10:37:56 **12** to ask for that 10 percent restored into our budget.
10:38:00 **13** Our LAR is due August the 11th. So we expect to have a
10:38:04 **14** draft for you to approve at your next Commission
10:38:08 **15** meeting.
10:38:08 **16** Any questions?
10:38:10 **17** CHAIR ROGERS: Any questions?
10:38:11 **18** Thank you.
10:38:16 **19** Okay. Mr. Neely, would you give us a report
10:38:18 **20** on racetrack inspections, please.
10:38:20 **21** B. Report on Racetrack Inspections.
10:38:20 **22** TOM NEELY: Good morning, Commissioners.
10:38:22 **23** Tom Neely with the Enforcement Department.
10:38:24 **24** In your packet is a report from the
10:38:26 **25** racetrack inspection activities. As you can see, the

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10:38:30 **1** outstanding issues that we've had previously have all
10:38:33 **2** been resolved. Most of these were just housekeeping
10:38:36 **3** type issues with lighting and things like that.
10:38:39 **4** We're in good shape now.
10:38:41 **5** CHAIR ROGERS: Okay. Any questions?
10:38:43 **6** MIKE RUTHERFORD: What kind of veterinary
10:38:46 **7** issues do we have?
10:38:46 **8** TOM NEELY: I'm not familiar with what that
10:38:49 **9** was. I believe it was housekeeping.
10:38:51 **10** MIKE RUTHERFORD: What?
10:38:53 **11** TOM NEELY: Housekeeping.
10:38:56 **12** CHAIR ROGERS: But they are resolved?
10:38:58 **13** TOM NEELY: Yes, sir.
10:38:59 **14** CHAIR ROGERS: Thank you.
10:39:00 **15** Okay. We need to get a report from the
10:39:05 **16** Greyhound Race Date Working Group. Ms. King.
17 C. Report on the Greyhound Race Date Allocation Working
10:39:11 **18** Group.
10:39:11 **19** CHARLA ANN KING: Good morning,
10:39:13 **20** Commissioners.
10:39:14 **21** The Greyhound Race Date Working Group met on
10:39:17 **22** May 26th in Austin. The discussion was led by
10:39:20 **23** Commissioners Boyd and Sturns. And the meeting went
10:39:22 **24** very well. It was very well attended with
10:39:25 **25** representation from the Association, the Texas Greyhound

10:39:28 **1** Association and some distinguished longtime members of
 10:39:31 **2** the industry, who we were very pleased to host.
 10:39:33 **3** You can see in the report under Tab 3 the
 10:39:36 **4** items that we discussed, including the declining
 10:39:38 **5** profitability of the racetracks due to competition from
 10:39:41 **6** illegal wagering on the Internet, telephone and other
 10:39:45 **7** unauthorized forms of gaming. That took up quite a bit
 10:39:48 **8** of the discussion.
 10:39:49 **9** The group discussed the declining
 10:39:51 **10** registration of Texas-bred greyhounds, covering both
 10:39:55 **11** small greyhound business owners, who are decreasing in
 10:39:58 **12** numbers as reported to us, as well as the larger
 10:40:00 **13** greyhound businesses that are sending more animals to
 10:40:03 **14** run out of state. Either way, it's adding up to fewer
 10:40:06 **15** greyhounds available to participate at Texas racetracks.
 10:40:09 **16** When reviewing the impact of Commission
 10:40:11 **17** decisions on the industry, representatives focused on
 10:40:14 **18** the continued need for flexibility on adding or deleting
 10:40:18 **19** race days so that we can respond to those supply
 10:40:22 **20** problems, either from general greyhound availability or
 10:40:26 **21** whether something like kennel cough comes up.
 10:40:28 **22** This, of course, is something we are always
 10:40:30 **23** as responsive to as possible, although it seems everyone
 10:40:33 **24** is aware of the challenge that it poses for the Agency
 10:40:36 **25** in terms of budgeting and staffing.

10:40:38 **1** The group discussed the possibility of a
 10:40:39 **2** circuit between Corpus Christi and the Valley racetracks
 10:40:42 **3** with the intention of improving the point value to above
 10:40:46 **4** \$50, but we didn't reach a conclusion except for the
 10:40:49 **5** fact that \$50 is a good goal.
 10:40:51 **6** When asked how we could assist the industry
 10:40:54 **7** further from a regulatory perspective, the industry
 10:40:57 **8** asked staff to explore some issues, including a review
 10:40:59 **9** and update of vaccination requirements. So we will be
 10:41:02 **10** working with the industry on that.
 10:41:04 **11** We have put out the request for the
 10:41:05 **12** greyhound race dates due to us by July 1st. And we will
 10:41:09 **13** be discussing the allocation for the dates at the next
 10:41:12 **14** Commission meeting.
 10:41:12 **15** The Commissioners may want to add something
 10:41:15 **16** at this point, either Commissioner Boyd or
 10:41:19 **17** Commissioner Sturns.
 10:41:19 **18** TREVA BOYD: I think it was a productive
 10:41:21 **19** meeting. And I was always glad to be in the same room
 10:41:25 **20** with people who are most interested in that part of the
 10:41:28 **21** industry.
 10:41:28 **22** And to -- and, also, encouraged to see how
 10:41:33 **23** well they got along with one another, how they rate --
 10:41:37 **24** they are tending now to brainstorm with one another and
 10:41:41 **25** help one another through some situations that could

10:41:44 **1** directly affect their industry.
 10:41:46 **2** And I'm always impressed when I hear how
 10:41:52 **3** much your investments are and how short a time frame you
 10:41:57 **4** have to recoup those investments. It just amazes me
 10:42:01 **5** that the racing life -- average racing life of a hound
 10:42:05 **6** is 18 months.
 10:42:07 **7** So I think that it really made me stop and
 10:42:12 **8** think about how serious these issues are. And racing in
 10:42:17 **9** bordering states, how much they directly impact what we
 10:42:21 **10** are trying to do with greyhounds.
 10:42:23 **11** So thank you very much for all of your
 10:42:26 **12** input. I'll be very interested in seeing how the race
 10:42:29 **13** schedule goes.
 10:42:31 **14** LOUIS STURNS: I agree. It was very
 10:42:34 **15** informative. It was interesting to note the issues that
 10:42:39 **16** were of importance to the persons who are involved in
 10:42:41 **17** the greyhound racing industry.
 10:42:43 **18** The complaints that they had were similar to
 10:42:48 **19** the same complaints that you hear from the horse
 10:42:50 **20** industry. That is, the competition in other states. So
 10:42:53 **21** it was something that we, obviously, have to address.
 10:42:56 **22** I was impressed by their candor and their
 10:42:59 **23** willingness to share with us the difficulties to make a
 10:43:02 **24** living in the racing industry. And their suggestions as
 10:43:06 **25** to what we could do to make their business better in

10:43:09 **1** terms of being more flexible and being more responsive
 10:43:12 **2** to them. So it was a good meeting for us.
 10:43:15 **3** CHAIR ROGERS: Good. Ms. Whiteley.
 10:43:18 **4** DIANE WHITELEY: Diane Whiteley, Executive
 10:43:24 **5** Director of the Texas Greyhound Association.
 10:43:26 **6** And I just want to thank
 10:43:30 **7** Commissioner Sturns, Commissioner Boyd, Charla Ann,
 10:43:33 **8** John, Sammy, Jean. It was a tremendous meeting from our
 10:43:38 **9** perspective.
 10:43:38 **10** The three racetracks all were involved. Two
 10:43:43 **11** kennel owners from Gulf Greyhound, two kennel owners
 10:43:48 **12** from Corpus were there. All of these people have been
 10:43:50 **13** involved in greyhound racing since its inception here in
 10:43:52 **14** '87. So we had some really good wisdom of what works
 10:43:55 **15** and what doesn't work. And we really appreciate their
 10:43:59 **16** attendance.
 10:44:02 **17** I just look at this as a really good way to
 10:44:05 **18** open up a dialogue to let the Commission be more aware
 10:44:10 **19** of greyhound racing. Our own little world down there.
 10:44:13 **20** But we have some of the same problems that we share with
 10:44:18 **21** the horsemen on purses, on recouping our investment,
 10:44:21 **22** health issues, rules issues. And we hope to be working
 10:44:23 **23** a lot with the Commission staff in the future on these,
 10:44:25 **24** with some additional working groups.
 10:44:25 **25** So I just wanted to thank -- thank the

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10:44:28 **1** Commission for giving us this opportunity to let our
 10:44:31 **2** voices be heard as a group.
 10:44:32 **3** Thank you.
 10:44:33 **4** CHAIR ROGERS: Good. Thank you.
 10:44:35 **5** Our goal in this is just to --
 10:44:40 **6** ERNEST ANGELO: Chairman, I have a question.
 10:44:43 **7** CHAIR ROGERS: Yes, Ms. Whiteley.
 10:44:44 **8** DIANE WHITELEY: Yes.
 10:44:45 **9** ERNEST ANGELO: I am curious about how
 10:44:47 **10** serious the competition from eight liners is and what
 10:44:52 **11** you -- if you have any comments about the proliferation
 10:44:55 **12** of eight liners, as mentioned in our agenda materials.
 10:45:00 **13** DIANE WHITELEY: It's my understanding --
 10:45:01 **14** and I think the racetracks could speak to this better
 10:45:04 **15** than I could. But it's my understanding that there are
 10:45:06 **16** 8-liner parlors almost right outside the doors of Corpus
 10:45:12 **17** Christi and Gulf Greyhound. And yes, it is an issue.
 10:45:16 **18** ERNEST ANGELO: Presumably, they're not
 10:45:17 **19** awarding stuffed animals.
 10:45:19 **20** DIANE WHITELEY: Well, I heard one place was
 10:45:22 **21** awarding canned goods. But I don't know.
22 ERNEST ANGELO: What?
 10:45:23 **23** DIANE WHITELEY: Canned goods. Which some
 10:45:23 **24** of our greyhound owners, we probably could use.
 10:45:29 **25** ERNEST ANGELO: Hard time coming across the

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10:45:32 **1** border from Louisiana to play 8-liners for canned goods
 10:45:37 **2** or stuffed animals either one.
 10:45:38 **3** DIANE WHITELEY: We have -- and I think this
 10:45:40 **4** is a real key component of it is that when we're looking
 10:45:44 **5** at the gaming dollar, our gaming dollar is built on
 10:45:48 **6** agri-business. Eight-liners are not. But ours is built
 10:45:51 **7** on agri-business.
 10:45:53 **8** We have a significant investment in our
 10:45:57 **9** greyhounds. And I think that's kind of an eye opener
 10:45:59 **10** when people first hear about it. Any given day, we have
 10:46:03 **11** probably close to, you know, half a million dollars
 10:46:06 **12** worth of greyhounds in a program. And to recoup that
 10:46:10 **13** investment is getting tougher and tougher, which is
 10:46:13 **14** leading to decreased breedings.
 10:46:15 **15** But absolutely, particularly when they're
 10:46:21 **16** prolific around the racetracks themselves, that creates
 10:46:23 **17** a real problem.
 10:46:24 **18** Any other questions? Thank you.
 10:46:28 **19** CHAIR ROGERS: Thank you.
 10:46:29 **20** Why don't we -- why don't we skip down just
 10:46:35 **21** a little bit and hear a report on medication and drug
 10:46:38 **22** testing working group, just in case Commissioner Adams
 10:46:42 **23** comes in a little late, so he can be here for that
 10:46:46 **24** discussion, if he gets here.
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1 E. Report on the Medication and Drug Testing Working
 10:46:48 **2** Group.
 10:46:48 **3** CHARLA ANN KING: Commissioners, I'll hit
 10:46:49 **4** some of the highlights and then let
 10:46:52 **5** Commissioners Rutherford and Carter comment, if they
 10:46:54 **6** choose.
 10:46:54 **7** We met on May 16th at Retama. We had
 10:46:57 **8** tremendous representation with some guests from out of
 10:46:59 **9** state, including Dr. Scott Waterman, the Executive
 10:47:02 **10** Director of the Racing Medication and Testing Consortium
 10:47:04 **11** or RMTC you'll hear it referred to as. And we had
 10:47:08 **12** Mr. Kent Sterling of the National HBPA, who sits as the
 10:47:11 **13** national representative on the RMTC. So we were very
 10:47:16 **14** pleased that they joined us for the meeting.
 10:47:18 **15** Dr. Waterman presented the review of the
 10:47:18 **16** five-years process that resulted in the revised model
 10:47:20 **17** penalty guidelines and filled us in on the particulars
 10:47:23 **18** of how the new uniform rules were established,
 10:47:26 **19** describing the amount of study and resources that were
 10:47:29 **20** applied to these issues. And that was very interesting.
 10:47:31 **21** National migration to the new uniform
 10:47:34 **22** approach may be slow. However, Texas is probably closer
 10:47:37 **23** than most jurisdictions. In fact, we probably have
 10:47:41 **24** substantial compliance with the approach. And we are
 10:47:43 **25** reviewing the differences that remain. But we don't

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10:47:46 **1** have quite as much work to do as, I think, some of the
 10:47:49 **2** other states may have.
 10:47:50 **3** To that end, staff provided a detailed
 10:47:52 **4** side-by-side review and comparison of the differences
 10:47:56 **5** between our rules, our drugs and the model approach.
 10:47:58 **6** The working group engaged in a detailed technical
 10:48:01 **7** discussion, particularly in the area of nonsteroidal
 10:48:05 **8** antiinflammatory drugs.
 10:48:07 **9** Dr. Carter and Dr. Marsh led the discussion
 10:48:10 **10** obtaining some critical feedback from practicing
 10:48:12 **11** veterinarians that were present at the meeting.
 10:48:15 **12** Chair Rutherford guided the discussion on
 10:48:17 **13** the differences and the penalties for violations because
 10:48:19 **14** it's really two pieces of this.
 10:48:21 **15** Everyone was put on notice that our
 10:48:22 **16** Chapter 319, Texas Racing Rules were up for review and
 10:48:26 **17** that this is the optimum time to make changes, if
 10:48:29 **18** necessary. We're anticipating the proposal of changes
 10:48:31 **19** to the rules and to the penalty guidelines before the
 10:48:34 **20** end of the year and action early in 2007, if possible.
 10:48:37 **21** So we have got some more review to do, some
 10:48:40 **22** more discussion. And then we'll be looking at the
 10:48:42 **23** proposal seriously at the beginning of 2007.
 10:48:45 **24** Commissioners.
 10:48:48 **25** CHAIR ROGERS: Good.

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10:48:49 **1** MIKE RUTHERFORD: I'd like to -- I think
 10:48:52 **2** Charla Ann King has gone over everything that we've
 10:48:55 **3** done. I'd like to congratulate her and her staff on the
 10:48:59 **4** great job that they did on the RCI. They had the RCI
 10:49:03 **5** new model rules and then we had the Texas rules. They
 10:49:06 **6** were right there on the opposite page. You can really
 10:49:08 **7** understand them and look at them.
 10:49:10 **8** My general impression is that I like the RCI
 10:49:16 **9** model penalties. I am not sure about -- adding some of
 10:49:22 **10** the medication that they have yet. And I think we need
 10:49:25 **11** to further review that and get some definitive answers
 10:49:30 **12** there.
 10:49:30 **13** I think both meetings were real productive.
 10:49:35 **14** The first meeting, we had the whole industry. And the
 10:49:37 **15** second meeting, we just had the staff and Ken Peck,
 10:49:40 **16** Dr. Carter and myself. And we kind of analyzed in that
 10:49:45 **17** second meeting what happened in the first meeting. And
 10:49:48 **18** so it was real good, also.
 10:49:49 **19** I learned a few new things. In fact, I
 10:49:54 **20** learned a lot. I've always thought that Lasix covers up
 10:50:00 **21** other drugs. And Ken Peck assured me that with the new
 10:50:05 **22** technology that no matter how much Lasix they give a
 10:50:08 **23** horse, he could find a prohibitive drug. So I did learn
 10:50:12 **24** that.
 10:50:12 **25** Anyway, they were great meetings. And I

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10:50:15 **1** want to, again, compliment the staff on how well they
 10:50:19 **2** handled it.
 10:50:19 **3** KENT CARTER: I'd like to also compliment
 10:50:22 **4** the staff for making our job a lot easier. You can see
 10:50:25 **5** from some of these reports, they put a lot of effort
 10:50:28 **6** into it. And it means that we don't have to. And I
 10:50:31 **7** appreciate that. It's a lot easier to read it than it
 10:50:34 **8** is to compile it.
 10:50:37 **9** And I think that, you know, when we joined
 10:50:40 **10** the RMTC this past year, I think it was a step towards a
 10:50:46 **11** more uniform drug testing policy across the country.
 10:50:50 **12** And I think that if everybody plays by the same rules,
 10:50:55 **13** then the rules will be a lot easier to follow.
 10:50:58 **14** Everybody will understand them better. And I appreciate
 10:51:01 **15** all the input from the people from various aspects of
 10:51:05 **16** the industry.
 10:51:06 **17** I don't believe there was a lot of
 10:51:08 **18** controversy in any of these meetings. There was a lot
 10:51:10 **19** of working together, trying to make sure that we got the
 10:51:14 **20** best set of rules we can have when we're done. And
 10:51:17 **21** that's what we're trying to do.
 10:51:20 **22** CHAIR ROGERS: Thank you.
 10:51:21 **23** Any questions?
 10:51:24 **24** Okay. We'll move to the report on the horse
 10:51:29 **25** race date allocation working group.

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10:51:32 **1** Ms. King.
 10:51:36 **2** That would be back at Tab 4, Commissioners.
 10:51:39 **3** CHARLA ANN KING: Yes, Tab 4.
 10:51:40 **4** CHAIR ROGERS: Thank you.
5 D. Report on the Horse Race Date Allocation Working
6 Group.
 10:51:41 **7** CHARLA ANN KING: The Horse Working Group
 10:51:42 **8** met twice since the last Commission meeting, at Retama,
 10:51:45 **9** May 17th and at Lone Star on June 15th. And both
 10:51:48 **10** meetings were very productive.
 10:51:50 **11** The meeting in May brought some new faces to
 10:51:53 **12** the table and provided the needed opportunity to discuss
 10:51:56 **13** the issue of breed splits in detail. So we got that
 10:51:58 **14** done.
 10:51:58 **15** It was also in this meeting that the working
 10:52:00 **16** group reviewed the industry's representative's top 10
 10:52:03 **17** factors to be considered in setting the 2007 horse
 10:52:07 **18** racing calendar. In the report under Tab 4, you can see
 10:52:10 **19** that availability of horses, purse levels and
 10:52:13 **20** out-of-state race dates top the list in the No. 1, 2 and
21 3 position.
 10:52:19 **22** From there, working group members were asked
 10:52:21 **23** to answer five critical questions for discussion at the
 10:52:24 **24** June 15th meeting: How do we get more horses available
 10:52:27 **25** to run in Texas meets? What do the purse levels need to

20

10:52:30 **1** be for Thoroughbreds, Quarter Horses and minor breeds?
 10:52:33 **2** Which out-of-state tracks are the most important to
 10:52:36 **3** consider in making our calendar? How do we make field
 10:52:40 **4** sizes larger? And how do we make Texas horse simulcast
 10:52:44 **5** signals more competitive?
 10:52:45 **6** With the answers to these questions, in
 10:52:47 **7** addition to some extremely helpful research compiled at
 10:52:50 **8** the staff level, the June meeting covered pretty much
 10:52:53 **9** all of the issues. And you can see on Page 4-2, the
 10:52:58 **10** issues listed there that we discussed. They included
 10:53:01 **11** competition, particularly from Louisiana and Oklahoma.
 10:53:04 **12** The use of a mixed meet approach, alternative funding
 10:53:08 **13** from the escrow purse and cross-species revenues to
 10:53:12 **14** include Quarter Horse purse competitiveness, horse
 10:53:16 **15** availability based on what we know about regional
 10:53:19 **16** racetrack schedules now, optimal use of current
 10:53:22 **17** inventory of horses by the association racing offices
 10:53:25 **18** and association challenges from a personnel and
 10:53:29 **19** facilities perspective. So we covered a lot of ground.
 10:53:31 **20** We broached the discussion of how much
 10:53:33 **21** change do we need now? How much change is truly needed?
 10:53:37 **22** It seemed that if the working group members are going to
 10:53:39 **23** consider any significant change, that some additional
 10:53:42 **24** time would be beneficial. And so to accommodate the
 10:53:45 **25** process, the working group members agreed to submit

10:53:48 **1** preliminary race date requests by last Friday. And they
 10:53:51 **2** have done so.
 10:53:52 **3** This way, discussion can continue and
 10:53:54 **4** working group members can use the detailed staff
 10:53:56 **5** analysis to ensure that they understand the current
 10:53:59 **6** competitive situation as it exists according to the data
 10:54:03 **7** that's been collected and compiled by Sammy Jackson.
 10:54:06 **8** Also available would be more information
 10:54:09 **9** about the impact of the current meets that are running
 10:54:11 **10** and the competition's effect on this year's schedule,
 10:54:15 **11** particularly in regard to Retama's upcoming Thoroughbred
 10:54:19 **12** meet.
 10:54:19 **13** Thus, to further support the working group,
 10:54:21 **14** we ask the Commission to further delay due date for a
 10:54:25 **15** formal race date request until August 1st, with horse
 10:54:29 **16** race date allocations to be set for the September
 10:54:31 **17** Commission meeting.
 10:54:32 **18** And the Commissioners may want to comment at
 10:54:35 **19** this time.
 10:54:35 **20** Commissioner Sowell.
 10:54:37 **21** CHARLES SOWELL: Yes. I'd like to, first of
 10:54:40 **22** all, say that if you took greyhound out of "greyhound"
 10:54:46 **23** racing and put "horse" instead, the comments of
 10:54:50 **24** Commissioner Boyd and Commissioner Sturns could be
 10:54:54 **25** almost 100 percent applicable to what we've been doing

10:54:59 **1** in the working group and what we've learned and the
 10:55:02 **2** impact of what's going on in the racing -- racing date
 10:55:08 **3** allocation working group.
 10:55:11 **4** To my way of thinking, this is, by far, the
 10:55:14 **5** most important thing that has happened to me,
 10:55:17 **6** individually, since I've been on the Commission. I
 10:55:20 **7** think I learned more and have a better understanding of
 10:55:23 **8** the people involved in horse racing and the problems
 10:55:27 **9** they face and the benefits of cooperative gatherings of
 10:55:34 **10** the kind we've had, I think, cannot be understated.
 10:55:40 **11** I think that -- having not seen the
 10:55:46 **12** interaction between various segments of the industry
 10:55:50 **13** before we started on this working group, I have nothing
 10:55:54 **14** to compare it to. But it occurs to me that if we don't
 10:56:00 **15** accomplish anything else, we're certainly gaining, I
 10:56:03 **16** think, within the industry a better understanding
 10:56:05 **17** between the various segments of the industry as to the
 10:56:08 **18** problems and the challenges and the needs and so forth.
 10:56:12 **19** And I think this is an extremely important
 10:56:19 **20** game we're involved in now and that it's going to
 10:56:23 **21** produce great benefits. There is no easy answer to
 10:56:27 **22** these questions. There is no shortcut to cutting off
 10:56:32 **23** the competition from surrounding states. What it makes
 10:56:38 **24** clear is that we are no longer a Commission that is
 10:56:41 **25** involved in an industry in the State of Texas. We've

10:56:44 **1** got to consider a vast area that includes every state
 10:56:48 **2** around us and the country of Mexico as well. There's
 10:56:54 **3** very little we can do to have an impact on what is going
 10:56:57 **4** on in the other states, per se and whether we can do
 10:57:03 **5** enough to help ourselves is a question that is yet to be
 10:57:08 **6** answered.
 10:57:09 **7** Whether VLTs in Texas are the answer or
 10:57:15 **8** whether that answer is possible from the standpoint of
 10:57:21 **9** policy and politics, I don't know. We're yet to reach a
 10:57:27 **10** conclusion on that. And maybe we never will. But I
 10:57:31 **11** think the importance of these working groups simply
 10:57:35 **12** can't be overstated. And I think we're at least on the
 10:57:40 **13** right track to learning a hell of a lot more about what
 10:57:43 **14** goes on than most of us have known before.
 10:57:46 **15** So I think it is a tremendous effort, very
 10:57:49 **16** worthwhile.
 10:57:50 **17** CHAIR ROGERS: Good. Any questions?
 10:57:52 **18** MIKE RUTHERFORD: Yes. Did -- did any of
 10:57:55 **19** the racetracks come up with any ideas of like
 10:57:59 **20** competing -- like Dallas competing with Hot Springs and
 10:58:02 **21** Houston competing with New Orleans? Did they have any
 10:58:06 **22** input? Did they want to change their dates any because
 10:58:11 **23** of the purse level in Louisiana now and Arkansas? Did
 10:58:17 **24** they have any --
 10:58:18 **25** CHARLES SOWELL: I would answer that -- I

10:58:20 **1** mean, it -- the number one thing on everybody's mind, of
 10:58:24 **2** course, is the necessity for increasing the size of the
 10:58:27 **3** purses. How to get there is a much bigger problem. And
 10:58:32 **4** in terms of the kind of competition that you're
 10:58:35 **5** referring to, I think we touched on that rather briefly,
 10:58:38 **6** but didn't get into it in depth, if I remember
 10:58:43 **7** correctly.
 10:58:43 **8** Charla Ann, am I right?
 10:58:45 **9** CHARLA ANN KING: We did just touch on it,
 10:58:46 **10** though the racetracks did indicate that they were -- in
 10:58:48 **11** one case they were going to meet with some folks from a
 10:58:51 **12** neighboring state to find out exactly what was going on
 10:58:53 **13** and try to approach them.
 10:58:55 **14** It seems like, you know, our tracks,
 10:58:57 **15** because, you know, we've got one in the North Texas
 10:58:59 **16** area, is more interested in those racetracks. And Sam
 10:59:02 **17** Houston is kind of in a different position. And all of
 10:59:05 **18** them, you know, spoke specifically about those other
 10:59:08 **19** tracks in trying to calculate the impact of that.
 10:59:11 **20** So that may very well affect the race date
 10:59:13 **21** requests and what they decide to request.
 10:59:15 **22** CHARLES SOWELL: But if you're hoping for a
 10:59:19 **23** new Texas versus Oklahoma rivalry between, say, Lone
 10:59:24 **24** Star and Remington, I don't see that on the horizon any
 10:59:30 **25** time soon. That doesn't mean it's not something we

10:59:32 **1** ought to strive for.

10:59:33 **2** I think, clearly, the benefits of that kind

10:59:35 **3** of competition can help our industry in, perhaps,

10:59:41 **4** several ways. Whether we can bring it to bear, I don't

10:59:44 **5** know.

10:59:46 **6** MIKE RUTHERFORD: I was really kind of more

10:59:48 **7** interested, Louisiana hurts us more. Houston should be

10:59:52 **8** the best -- as good a winter racing as there is in the

10:59:56 **9** United States. And of course, they had the storm over

11:00:00 **10** in New Orleans that kind of hurt their situation. But I

11:00:04 **11** was always hoping they'd have great winter racing in

11:00:10 **12** Houston.

11:00:10 **13** CHARLES SOWELL: Yeah, I see what you mean.

11:00:12 **14** All I'm saying is, I used the football analogy simply

11:00:16 **15** because the Texas/OU football rivalry is one that

11:00:19 **16** everybody is aware of and we don't really have something

11:00:21 **17** like that --

11:00:21 **18** MIKE RUTHERFORD: I think Oak Lawn is

11:00:23 **19** hurting us more in Louisiana than New Mexico or

11:00:27 **20** Oklahoma.

11:00:27 **21** CHARLES SOWELL: No question about that.

11:00:31 **22** MIKE RUTHERFORD: But it's still early to

11:00:33 **23** tell with Oklahoma just passing VLTs. See how much that

11:00:39 **24** hurts. In the past it hasn't hurt us as much. We've

11:00:43 **25** got to have horses to race.

11:00:44 **1** CHAIR ROGERS: Any other comments?

11:00:45 **2** TREVA BOYD: Yes. Mr. Chairman.

11:00:47 **3** Charla Ann, would you touch on some of our

11:00:50 **4** discussion in our meeting about where we talked about

11:00:53 **5** maybe staff playing a more aggressive role, to a point,

11:01:01 **6** in communicating to our Legislature exactly what our

11:01:05 **7** industry is facing? I mean, I'm not sure in our

11:01:09 **8** discussions, we talked about -- I'm not sure that we've

11:01:13 **9** ever done that from a staff's perspective before and not

11:01:18 **10** getting into a political push --

11:01:20 **11** CHARLA ANN KING: Right.

11:01:21 **12** TREVA BOYD: -- but just an informative one.

11:01:23 **13** CHARLA ANN KING: There's another item on

11:01:25 **14** the agenda that would kind of come up today. So I could

11:01:28 **15** address it then. So if that would -- the working group

11:01:30 **16** process did help with that, because when all this

11:01:32 **17** pressure, you know, on the industry, people gravitate to

11:01:36 **18** discussing legislative issues. So we've got something

11:01:38 **19** on the agenda that hopefully will address that today.

11:01:42 **20** CHARLES SOWELL: If I may add to the answer,

11:01:45 **21** Commissioner Boyd.

11:01:48 **22** It has become apparent, I think, to

11:01:51 **23** everybody, that the Commission probably can and should

11:01:57 **24** take a more active role in promoting the industry. And

11:02:02 **25** yet, we're probably prohibited from that right now by

11:02:06 **1** the provisions of the Texas Racing Act. And I think in

11:02:10 **2** the future, there will be more conversation about

11:02:13 **3** perhaps some changes that might need to be made.

11:02:15 **4** But right now, we're kind of a toothless

11:02:17 **5** tiger in terms of dealing with things other than

11:02:21 **6** regulatory matters and dealing with the industry as a

11:02:25 **7** Commission.

11:02:25 **8** TREVA BOYD: And again, I'm not talking

11:02:28 **9** about getting into the political end of it. What I'm

11:02:31 **10** talking about is more informative. Because before they

11:02:35 **11** can make decisions, I think that they need to be very

11:02:38 **12** well informed about what exactly is going on.

11:02:40 **13** CHARLES SOWELL: You raise a very good

11:02:43 **14** point.

11:02:43 **15** MIKE RUTHERFORD: I agree. There's a

11:02:44 **16** difference between being informed and promoting

11:02:49 **17** something.

11:02:49 **18** CHAIR ROGERS: And we will be discussing

11:02:50 **19** that about two items down here.

11:02:52 **20** MIKE RUTHERFORD: Gray there.

11:02:55 **21** CHAIR ROGERS: I'd like to say thank you to

11:02:57 **22** all the working groups that have been participating and

11:03:00 **23** the guys from the industry that have participated in

11:03:03 **24** this. Our goal in the beginning was to get some

11:03:06 **25** consensus issues that might make our decisionmaking more

11:03:10 **1** effective in a way that the Commission could be more

11:03:14 **2** responsive to the industry. And one of the ways to do

11:03:16 **3** that is to be sure that, as commissioners, we kind of

11:03:19 **4** know what's going on. And we get a lot better picture

11:03:24 **5** of that out away from this Commission meeting than we do

11:03:28 **6** during this meeting.

11:03:29 **7** So hopefully, it's been informative to

11:03:33 **8** everybody involved. And hopefully it will help us be

11:03:35 **9** more responsive to the industry that we're supposed to

11:03:38 **10** be regulating. And hopefully, one of these days helping

11:03:42 **11** to promote, to some extent.

11:03:43 **12** Okay. Ms. King, would you talk to us about

11:03:48 **13** the strategic plan, please?

14 F. Approval of the Commission's Strategic Plan for

11:03:50 **15** Fiscal Years 2007-2011 .

11:03:50 **16** CHARLA ANN KING: Commissioners, the next

11:03:52 **17** item is your draft strategic plan. You'll find we've

11:03:55 **18** handed out copies to each of you. Besides that, it's a

11:03:58 **19** draft. Because I've been here less than a year, I'm

11:04:01 **20** finding the strategic planning process an interesting

11:04:03 **21** and educational one. It's allowing me the opportunity

11:04:06 **22** to get a closer view of the Agency's recent history from

11:04:09 **23** a number of vantage point.

11:04:11 **24** We've included, to the best of our ability,

11:04:13 **25** the required components of the plan. The plans provide

11:04:16 **1** considerable agency background information, which may
 11:04:18 **2** also be helpful to the newer members of our Commission.
 11:04:21 **3** The plan has everything from our mission statement to
 11:04:24 **4** our strategic budgeting objectives, to our work force
 11:04:27 **5** plan and results from the University of Texas
 11:04:29 **6** organizational assessment survey that was completed by
 11:04:31 **7** Agency staff. So it has a lot of information in it.
 11:04:35 **8** Perhaps the most challenge to develop was
 11:04:37 **9** the strategic assessment section where we provide an
 11:04:42 **10** external and internal assessment. And I encourage the
 11:04:44 **11** Commissioners to review that section, which lays out, in
 11:04:46 **12** some detail, the challenges that we currently face,
 11:04:49 **13** including the impact of the budget cuts and cash flow
 11:04:52 **14** pressures that have been experienced by the Agency in
 11:04:55 **15** 2003 and 2004.
 11:04:57 **16** With this section and any other section, we
 11:05:00 **17** are, of course, open to your feedback. The plan is due
 11:05:03 **18** July 7th. We ask that if you have comments to try to
 11:05:06 **19** get them to us soon. Just give us a call and we can be
 11:05:10 **20** responsive. As in the past, we ask that the Commission
 11:05:13 **21** provide approval today, contingent upon the Chair's
 11:05:16 **22** review and approval of the final plan before submission.
 11:05:20 **23** Any questions?
 11:05:23 **24** CHAIR ROGERS: In this particular case, none
 11:05:26 **25** of us have had an opportunity to really spend any time

11:05:30 **1** on this. So it is important that if you have comments
 11:05:32 **2** that you get those back to Ms. King as early as possible
 11:05:36 **3** so they can be considered to put in. And I would ask
 11:05:39 **4** for a motion that would allow me to do the final
 11:05:44 **5** sign-off on it before it's submitted --
 11:05:47 **6** TREVA BOYD: I so move.
 11:05:48 **7** CHAIR ROGERS: -- so we don't have to meet
 11:05:50 **8** again.
 11:05:50 **9** TREVA BOYD: So move.
 11:05:52 **10** MIKE RUTHERFORD: Second.
 11:05:52 **11** CHAIR ROGERS: Motion made by
 11:05:56 **12** Commissioner Boyd and seconded by everyone.
 11:06:01 **13** Seconded by Commissioner Rutherford. All in
 11:06:03 **14** favor say aye.
 11:06:05 **15** BOARD MEMBERS: Aye.
 11:06:07 **16** CHAIR ROGERS: Motion carries.
 11:06:09 **17** We will talk at this point about legislative
 11:06:11 **18** proposals by the Texas Racing Commission to the 80th
 11:06:14 **19** Texas Legislature Regular Session.
 11:06:16 **20** Ms. King.
 11:06:16 **21** G. Legislative Proposals by the Texas Racing.
 11:06:16 **22** Commission to the 80th Texas Legislature, Regular
 11:06:17 **23** Session (2007) .
 11:06:17 **24** CHARLA ANN KING: As preparations for the
 11:06:19 **25** next legislative session are getting geared up with the

11:06:22 **1** development of a strategic plan and the legislative
 11:06:22 **2** appropriations request, which we'll bring later for your
 11:06:25 **3** approval, we thought it prudent to discuss the
 11:06:28 **4** opportunity for the Commission to develop
 11:06:30 **5** recommendations for statutory change.
 11:06:32 **6** Many state agencies develop recommendations
 11:06:35 **7** based on their experiences and technical expertise in
 11:06:38 **8** administering the law, focusing on removing outdated
 11:06:42 **9** provisions, clarifying legislative intent and making
 11:06:48 **10** ethical changes to make the agency work more effectively
 11:06:49 **11** and efficiently.
 11:06:50 **12** It is also advantageous to get the
 11:06:52 **13** Commission members focused here, particularly discussion
 11:06:53 **14** before a Sunset Commission review takes place. It is
 11:06:56 **15** frequently beneficial to the Sunset process to have
 11:07:00 **16** identified key policy areas in need of change through
 11:07:03 **17** drafted legislation. It can help with the Sunset staff
 11:07:05 **18** review, as well as contribute to better quality Sunset
 11:07:08 **19** legislation.
 11:07:09 **20** Today we would like the Commission's
 11:07:10 **21** approval to develop a set of recommendations for
 11:07:14 **22** discussion and approval at a later meeting. We want to
 11:07:16 **23** work individually with the Commissioners to make sure
 11:07:19 **24** that we clearly get your ideas, your concerns and your
 11:07:21 **25** priorities.

11:07:21 **1** And Mr. Chairman, I'd like Mark to provide a
 11:07:25 **2** couple of examples of the types of changes we would come
 11:07:27 **3** back to you with and help answer any questions that you
 11:07:29 **4** might have.
 11:07:30 **5** MARK FENNER: Well, one of the things that
 11:07:32 **6** has caused a problem for us recently is the title of our
 11:07:37 **7** chief executive officer here, executive secretary, which
 11:07:42 **8** is not as common as it was many years ago. For example,
 11:07:46 **9** we tried to get some correspondence from the Texas
 11:07:49 **10** Workforce Commission Civil Rights Division. They sent
 11:07:52 **11** the letter to Commissioner Sturns. I called and asked
 11:07:55 **12** him, "Why didn't you send it to Ms. King?" He said,
 11:07:58 **13** "She's the executive secretary. We didn't realize that
 11:08:01 **14** she was, in fact, the executive director of the agency."
 11:08:04 **15** So, you know, correction to broaden the
 11:08:07 **16** definition of executive secretary to include the term
 11:08:11 **17** executive director to allow us to put that on
 11:08:15 **18** correspondence where appropriate would be helpful to us.
 11:08:18 **19** It's a little thing, but it could help us.
 11:08:20 **20** Another example of a type of change we'd
 11:08:23 **21** like to look at is the accredited Texas-bred program.
 11:08:26 **22** Right now, the \$5.4 million that's allocated to the
 11:08:30 **23** Agency is really a pass-through, but it gets counted
 11:08:35 **24** against the Agency's budget. So when we get directions
 11:08:38 **25** from the LBB to submit our LAR request at 90 percent,

11:08:44 **1** you know, that 5.4 is going to count towards the amount
 11:08:47 **2** we have to reduce, even though it's not really
 11:08:51 **3** operational budget.
 11:08:52 **4** So that's the kind of technical amendments
 11:08:56 **5** that we're considering proposing or having to look at.
 11:08:59 **6** CHAIR ROGERS: Well, and that little
 11:09:01 **7** technical amendment there affects a whole lot more than
 11:09:05 **8** us.
 11:09:05 **9** MARK FENNER: That's true.
 11:09:06 **10** CHAIR ROGERS: And it would put us in a
 11:09:08 **11** position we might not have to go through the same audit
 11:09:10 **12** procedures. And it's a half million dollars to horsemen
 11:09:13 **13** that really is their money. So we ought to try to keep
 11:09:17 **14** that for them, if we could.
 11:09:18 **15** MARK FENNER: Good point.
 11:09:19 **16** CHAIR ROGERS: I agree with that greatly.
 11:09:20 **17** MARK FENNER: Good point.
 11:09:21 **18** CHAIR ROGERS: I would -- I would assume
 11:09:23 **19** that the way that we would proceed on this is that each
 11:09:27 **20** commissioner would visit off-line with either Mr. Fenner
 11:09:33 **21** or Ms. King, and would give them what your suggestions
 11:09:37 **22** are for changes, either technical or broader, that this
 11:09:42 **23** industry needs that might be considered in the -- as a
 11:09:48 **24** legislative proposal. And then that you compile that,
 11:09:53 **25** run it past a number of folks, and then bring that back

11:09:57 **1** to a future meeting well before the Legislature --
 11:10:03 **2** legislative session, and that we decide, as a Commission
 11:10:07 **3** then if these were things that we would propose to go
 11:10:11 **4** forward with and allow the staff to communicate those
 11:10:15 **5** and for us to be communicating those.
 11:10:17 **6** Is that an acceptable way to look at that?
 11:10:19 **7** CHARLA ANN KING: Yes, sir.
 11:10:20 **8** CHAIR ROGERS: Commissioners, what do you
 11:10:22 **9** think?
 11:10:22 **10** TREVA BOYD: That's good.
 11:10:25 **11** KENT CARTER: That's good.
 11:10:26 **12** CHAIR ROGERS: Consensus it is okay to move
 11:10:29 **13** forward?
 11:10:29 **14** CHARLES SOWELL: Absolutely.
15 PROCEEDINGS ON RULEMAKING
16 Discussion, consideration and possible action on the
 11:10:30 **17** following rules:
 11:10:30 **18** CHAIR ROGERS: Okay. We will move to
 11:10:32 **19** proceedings on rulemaking, discussion, consideration of
 11:10:36 **20** possible actions on the following rules.
 11:10:38 **21** The first would be the adoption of a rule --
 11:10:43 **22** of rule amendments to 321.310, Trifecta; and 321.314
 11:10:53 **23** Superfecta. These are under Tab 6.
 11:10:56 **24** Mr. Fenner.
25 A. Adoption of Rule Amendments to §321.310, Trifecta,

11:10:57 **1** and §321.314, Superfecta .
 11:10:57 **2** MARK FENNER: Chair Rogers, this was voted
 11:11:02 **3** to -- for proposal at the last Commission meeting. We
 11:11:05 **4** have published it in the Texas Register, where it's been
 11:11:09 **5** out for a sufficient period of time. We've posted at
 11:11:11 **6** the tracks for those folks to review. So far, we have
 11:11:15 **7** received no comments from the public or the tracks
 11:11:20 **8** within that time period.
 11:11:22 **9** So at this meeting, it is up for adoption,
 11:11:27 **10** should you wish to adopt it. You're not required to
 11:11:29 **11** adopt it, of course. You can discuss it, change it.
 11:11:33 **12** If you have questions on the technical
 11:11:36 **13** portions of it, we have the Director of Racing,
 11:11:39 **14** Mr. Ferrara, here to help with that. If you have
 11:11:43 **15** questions about the legal parts of it, I'd be happy to
 11:11:45 **16** answer those questions.
 11:11:47 **17** CHAIR ROGERS: Okay. Commissioners, do we
 11:11:55 **18** have some comment on this?
 11:11:57 **19** MIKE RUTHERFORD: Well, Trifecta and
 11:12:00 **20** Superfecta, at best, the rules we have right now have
 11:12:04 **21** been around for a long time and they're tried and
 11:12:07 **22** tested. It worries me that it might open some doors at
 11:12:11 **23** tracks that have low purses where jockeys can take
 11:12:15 **24** advantage of it. And you don't see this happen much
 11:12:18 **25** anymore, especially at the bigger racetracks because

11:12:23 **1** their purse is so high.
 11:12:24 **2** But for example, in San Antonio, we're
 11:12:27 **3** getting a lot of bad press about horses getting hurt.
 11:12:30 **4** In Houston, we're getting a lot of bad press about
 11:12:34 **5** horses getting hurt. And we've had bad articles in both
 11:12:37 **6** the Houston Chronicle and the Express.
 11:12:41 **7** The proposal that they have here, it worries
 11:12:49 **8** me that we're opening the doors to let -- to have some
 11:12:54 **9** cheating. And I don't think the stewards -- if you have
 11:12:57 **10** a jockey, I think most of you know, that jockeys fix
 11:13:02 **11** races, not trainers.
 11:13:04 **12** Jockeys have an access to horses all over
 11:13:07 **13** the racetrack. They go work horses for each trainer.
 11:13:11 **14** And their agent knows practically every horse on the
 11:13:19 **15** grounds. And you could have a problem where some
 11:13:21 **16** jockey's been riding some other horse and he says, "This
 11:13:25 **17** horse is real sore. He is in Saturday. I'm in that
 11:13:28 **18** same race. He's not going to beat anybody. And I'll
 11:13:30 **19** just pull my horse and have my agent go make a bet." So
 11:13:33 **20** this worries me.
 11:13:34 **21** If you're going to pass this rule, I'd like
 11:13:38 **22** to see a modification of putting that the minimum races
 11:13:43 **23** you could drop the number of horses on the tri and super
 11:13:47 **24** would be a \$40,000 race. In other words, 40,000 and up.
 11:13:51 **25** Because we do have some short fields when we get stakes

11:13:55 **1** races. And I don't think that jockeys are trying to
 11:13:58 **2** cheat -- and I'm not jumping on jockeys, because I just
 11:14:04 **3** don't want to leave it open like that. I really do not
 11:14:07 **4** like the rule right now, the way it's written.
 11:14:09 **5** So anybody else would like to comment.
 11:14:14 **6** JIMMY ARCHER: Commissioner.
 11:14:17 **7** CHAIR ROGERS: Mr. Archer.
 11:14:18 **8** JIMMY ARCHER: I notice that comments. Do
 11:14:21 **9** any of the tracks or horse organizations want to comment
 11:14:22 **10** on this rule? I would like to hear from Sam Houston.
 11:14:26 **11** CHARLA ANN KING: I think Bryan.
 11:14:28 **12** JIMMY ARCHER: Bryan.
 11:14:30 **13** BRYAN BROWN: Bryan Brown with Retama Park.
 11:14:45 **14** Good morning, Mr. Chairman, Commissioners.
 11:14:47 **15** A couple pieces of information are going to
 11:14:50 **16** be passed out to you with regard to this issue.
 11:14:52 **17** First of all, let me say, we are supportive
 11:14:56 **18** of the rule as proposed and adopted -- proposed for
 11:14:59 **19** adoption too. The first is an exhibit I had -- we had
 11:15:04 **20** prepared at Retama on the minimum numbers of starters
 11:15:08 **21** that must be in a race in order for tris and supers to
 11:15:13 **22** take place. You can see the minimums kind of vary
 11:15:17 **23** across the country, starting with Thistle Downs, which
 11:15:21 **24** has purses very similar to ours, that require simply
 11:15:26 **25** three horses in a tri and four in a super, down to the

11:15:30 **1** biggest extreme on this list, which is Indiana Downs
 11:15:34 **2** with seven in a tri and eight in a super.
 11:15:37 **3** There are several tracks that are below the
 11:15:40 **4** minimums that we have, including some of the finest
 11:15:44 **5** tracks in the nation, Keeneland, Churchill Downs,
 11:15:49 **6** Calder, Pimlico. In the case of Churchill, Keeneland
 11:15:55 **7** and Pimlico, they're all -- those three are five horses
 11:15:57 **8** for a tri, six for a super. Calder is five for both the
 11:16:02 **9** tri and the super. Oaklawn Park nearby in Arkansas is
 11:16:06 **10** at five and five for the tri and the super.
 11:16:09 **11** The thing that this, I think, shows and the
 11:16:12 **12** lack of bad or negative news on any of these tracks of
 11:16:18 **13** the tris and supers is that those wagers do take place
 11:16:21 **14** and the public has accepted them with those minimums.
 11:16:23 **15** I think a -- one of the reasons that the
 11:16:26 **16** tracks are able to offer these minimums is that, for the
 11:16:30 **17** most part, to me at least, if a race is to be tampered
 11:16:34 **18** with, it would be better for those doing the tampering
 11:16:37 **19** to have larger fields because the pay-offs can be
 11:16:40 **20** larger. There's a certain amount of risk, I would
 11:16:43 **21** imagine -- I don't know much about tampering with the
 11:16:44 **22** race, but there's a certain amount of risk.
 11:16:44 **23** CHAIR ROGERS: That's a good thing.
 11:16:47 **24** BRYAN BROWN: Let me lead with that.
 11:16:49 **25** There has got to be a certain amount of

11:16:52 **1** risk, whether it involves jockeys or trainers, of doing
 11:16:55 **2** that. And therefore, I would expect those participating
 11:16:58 **3** would want a certain payoff. In a four-horse race with
 11:17:02 **4** a Trifecta, no matter who comes in first, second, third
 11:17:07 **5** or fourth, you're not going to have a very big payoff,
 11:17:10 **6** because the public is able to hit the combinations more
 11:17:13 **7** so and win than they would if it was a 12-horse race.
 11:17:15 **8** And maybe that's why these minimums have not caused a
 11:17:18 **9** problem at these other tracks.
 11:17:19 **10** The second exhibit -- and I did this the day
 11:17:24 **11** of the last Commission meeting. I went back and just
 11:17:27 **12** checked Lone Star's races for that day to see if there
 11:17:30 **13** were any examples of the races falling below the current
 11:17:33 **14** minimums. This chart is not intended to show
 11:17:36 **15** economically what would happen if we did allow tris and
 11:17:41 **16** supers at higher numbers. It's merely meant to show the
 11:17:45 **17** cost of dropping below the current minimums, which
 11:17:50 **18** doesn't exactly necessarily equate with what would
 11:17:52 **19** happen if the rules were changed.
 11:17:53 **20** If I could point you to Race 2 and Race 7 at
 11:17:56 **21** Lone Star that day. If you look on the far right column
 11:17:59 **22** and the total column, you can see the wagerings on those
 11:18:03 **23** two races was quite a bit lower than all the other races
 11:18:07 **24** that day. If you take the average of those two races,
 11:18:10 **25** the average amount wagered in those two races and

11:18:12 **1** compare it to the average amount wagered in all the
 11:18:15 **2** other races, there's an \$81,000 per race difference.
 11:18:19 **3** That translates -- and this is shown at the very bottom
 11:18:21 **4** in that chart -- to a cost to the racetracks of \$2530.
 11:18:26 **5** And the cost to the horsemen of \$1488.
 11:18:29 **6** That's why if you're ever around a
 11:18:32 **7** racetrack's CEO or general manager when he has scratches
 11:18:36 **8** before the races start, you see a panicked look in our
 11:18:39 **9** faces, because this is what happens. Again, I'm not
 11:18:42 **10** saying that if we change the rule that all that money is
 11:18:45 **11** going to be made off a larger field no matter what you
 11:18:49 **12** have in terms of wagers is going to attract more
 11:18:49 **13** wagering dollars than a smaller field. This just
 11:18:52 **14** demonstrates economically what we're looking at.
 11:18:55 **15** And I'd be happy to answer any questions. I
 11:18:57 **16** can tell you, at Retama, we've never heard of an
 11:19:01 **17** instance of a customer complaining about one of these
 11:19:04 **18** tracks, whether it be Thistle Down, Churchill Downs,
 11:19:07 **19** Tampa Bay, about an issue of a tri or super. I'm not
 11:19:13 **20** naive to racing perceptions and patron perceptions, but
 11:19:18 **21** we've just never heard it occur.
 11:19:19 **22** I've heard customers complain quite a bit
 11:19:21 **23** about what a jockey or trainer did, just not an instance
 11:19:25 **24** of how it might impact a low-level tri or super.
 11:19:30 **25** CHAIR ROGERS: Mr. Fenner, would you just

11:19:32 **1** refresh our memory as to what we're talking about as a
 11:19:34 **2** minimum field. What is the change in this rule? It's
 11:19:36 **3** been a while since we published it.
 11:19:39 **4** MARK FENNER: Sure. The bulk minimum size
 11:19:43 **5** of the field is not changing in the proposed rule. In
 11:19:45 **6** the case of a Trifecta, it would remain at six horses as
 11:19:49 **7** a minimum. And a Superfecta would be seven horses.
 11:19:53 **8** However, it does provide the board of judges or stewards
 11:19:58 **9** the authority to lower it below that six if it's a Tri
 11:20:04 **10** and seven in the case of a Superfecta, below that number
 11:20:07 **11** if they found that it was not going to jeopardize the
 11:20:10 **12** integrity of the wager or of the race.
 11:20:13 **13** CHAIR ROGERS: Is there a limit that we've
 11:20:15 **14** set on this rule as to how low that could go?
 11:20:19 **15** MARK FENNER: No, sir. No, sir. There's no
 11:20:21 **16** floor.
 11:20:25 **17** CHAIR ROGERS: Commissioner Rutherford.
 11:20:27 **18** MIKE RUTHERFORD: Mr. Brown, I think you
 11:20:29 **19** know me pretty well. And I'm doing everything I can to
 11:20:32 **20** help racing.
 11:20:34 **21** BRYAN BROWN: Yes, sir.
 11:20:35 **22** MIKE RUTHERFORD: I want to see struggling
 11:20:37 **23** tracks do well.
 11:20:38 **24** Also, as a Commissioner, I'm charged with
 11:20:41 **25** the responsibility of keeping the integrity of racing.

11:20:44 **1** And this -- having those low amount of horses does
 11:20:47 **2** bother me.
 11:20:48 **3** I want to ask you a couple questions. At
 11:20:53 **4** Thistle Down, on the tri, how can you bet on three
 11:20:56 **5** horses -- make a three horse bet on three horses and win
 11:21:00 **6** any money? Are you betting that they're going to live
 11:21:03 **7** and walk out of the track? How can you bet on how they
 11:21:06 **8** place -- the three horses place in a race when there's
 11:21:09 **9** only three horses in it?
 11:21:10 **10** BRYAN BROWN: I would agree, it's not a very
 11:21:13 **11** lucrative bet. I think what that bet probably serves in
 11:21:16 **12** a three-horse field is more of a safer bet, if you will,
 11:21:20 **13** for the exacta that they make. In other words, you may
 11:21:22 **14** have a bettor that bets a real heavy exacta on his two
 11:21:28 **15** favorites straight. And just to cover himself, in case
 11:21:30 **16** it doesn't happen that way, might bet a tri.
 11:21:32 **17** I would bet, if you look -- but I would
 11:21:34 **18** imagine, if you look at the tris for three-horse fields
 11:21:37 **19** at Thistle Downs, there's not a lot of money wagered in
 11:21:40 **20** those particular races. I would agree with you, it's
 11:21:43 **21** not a very smart bet to make. It's like betting a one
 11:21:47 **22** to five shot to win in a 10-horse field. It doesn't
 11:21:51 **23** make much sense.
 11:21:54 **24** MIKE RUTHERFORD: Do you -- would you have
 11:21:55 **25** any problem of having a minimum purse size?

11:22:01 **1** BRYAN BROWN: Yes, I would. I think the
 11:22:04 **2** rule, as it's drafted, allows the stewards enough
 11:22:08 **3** leeway, that if they see issues that either historically
 11:22:12 **4** have come up with a particular race, whether it's the
 11:22:16 **5** purse level or the number of horses a particular trainer
 11:22:20 **6** might have, I think gives them enough leeway to not
 11:22:23 **7** allow the wagering to take place. And I don't think
 11:22:26 **8** it -- I understand the concept with a stakes race, for
 11:22:31 **9** instance, being much more unlikely for this to occur.
 11:22:35 **10** And I would agree with you, because everybody's getting
 11:22:37 **11** paid pretty well, once the jockeys and trainers to come
 11:22:40 **12** in and win second or third. But I do think the stewards
 11:22:43 **13** will have enough control over the issue that no matter
 11:22:47 **14** what the purse level, what has been proposed will make
 11:22:51 **15** sense.
 11:22:51 **16** MIKE RUTHERFORD: Well, I assure you, and I
 11:22:53 **17** don't mean to jump on a jockey. But when you find a
 11:22:56 **18** jockey that's done something wrong, it's after the fact.
 11:23:00 **19** It's not like you look on the entry and see a trainer's
 11:23:02 **20** got three horses in that race. You see a jockey and
 11:23:04 **21** it's after the fact. So the crime has already happened
 11:23:06 **22** to the public. I still have reservations.
 11:23:14 **23** BRYAN BROWN: I understand.
 11:23:15 **24** MIKE RUTHERFORD: But I do really want to
 11:23:17 **25** help racing. You understand that.

11:23:20 **1** BRYAN BROWN: I understand, absolutely.
 11:23:22 **2** ERNEST ANGELO: You're not concerned about
 11:23:23 **3** the integrity issue that Mr. Rutherford raised?
 11:23:27 **4** BRYAN BROWN: Not at all. Again, I think if
 11:23:28 **5** it was an issue, it would have arisen in one of these
 11:23:31 **6** states at some point in time. And again, I'm not
 11:23:36 **7** oblivious as to what can come up in a race. It
 11:23:38 **8** certainly happens. But I think there's an equal
 11:23:39 **9** opportunity in a short field race as a large field race.
 11:23:42 **10** Again, I believe that it's more lucrative to
 11:23:45 **11** affect a race with more horses where you get a bigger
 11:23:48 **12** payoff.
 11:23:49 **13** ERNEST ANGELO: Be a lot harder to do,
 11:23:52 **14** wouldn't it, the more horses there are?
 11:23:55 **15** BRYAN BROWN: It would cost you more. I
 11:23:56 **16** think you would just have to put more horses in your
 11:23:59 **17** bet. I don't think there's a lot of opportunity of a
 11:24:00 **18** race fixer going to six different jockeys to get them to
 11:24:04 **19** agree on something. I promise you you couldn't get six
 11:24:07 **20** different jockeys to agree and then carry out any kind
 11:24:09 **21** of plan or trainer or CEOs or anybody else. I'm not
 11:24:13 **22** picking on jockeys. But it would be very, very
 11:24:16 **23** difficult to fix more than one or two horses in a race
 11:24:19 **24** when they come up.
 11:24:20 **25** MIKE RUTHERFORD: I agree with that.

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11:24:21 **1** CHAIR ROGERS: I'm glad we're all not
 11:24:23 **2** picking on jockeys.
 11:24:25 **3** BRYAN BROWN: Is Mr. Beech here?
 11:24:26 **4** CHAIR ROGERS: I don't know if jockeys are
 11:24:29 **5** represented or not.
 11:24:30 **6** ERNEST ANGELO: What about putting a number
 11:24:31 **7** in there below which you wouldn't go.
 11:24:34 **8** BRYAN BROWN: I'd be fine with that. What
 11:24:37 **9** we had originally asked for is six for a Superfecta
 11:24:39 **10** wager and five for a Trifecta wager. I think the only
 11:24:44 **11** issue is the publication, the notice. Maybe the
 11:24:47 **12** Commission staff could adopt separate rules that require
 11:24:50 **13** that -- I don't know -- or could instruct the stewards
 11:24:53 **14** not to approve one below certain levels. I don't know.
 11:24:57 **15** I don't know how the rules could work within that.
 11:25:01 **16** Yes, sir.
 11:25:02 **17** ERNEST ANGELO: What is the issue changing
 11:25:08 **18** today?
 11:25:08 **19** MARK FENNER: We have a policy,
 11:25:10 **20** administrative policy that we would not approve a tri or
 11:25:14 **21** a super below some floor level. That wouldn't be a
 11:25:18 **22** problem.
 11:25:20 **23** MIKE RUTHERFORD: Commissioner Angelo, if
 11:25:22 **24** you look on there, Churchill Downs is five and six.
 11:25:29 **25** Ellis is not on here. It's six and seven. It's owned

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11:25:32 **1** by Churchill. And the reason they do that is because of
 11:25:35 **2** the purse level. And Churchill has \$450,000 a day,
 11:25:39 **3** \$500,000 a day purses where San Antonio has 70 or
 11:25:44 **4** something in that range. And Keeneland has \$600,000 a
 11:25:48 **5** day purses.
 11:25:49 **6** Well, you're not going to see a jockey --
 11:25:51 **7** he's going to be trying to win as hard as he can in
 11:25:55 **8** those kind of races. And when you see the higher
 11:25:57 **9** numbers -- you go down here to the higher numbers,
 11:25:59 **10** they're all the racetracks that don't have a high purse
 11:26:01 **11** schedule.
 11:26:04 **12** Calder has real good purses. Of course,
 11:26:08 **13** they have a lot of stake races there at Calder.
 11:26:11 **14** Delaware Park has -- does have some good purses.
 11:26:15 **15** Oaklawn does, too. So those are somewhere. Mr. Brown
 11:26:19 **16** is correct.
 11:26:21 **17** ERNEST ANGELO: I think -- you know, I have
 11:26:24 **18** spoken before about my limited knowledge about this,
 11:26:27 **19** about racing and whatever. But I'm concerned about the
 11:26:30 **20** integrity issues you've raised. And I think that with
 11:26:35 **21** the difficulty we have in keeping people's interest or
 11:26:40 **22** increasing people's interest in racing in Texas,
 11:26:43 **23** obviously, we've got some big problems. And anything
 11:26:46 **24** that jeopardizes or increases the opportunity for
 11:26:49 **25** integrity to be raised -- the question of integrity to

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11:26:53 **1** be raised, I think, is -- seems to me to be a risky
 11:26:57 **2** thing to do. I know you don't feel that there's any
 11:26:59 **3** risk there, but just on the face of it, the questions
 11:27:03 **4** you raise certainly bother me.
 11:27:07 **5** MIKE RUTHERFORD: Well, if we've already --
 11:27:08 **6** racing has always had the perception about it. That's
 11:27:13 **7** why we're trying to change the medication rule with the
 11:27:16 **8** uniform law across the nation.
 11:27:18 **9** And so perception means everything to me.
 11:27:22 **10** And I don't want to lose my job here, my big salary I'm
 11:27:26 **11** getting. So I don't want the press to be after me so I
 11:27:29 **12** can lose this great job.
 11:27:31 **13** CHAIR ROGERS: Let me ask you a question,
 11:27:32 **14** Mr. Brown. Economically, what is the impact of this
 11:27:35 **15** change? What does it really amount to?
 11:27:39 **16** BRYAN BROWN: Well, all I can do to answer
 11:27:42 **17** that is to go back to the Lone Star chart and just talk
 11:27:45 **18** about it in terms of the per race affect for them. It's
 11:27:49 **19** a little bit exaggerated because with a five-horse
 11:27:53 **20** field, the race is two and seven or five-horse field,
 11:27:58 **21** not six.
 11:27:59 **22** CHAIR ROGERS: But excuse me. That's the
 11:28:00 **23** total bet, isn't it? I mean, this isn't the difference
 11:28:04 **24** by not being able to offer the super or the tri in those
 11:28:08 **25** two races, or is it?

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11:28:09 **1** BRYAN BROWN: Well, you could --
 11:28:11 **2** ERNEST ANGELO: It's awful close.
 11:28:13 **3** BRYAN BROWN: It should be awful close. If
 11:28:14 **4** you look at the average tri and super of all the other
 11:28:17 **5** races --
 11:28:18 **6** CHAIR ROGERS: Uh-huh.
 11:28:18 **7** BRYAN BROWN: -- they're pretty -- the
 11:28:19 **8** average is pretty close to the \$81,000 difference in
 11:28:22 **9** average per race wagering for those two races. So if
 11:28:25 **10** you just take race six, for example, there was \$69,000
 11:28:28 **11** bet on the tri and super. And Race 8 -- and I'm taking
 11:28:31 **12** the ones before and after 7 -- there was \$75,000
 11:28:36 **13** wagered. Back on Race 1, there was \$85,000 wagered and
 11:28:40 **14** 65 in Race 3. Again, before and after Race 2.
 11:28:45 **15** CHAIR ROGERS: Okay.
 11:28:45 **16** BRYAN BROWN: So that gives you a good
 11:28:47 **17** example. Now, if you adopted these rules and
 11:28:51 **18** supplemented with administrative policy which only
 11:28:54 **19** allowed tri and super at a six-horse field for super and
 11:28:57 **20** five for tri, you wouldn't recoup all that super money
 11:29:01 **21** in those two races. You would just be able to have a
 11:29:04 **22** tri. So you would recoup, let's just say, 40 or \$50,000
 11:29:08 **23** of wagering on the tri in those two races. That alone
 11:29:12 **24** would give you about \$1250 of profit to the track and
 11:29:18 **25** about \$750 of purse money to the horsemen, just in

11:29:23 **1** having the tri in those two races.
 11:29:26 **2** ERNEST ANGELO: But didn't you say, though,
 11:29:28 **3** that the betting on the five-horse race as opposed to a
 11:29:31 **4** nine-horse race would not be the same.
 11:29:34 **5** BRYAN BROWN: That's correct. So it's
 11:29:35 **6** really difficult to give you a really good number.
 11:29:38 **7** ERNEST ANGELO: You wouldn't get all that
 11:29:40 **8** back?
 11:29:40 **9** BRYAN BROWN: That's correct. You're
 11:29:43 **10** exactly correct.
 11:29:43 **11** MIKE RUTHERFORD: How has this year --
 11:29:46 **12** Ms. King, do you know the race field size, like at Lone
 11:29:49 **13** Star, because Retama hadn't run yet, are they having
 11:29:53 **14** pretty full fields?
 11:29:54 **15** CHARLA ANN KING: They are having pretty
 11:29:56 **16** full fields.
 11:29:57 **17** John, do you know?
 11:29:58 **18** MIKE RUTHERFORD: And last year, was Retama
 11:30:00 **19** down, the field size down from the year before?
 11:30:02 **20** BRYAN BROWN: We were up slightly.
 11:30:04 **21** MIKE RUTHERFORD: Up slightly. Because I
 11:30:06 **22** watched TVG yesterday and watched Lone Star yesterday
 11:30:10 **23** afternoon. And all the fields, they were big fields, 15
 11:30:15 **24** horses or 12 horse, big fields. Maybe it was Churchill
 11:30:19 **25** I saw where they had 15 horses.

11:30:22 **1** KENT CARTER: I have a question for you,
 11:30:24 **2** Mr. Brown.
 11:30:24 **3** BRYAN BROWN: Yes, sir.
 11:30:25 **4** KENT CARTER: And I agree with some of your
 11:30:28 **5** concerns about small size of the fields and the
 11:30:36 **6** opportunity to manipulate this. But one thing that I've
 11:30:40 **7** had in my mind all through this conversation is: How
 11:30:44 **8** big a risk and how big of a benefit? Is there a bigger
 11:30:48 **9** benefit and is there a bigger risk? And I still don't
 11:30:53 **10** have a real good handle on that. But when I look at
 11:30:57 **11** these numbers and see that some of these tracks are
 11:31:00 **12** sitting at five and six, that raised a question. We --
 11:31:03 **13** as the rule is proposed, because we don't have a floor,
 11:31:07 **14** we don't have a number set. So explain to me, as a
 11:31:11 **15** track manager, a track owner, how is the nuts and bolts
 11:31:14 **16** of this going to work? Are you going to decide it on a
 11:31:18 **17** daily basis? I mean, it's easy to look at a race that's
 11:31:22 **18** got nine horses and say, "Yeah, we can do it today."
 11:31:25 **19** But it's hard to look at it when it's got four or five
 11:31:29 **20** in it and say, "Well, we have got to wait for the
 11:31:32 **21** Steward's ruling." I don't understand how all that's
 11:31:36 **22** going to work.
 11:31:37 **23** BRYAN BROWN: Sure.
 11:31:38 **24** KENT CARTER: And to me, that can provide a
 11:31:40 **25** whole lot of confusion. I just don't understand that.

11:31:42 **1** Can you explain that to me?
 11:31:44 **2** BRYAN BROWN: I can give you my perception
 11:31:47 **3** of how it will work. I think it's certainly going to
 11:31:49 **4** depend on the administrative procedures that the
 11:31:51 **5** Commission staff adopts. I don't want to put any words
 11:31:54 **6** in their mouth as to what's going to happen. I would
 11:31:57 **7** imagine that we'd have a preset form that we would take
 11:31:59 **8** to the stewards. And it would indicate the race number,
 11:32:01 **9** the number of entrants in the race and would have some
 11:32:03 **10** signature line for them to sign to allow the tri and the
 11:32:08 **11** super, regardless of what the levels are. If there was
 11:32:13 **12** an administrative procedure set up that did not allow us
 11:32:16 **13** to go below certain levels, then we simply would not
 11:32:20 **14** include that particular race, if it didn't conform to
 11:32:24 **15** the administrative side of the rule.
 11:32:25 **16** But I would think we would have a form that
 11:32:27 **17** would be given to the stewards and they would sign off
 11:32:29 **18** on it after looking at the program itself and seeing if
 11:32:33 **19** there are any potential irregularities of that race,
 11:32:37 **20** whether it's by multiple entrants by a trainer or
 11:32:40 **21** something else.
 11:32:41 **22** So I think it could be a pretty easy, smooth
 11:32:44 **23** approval process. And I would imagine with additional
 11:32:48 **24** instructions by the staff, it could be really smooth.
 11:32:51 **25** Again, I'm pulling out the multiple entries by trainers,

11:32:55 **1** because that's the one, I think, very good valid point
 11:32:58 **2** that's come up in this. There could be two or three
 11:33:01 **3** others that we just know as tracks and could be listed
 11:33:04 **4** on this form I am talking about, that we know we are not
 11:33:07 **5** able to get the stewards to approve that particular
 11:33:10 **6** wager.
 11:33:10 **7** I don't know if that answers your question
 11:33:12 **8** or not.
 11:33:13 **9** CHAIR ROGERS: I'd like to weigh in just a
 11:33:15 **10** second.
 11:33:15 **11** I -- when I read your memo, I agree with
 11:33:18 **12** your thought process. And I agree with your thought
 11:33:21 **13** process. But I guess, I'm thinking -- I'm thinking that
 11:33:26 **14** this is not a bad rule. And here's the reason, I guess,
 11:33:29 **15** I would think that is that, one, it puts the power in
 11:33:32 **16** the hands of the stewards, who I've got good faith in.
 11:33:36 **17** Secondly, most of our conversations in all
 11:33:41 **18** our working groups are, what do we do with the
 11:33:45 **19** profitability of the tracks and horsemen? How do we
 11:33:48 **20** attract more horsemen? How do the tracks stay more
 11:33:52 **21** profitable? And how does this industry improve its
 11:33:56 **22** well-being.
 11:33:57 **23** And when I look at this and I see that 19
 11:34:00 **24** tracks have less than -- equal to or less than what our
 11:34:05 **25** current rule is, it doesn't seem to me that there's a

11:34:11 **1** lot of risk, like what Dr. Carter was talking about.
 11:34:14 **2** And it would appear to me that -- that this is pretty
 11:34:18 **3** much an economic issue.
 11:34:22 **4** And I want the integrity. I think that's
 11:34:25 **5** hugely important, just as Commissioner Rutherford is
 11:34:28 **6** saying. I think he's raising some very good points.
 11:34:31 **7** But I don't know that there's -- I don't know that
 11:34:34 **8** there's that much risk, particularly from an
 11:34:36 **9** administrative point of view. This doesn't allow just
 11:34:39 **10** to go on down. I mean, we could adjust those
 11:34:42 **11** administrative rules to the point that you're talking
 11:34:44 **12** about a little bit of glitch, which would still be --
 11:34:49 **13** you'd still have about 15 tracks that were better
 11:34:52 **14** than -- I mean, that had more -- a lot smaller fields
 11:34:56 **15** than what we would allow, if we allowed it to go down
 11:35:00 **16** one. So I don't know that we couldn't instruct the
 11:35:03 **17** staff to administratively look at this and get something
 11:35:08 **18** that we could -- that we could agree to that wouldn't
 11:35:13 **19** be -- that would be positive and still maintain the
 11:35:17 **20** integrity. So that's my nickel's worth.
 11:35:20 **21** ERNEST ANGELO: And the economic benefit to
 11:35:22 **22** the track appears to go down materially as the number of
 11:35:24 **23** horses is less. So setting at least some level with
 11:35:28 **24** that, that's, you know, in a safer range, seems to me to
 11:35:33 **25** make sense.

11:35:34 **1** CHAIR ROGERS: Well, and I guess I'm
 11:35:37 **2** probably equally concerned or more concerned with what
 11:35:39 **3** the purse structure is than what the benefit of the
 11:35:42 **4** horsemen than the benefit to the track. So it -- I
 11:35:46 **5** don't disagree with what you're saying. There should be
 11:35:48 **6** a minimum level of some kind. But what we're talking
 11:35:51 **7** about here is giving some discretion to the -- to the
 11:35:55 **8** stewards in kind of an one off situation. But still,
 11:36:01 **9** from an administrative point of view, some guidelines
 11:36:04 **10** could be put on the stewards to say, well, it's not
 11:36:07 **11** going to be six and seven. Maybe it's going to be five
 11:36:09 **12** and six or maybe it's going to be five and seven. I
 11:36:12 **13** mean, that number could be established.
 11:36:17 **14** JIMMY ARCHER: That's my question: Is this
 11:36:19 **15** rule discretionary?
 11:36:20 **16** CHAIR ROGERS: This rule is a discretionary
 11:36:23 **17** rule. It allows the stewards to do something at a less
 11:36:26 **18** level, at their discretion, than what our rules say.
 11:36:29 **19** Now, this could be amended to say, let them have some
 11:36:32 **20** discretion as to one horse down or two horses down or
 11:36:36 **21** whatever the Commission wanted to say. I mean, I think
 11:36:38 **22** some compromise in this might be worthwhile is what I'm
 11:36:42 **23** saying.
 11:36:44 **24** ERNEST ANGELO: So it would be appropriate
 11:36:47 **25** at least consider an amendment to this at this time or

11:36:50 **1** not?
 11:36:50 **2** CHAIR ROGERS: Yes. I don't think you'd
 11:36:52 **3** have to republish, because everybody is aware that there
 11:36:55 **4** is a rule going out there. I don't -- I don't believe
 11:37:00 **5** you have to republish. I think we could amend this. We
 11:37:03 **6** could accept it the way it is. We could give some
 11:37:07 **7** administrative guideline to the staff. We could just
 11:37:10 **8** change it to say that they have discretion to within one
 11:37:14 **9** horse or one horse in one, two in the other. However
 11:37:19 **10** you feel that might fit.
 11:37:21 **11** ERNEST ANGELO: I don't know how to word it
 11:37:24 **12** exactly from a legal and technical standpoint, but what
 11:37:25 **13** I'd like to do is move to amend it to require that the
 11:37:28 **14** minimum be five and six. I think that would be
 11:37:32 **15** necessary to do.
 11:37:32 **16** MARK FENNER: Yes, sir. I'm thinking that
 11:37:34 **17** in Section M -- new Section M, we would add a new
 11:37:38 **18** sentence that says -- right now it says, unless improved
 11:37:42 **19** by the board of stewards or judges. We would add: In
 11:37:46 **20** no event shall an association offer Trifecta wagering on
 11:37:51 **21** any race that has fewer than five.
 11:37:54 **22** CHAIR ROGERS: Wagering interest. Not
 11:37:57 **23** horses, but wagering interests.
 11:37:58 **24** MARK FENNER: Yes, sir.
 11:38:02 **25** CHARLES SOWELL: I'd move that amendment.

11:38:04 **1** CHAIR ROGERS: Commissioner Archer, you have
 11:38:06 **2** a comment?
 11:38:06 **3** JIMMY ARCHER: My question was: Now, are
 11:38:06 **4** you speaking for all the Class 1 tracks or are you just
 11:38:09 **5** speaking for Retama?
 11:38:11 **6** BRYAN BROWN: No, I do not. I think they
 11:38:13 **7** need to come up and --
 11:38:13 **8** JIMMY ARCHER: I would like to hear what the
 11:38:15 **9** other tracks have to say before we move forward on this.
 11:38:19 **10** And the Horsemen's groups, too. I think it is -- you
 11:38:19 **11** know everybody is effected here.
 11:38:19 **12** CHAIR ROGERS: Let's get everybody in this.
 11:38:21 **13** BRYAN BROWN: I would say no matter what --
 11:38:24 **14** CHAIR ROGERS: I think that's a good idea.
 11:38:25 **15** Mr. Bork, would you like to add something
 11:38:25 **16** here?
 11:38:27 **17** MIKE RUTHERFORD: Mr. Ferrara.
 11:38:27 **18** CHAIR ROGERS: Yeah.
 11:38:28 **19** MR. BORK: I don't agree with anything he
 11:38:30 **20** says.
 11:38:30 **21** MIKE RUTHERFORD: Before everybody starts --
 11:38:33 **22** MR. BORK: Sam Houston.
 11:38:34 **23** MIKE RUTHERFORD: Excuse me, Mr. Bork.
 11:38:35 **24** Before you start. Perception. And if you say, what are
 11:38:39 **25** my chances and what are my odds of having something bad?

11:38:43 **1** It's kind of like when you're in good shape. Health is
 11:38:47 **2** about one percent of your life and the rest is other
 11:38:51 **3** things. And when you get sick then health is 100
 11:38:55 **4** percent. So the problem with -- that's my problem with
 11:38:57 **5** having a scandal at Texas, especially at a period of
 11:39:01 **6** time where our racing is struggling.
 11:39:04 **7** CHAIR ROGERS: Mr. Bork.
 11:39:06 **8** MR. BORK: Sam Houston agrees with Retama's
 11:39:08 **9** proposal and with the agreement to limit it to five and
 11:39:13 **10** six horse, five for tri and six for the Superfecta.
 11:39:17 **11** That's fine with us.
 11:39:18 **12** Hopefully, we don't get too many races put
 11:39:22 **13** on five horses anyway. I hope never. But everything
 11:39:27 **14** else Bryan said is very much in agreement with me.
 11:39:32 **15** CHAIR ROGERS: Thank you.
 11:39:35 **16** Someone from Lone Star? Anybody here from
 11:39:40 **17** Lone Star? Is anybody here from Lone Star?
 11:39:46 **18** MIKE RUTHERFORD: They must have left.
 11:39:52 **19** PAULA NEWMAN: Paula Newman representing
 11:39:52 **20** Lone Star Park today. And Lone Star Park would be in
 11:39:55 **21** agreement with Bryan Brown and Bob Bork.
 11:39:57 **22** CHAIR ROGERS: We will need to get a card
 11:39:59 **23** from anybody who steps up here, please.
 11:40:05 **24** PAULA NEWMAN: That's all.
 11:40:05 **25** CHAIR ROGERS: Could we hear from someone in

11:40:07 **1** the horsemen's partnership? Anyone here that wants to
 11:40:12 **2** represent them today or anyone else that would like to
 11:40:26 **3** address this subject, since we're figuring out who
 11:40:31 **4** speaks for the partnership.
 11:40:34 **5** ROB WERSTLER: Good morning, Commissioners.
 11:40:36 **6** Rob Werstler, representing myself and not
 11:40:39 **7** the Texas Quarter Horse Association. But working as a
 11:40:43 **8** racing official before, one problem that has been
 11:40:47 **9** mentioned is, sometimes, when you fall below the
 11:40:51 **10** required amount of horses, it's in the starting gate.
 11:40:54 **11** So you've accepted Trifecta, Superfecta wagers all the
 11:40:59 **12** way up to these horses getting piled into the starting
 11:41:05 **13** gate. And a horse slips, horse gets scratched behind
 11:41:08 **14** the gate. And now you have to get all the horses out of
 11:41:12 **15** there. You have to reimburse all the money, give them
 11:41:16 **16** another 10 minutes of the horses walking around the
 11:41:20 **17** racetrack, so those people can make other wagers. So I
 11:41:24 **18** think it would be very helpful for the stewards to be
 11:41:28 **19** able to look at their program and say, you know, they're
 11:41:34 **20** already in the starting gate. Let's not back them all
 11:41:38 **21** out and refund the money and have to go through this
 11:41:42 **22** wagering process again.
 11:41:43 **23** So if it went from like a seven-horse field,
 11:41:45 **24** a horse slips, it's a six-horse field, it would be a lot
 11:41:49 **25** easier for the stewards to have a discretionary power to

11:41:53 **1** say, we're going to keep the Trifecta. It's really
 11:41:56 **2** helpful for the simulcasting customers as well.
 11:42:00 **3** CHARLES SOWELL: Rob, would you say the same
 11:42:02 **4** thing if you limited it to only emergency situations
 11:42:05 **5** where a horse was scratched on the track?
 11:42:09 **6** MR. WERSTLER: I don't understand the
 11:42:11 **7** question.
 11:42:11 **8** CHARLES SOWELL: Well, you mentioned that --
 11:42:12 **9** that was your example of how something could happen that
 11:42:15 **10** would pretty well throw a money wrench in the works.
 11:42:19 **11** What I'm suggesting is that, is it possible to limit
 11:42:22 **12** that discretion to only on-track emergencies by the
 11:42:26 **13** stewards?
 11:42:28 **14** MR. WERSTLER: You mean, so you couldn't
 11:42:30 **15** card a six-horse field and have it listed with a
 11:42:34 **16** Trifecta or card a seven-horse field and have it listed
 11:42:37 **17** as a Superfecta. It would have to be carded eight
 11:42:40 **18** horses --
 11:42:41 **19** CHARLES SOWELL: No. I was talking about
 11:42:42 **20** the situation where everything was cool until you
 11:42:45 **21** reached the point of being on the track and then a horse
 11:42:49 **22** flips out and you don't have enough horses and it's down
 11:42:53 **23** to that bare minimum that you have. What would you do
 11:42:55 **24** with that situation?
 11:42:57 **25** ROB WERSTLER: Limiting their discretionary

11:42:59 **1** powers to today?
 11:42:59 **2** CHARLES SOWELL: Right.
 11:42:59 **3** ROB WERSTLER: I don't know. I'm probably
 11:43:01 **4** not the one to address that. The point I was trying to
 11:43:04 **5** make was, that -- that's another problem is when those
 11:43:07 **6** horses do flip in the gate or get scratched when they're
 11:43:12 **7** warming up. It's a big problem for management to have
 11:43:14 **8** to refund that money and keep the horses walking around
 11:43:19 **9** behind the starting gate which, chances are, something's
 11:43:22 **10** going to happen to one of them again and we have another
 11:43:25 **11** scratch. That would be for this board to decide.
 11:43:28 **12** CHAIR ROGERS: Thank you. Mr. Ferrara,
 11:43:30 **13** would you --
 11:43:31 **14** MR. BORK: Can I add something to his
 11:43:34 **15** comments?
 11:43:34 **16** CHAIR ROGERS: Yes, Mr. Bork.
 11:43:35 **17** MR. BORK: Actually, the old rule made it up
 11:43:40 **18** to the point where the horses leave the paddock. Once
 11:43:43 **19** they left the paddock and went out to the track and fell
 11:43:47 **20** below the old limits, it was still in effect. If they
 11:43:54 **21** were on the track, like Bob said, and the horse flipped
 11:43:57 **22** in the gate and had to be scratched, we did not have to
 11:44:01 **23** refund Trifecta or Superfecta wagering. That would be a
 11:44:06 **24** monster.
 11:44:06 **25** CHAIR ROGERS: So if it's carded with enough

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11:44:08 **1** horses, it runs?

11:44:09 **2** MIKE RUTHERFORD: You do all Pick 6 and

11:44:12 **3** Pick 4, though. I saw them on TV doing that the other

11:44:15 **4** day.

11:44:15 **5** MR. BORK: Those we do, yeah. But on

11:44:18 **6** Superfectas and Trifectas, once the horses leave the

11:44:22 **7** paddock, it's okay. Sort of worked out the same way

11:44:28 **8** again, too.

11:44:28 **9** CHAIR ROGERS: Thank you. Mr. Ferrara.

11:44:36 **10** JOHN FERRARA: Good morning, Commissioners.

11:44:42 **11** I understand the points that Mr. Rutherford

11:44:46 **12** is bringing out. I can't argue those points. But I

11:44:50 **13** just want to express to the Commissioners that I have

11:44:56 **14** faith and confidence in the Board of Stewards that are

11:44:59 **15** working here in Texas, that they have the experience and

11:45:01 **16** the expertise to read a film and to regulate and protect

11:45:07 **17** the integrity of racing, whether it's a nine-horse

11:45:11 **18** field, eight, seven, six or five.

11:45:17 **19** Any questions?

11:45:23 **20** CHAIR ROGERS: Okay. Thank you.

11:45:32 **21** ERNEST ANGELO: Before we state my proposal

11:45:36 **22** amendment, I'd like to have Commissioner Rutherford if

11:45:39 **23** he thinks it would help matters to do that. If not, I

11:45:42 **24** won't make a motion.

11:45:43 **25** MIKE RUTHERFORD: Well, I think it would

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11:45:44 **1** improve it. I think it would help it.

11:45:46 **2** CHAIR ROGERS: To limit it to -- to limit it

11:45:49 **3** to one horse down?

11:45:50 **4** MIKE RUTHERFORD: Yes.

11:45:51 **5** ERNEST ANGELO: In that case, I'll make the

11:45:54 **6** motion to amend as --

11:45:56 **7** MARK FENNER: I do have a question, however.

11:45:58 **8** CHAIR ROGERS: Okay.

11:45:59 **9** MARK FENNER: What is you-all's desire,

11:46:01 **10** should -- should they approve them to run with, let's

11:46:04 **11** say, five horses in a Trifecta? But then as we

11:46:09 **12** discussed, one of those five, then, has a problem and

11:46:12 **13** does not start, do you want the wager to be

11:46:17 **14** automatically canceled or should the stewards have

11:46:20 **15** discretion at that point?

11:46:21 **16** CHAIR ROGERS: I think you -- we might ought

11:46:24 **17** to get Mr. Ferrara back up here a second, because I'm

11:46:27 **18** not sure how the technicality of that works. I mean,

11:46:30 **19** how the logistics work.

11:46:32 **20** JOHN FERRARA: What is the question again?

11:46:34 **21** MARK FENNER: Well, if the stewards approve

11:46:37 **22** a Trifecta with only five horses, but then only four

11:46:42 **23** horses, for whatever reason, actually run the race, the

11:46:47 **24** question is whether or not the stewards should have the

11:46:51 **25** discretion or should the rules require the transaction

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11:46:55 **1** or the wager to be canceled?

11:46:58 **2** JOHN FERRARA: I thought originally the

11:46:59 **3** amendment was going to specify the actual number.

11:47:04 **4** CHAIR ROGERS: Well, it -- but the old rule,

11:47:07 **5** according to Mr. Bork, says that that actual number is

11:47:12 **6** six and seven. But that's the number leaving the

11:47:15 **7** paddock. Is that -- are we changing the rule to be --

11:47:19 **8** if we're amending it, we're amending it to five and six,

11:47:24 **9** leaving the -- or leaving the paddock or is it actually

11:47:28 **10** starting the race?

11:47:30 **11** JOHN FERRARA: To be honest with you, I like

11:47:32 **12** it actually starting the race, because I can see a

11:47:35 **13** possibility of a real good stake race at Lone Star Park

11:47:38 **14** with four. And I see nothing wrong with Trifecta

11:47:42 **15** wagering on four. A good four-horse field. So again, I

11:47:46 **16** would like to leave it up to the discretion of the

11:47:49 **17** stewards.

11:47:51 **18** CHAIR ROGERS: Okay. We have --

11:47:54 **19** JOHN FERRARA: In other words, allow it to

11:47:57 **20** go lower after it's approved by the board stewards.

11:48:02 **21** CHAIR ROGERS: In other words, this is the

11:48:04 **22** Board of Stewards -- you're recommending that the Board

11:48:07 **23** of Stewards recommend based on the number of horses

11:48:09 **24** leaving the paddock?

11:48:12 **25** JOHN FERRARA: Yes.

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11:48:18 **1** CHAIR ROGERS: Okay. It's a good question.

11:48:21 **2** JOHN FERRARA: Because anything could happen

11:48:22 **3** on the racetrack. You know, you could lose a horse, you

11:48:25 **4** could lose two. So then it would have to go back to the

11:48:30 **5** Board of Stewards. And I would assume, in most cases,

11:48:33 **6** the money is going to be refunded.

11:48:37 **7** MARK FENNER: Let me make sure that I

11:48:39 **8** understand.

11:48:39 **9** CHAIR ROGERS: I don't understand so --

11:48:42 **10** JOHN FERRARA: I think --

11:48:43 **11** CHAIR ROGERS: I don't understand either.

11:48:43 **12** MARK FENNER: You don't understand.

11:48:45 **13** JOHN FERRARA: Think we're putting too much

11:48:47 **14** into the rule as far as safeguards.

11:48:51 **15** TREVA BOYD: Chairman.

11:48:52 **16** CHAIR ROGERS: Commissioner Boyd.

11:48:53 **17** TREVA BOYD: So you're wanting to leave,

11:48:58 **18** again, with no bottom level. If you're wanting to leave

11:49:02 **19** the freedom to the stewards totally?

11:49:07 **20** JOHN FERRARA: Originally --

11:49:08 **21** TREVA BOYD: So that if something happens at

11:49:10 **22** the gate, then the stewards can make that decision.

11:49:13 **23** JOHN FERRARA: Originally, that's the way I

11:49:14 **24** felt. Like I said, like the instance I talked about at

11:49:18 **25** Lone Star Park. It doesn't have to be that way.

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11:49:20 **1** TREVA BOYD: Because we're not in control as
 11:49:22 **2** to what and when it happens. They could leave the
 11:49:25 **3** paddock with a certain number, something could happen at
 11:49:28 **4** the gate, and then you're left with that unknown
 11:49:31 **5** again -- or the decision again. So what you're
 11:49:34 **6** suggesting, John, is that we don't put a bottom
 11:49:39 **7** restriction on the number. That we leave the choice --
 11:49:43 **8** or decision up to the stewards totally.
 11:49:47 **9** JOHN FERRARA: Again, that's the way I
 11:49:49 **10** originally intended and originally thought the rule
 11:49:55 **11** should be, because there are circumstances where a
 11:50:00 **12** four-horse Trifecta may be to the best interest of the
 11:50:05 **13** association.
 11:50:10 **14** TREVA BOYD: Thank you.
 11:50:12 **15** JOHN FERRARA: Is that it?
 11:50:13 **16** KENT CARTER: I don't know if I'm reading
 11:50:16 **17** this right. But I think this is how I'm reading it. I
 11:50:21 **18** kind of doubt that an open-ended rule will make it past
 11:50:25 **19** everybody here. And so would a five and six be an
 11:50:30 **20** improvement for you-all versus a six and seven?
 11:50:34 **21** JOHN FERRARA: On the first part,
 11:50:36 **22** Dr. Carter, you're probably correct. An open-ended rule
 11:50:39 **23** will not happen. But five and six would be fine. And I
 11:50:43 **24** think Mr. Bork and Mr. Brown already stated that they
 11:50:47 **25** would be okay with five and six.

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11:50:50 **1** KENT CARTER: That was my reading. I think,
 11:50:52 **2** if I'm trying to -- you were trying to get some
 11:50:55 **3** clarification on five and six at what point. Five and
 11:50:59 **4** six at the gate or five and six at the paddock, so we
 11:51:03 **5** can make the best rule that's easiest for you-all to
 11:51:06 **6** work with.
 11:51:09 **7** JOHN FERRARA: I'd say starters. Six
 11:51:14 **8** starters, five starters.
 11:51:19 **9** MIKE RUTHERFORD: Five and six starting.
 11:51:23 **10** JOHN FERRARA: Yes. Leaving the gate as an
 11:51:25 **11** official starter.
 11:51:26 **12** CHAIR ROGERS: Mr. Jackson, do you have a
 11:51:28 **13** comment?
 11:51:28 **14** SAMMY JACKSON: Yes, Mr. Chairman. The
 11:51:30 **15** current rules that are on the books, once the horses
 11:51:33 **16** leave the paddock, it can go down to three. It allows
 11:51:36 **17** that right now.
 11:51:37 **18** The current rule that's proposed to you to
 11:51:41 **19** be amended. I think what we're trying to do is
 11:51:44 **20** stipulate where the racetracks initially bring the
 11:51:47 **21** request to offer this pool with the programs being made.
 11:51:50 **22** You're trying to cap it at that point to what stewards
 11:51:54 **23** can do, which would be to go down just one, which is
 11:51:57 **24** what I got with Mark -- Commissioner Rutherford's
 11:52:00 **25** discussions.

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11:52:01 **1** The Section N in this current rule talks
 11:52:03 **2** about the situation that Mr. Rut -- Mr. Brown and
 11:52:07 **3** Mr. Bork brought up. It says, in the event scratches
 11:52:10 **4** cause the number of different wagering interests to fall
 11:52:13 **5** below six or below an amount previously approved by the
 11:52:17 **6** Board of Stewards or judges, the Board of Stewards or
 11:52:20 **7** judges may order the wagers to be canceled and the pool
 11:52:23 **8** to be refunded as deemed in the interest of wagering
 11:52:26 **9** integrity.
 11:52:27 **10** That only allows them to cancel the wager.
 11:52:30 **11** So this -- by how the nature of this rule is crafted, it
 11:52:35 **12** would only have been already on the program and
 11:52:37 **13** approved. So you're only dealing with it after the fact
 11:52:40 **14** when there has been a cancel, you know, a scratch in the
 11:52:43 **15** runners.
 11:52:43 **16** So by limiting their authority to just go
 11:52:47 **17** one and N, you automatically get the benefit of this on
 11:52:51 **18** the back end with the scratches.
 11:52:54 **19** What you would need to do or decide is, if
 11:52:56 **20** you want to give them the same ability that we have at
 11:52:59 **21** the tracks right now, which is, once the horses have
 11:53:02 **22** left that paddock, they're on the track and a scratch
 11:53:05 **23** occurs, if you think that, in that nature of time still
 11:53:09 **24** causes the possibility of the fixing of a race.
 11:53:14 **25** In previous history with this rule -- I'm

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11:53:18 **1** the one who kind of crafted all this many, many years
 11:53:22 **2** ago. The discussion was by DPS who participated on this
 11:53:26 **3** many years ago, all the racetrack mutual managers, the
 11:53:29 **4** racetracks themselves, is that once a horse has left the
 11:53:31 **5** paddock there pretty much wasn't enough time to talk
 11:53:35 **6** about fixing a race for collusionary purposes. I see
 11:53:39 **7** Commissioner Rutherford shaking his head.
 11:53:42 **8** MIKE RUTHERFORD: No, I agree with you.
 11:53:44 **9** SAMMY JACKSON: Everybody is still onboard
 11:53:45 **10** with that principle. So I believe based on
 11:53:47 **11** Mr. Ferrara's recommendation of limiting the steward's
 11:53:51 **12** ability to, on the front end, only approve one drop --
 11:53:52 **13** drop one in Section M. You get the benefit of it in the
 11:53:55 **14** back end if there's a scratch.
 11:53:57 **15** I don't know if that helps, but I believe it
 11:54:01 **16** works.
 11:54:02 **17** CHAIR ROGERS: Okay.
 11:54:04 **18** KENT CARTER: I'll go for that.
 11:54:10 **19** MIKE RUTHERFORD: Would you explain it again
 11:54:12 **20** to me, Doctor?
 11:54:13 **21** CHAIR ROGERS: I'm anxious to hear this
 11:54:15 **22** motion, so --
 11:54:20 **23** MARK FENNER: Let me ask a question, then.
 11:54:22 **24** SAMMY JACKSON: Sure.
 11:54:23 **25** MARK FENNER: If the stewards approve, in

11:54:25 **1** the case of a Trifecta, a running with five, five
 11:54:29 **2** betting interests, and then a scratch causes it to drop
 11:54:33 **3** to four, what we would have under -- what you see
 11:54:37 **4** happening here is that --
 11:54:39 **5** MIKE RUTHERFORD: Is this scratch before or
 11:54:41 **6** after?
 11:54:42 **7** CHAIR ROGERS: No, after leaving.
 11:54:44 **8** CHARLES SOWELL: After leaving the paddock.
 11:54:46 **9** MARK FENNER: Okay. After leaving the
 11:54:48 **10** paddock, there's a scratch. Do they have the discretion
 11:54:50 **11** to allow it to go -- proceed with the Trifecta wagering.
 11:54:54 **12** SAMMY JACKSON: Yes, because what happens
 11:54:56 **13** is, it says, this is what would happen in this scenario.
 11:54:59 **14** If, in the event a scratch causes the number of
 11:55:02 **15** different wagerings to fall below six or below an amount
 11:55:05 **16** previously approved by the Board of Stewards or Judges,
 11:55:08 **17** the Board of Stewards or Judges may order the wager to
 11:55:11 **18** be canceled and the pool to be refunded, if deemed in
 11:55:15 **19** the interest of wagering.
 11:55:15 **20** MARK FENNER: Okay. I want to make sure.
 11:55:17 **21** CHAIR ROGERS: Basically puts it in the
 11:55:18 **22** hands of the stewards other than the fact that we're
 11:55:22 **23** limiting their ability to initially go down by one.
 11:55:26 **24** CHARLES SOWELL: Mr. Chairman, I think Sammy
 11:55:28 **25** makes a very good point, that it takes a little while,

11:55:34 **1** theoretically, to plan a manipulation of a race. If
 11:55:40 **2** something happens between the paddock and the start of
 11:55:43 **3** the race, pretty -- pretty unlikely that anything is
 11:55:46 **4** going to happen in that situation. So the discretion to
 11:55:49 **5** take it on down would seem to me to be sensible in light
 11:55:53 **6** of the fact that you probably have already cured the
 11:55:56 **7** problem that Mike is concerned about anyway. It's the
 11:56:00 **8** prerace planning that --
 11:56:03 **9** KENT CARTER: That's what I'm concerned
 11:56:05 **10** about.
 11:56:06 **11** CHARLES SOWELL: -- leads to the conspiracy
 11:56:08 **12** that fixes the race. It's not likely that it's going to
 11:56:11 **13** happen between the time they leave the paddock and the
 11:56:13 **14** time they get to starting gate.
 11:56:16 **15** MIKE RUTHERFORD: I've never had a jockey
 11:56:17 **16** that can think that fast.
 11:56:19 **17** CHAIR ROGERS: We're picking on the jockeys
 11:56:21 **18** again.
 11:56:22 **19** So do we have a motion out of that?
 11:56:25 **20** MARK FENNER: Right here. Let me make
 11:56:28 **21** sure -- I think what Mr. Angelo is moving is to change
 11:56:32 **22** Section M where it now -- let me read the last half of
 11:56:35 **23** that first sentence, unless approved by the Board of
 11:56:39 **24** Stewards or Judges, period. And then we'll add a new
 11:56:43 **25** sentence. An association shall not offer Trifecta

11:56:46 **1** wagering on any race that has fewer than five wagering
 11:56:51 **2** interests. And in the case of Superfecta, we would make
 11:56:53 **3** the same amendment with the exception that we would
 11:56:57 **4** supplement six wager interests, instead of five.
 11:57:00 **5** ERNEST ANGELO: That's my motion.
 11:57:02 **6** CHAIR ROGERS: Okay. So that's the motion
 11:57:03 **7** made by Commissioner Angelo. Do you have that down
 11:57:06 **8** exactly that way?
 11:57:08 **9** Okay. Is there a second?
 11:57:10 **10** CHARLES SOWELL: I'll second.
 11:57:11 **11** CHAIR ROGERS: And seconded by
 11:57:12 **12** Commissioner Sowell.
 11:57:14 **13** Any discussion?
 11:57:15 **14** Yeah, Sammy.
 11:57:16 **15** SAMMY JACKSON: Would you mind repeating
 11:57:17 **16** that one time for me?
 11:57:19 **17** MARK FENNER: Sure. We're going to add a
 11:57:21 **18** new sentence at the conclusion of new M that says, "An
 11:57:24 **19** association shall not offer Trifecta wagering on any
 11:57:28 **20** race that has fewer than five wagering interests."
 11:57:39 **21** CHAIR ROGERS: Is that pretty ambiguous with
 11:57:41 **22** the other part?
 11:57:42 **23** SAMMY JACKSON: Yes. I'm going to ask a
 11:57:46 **24** question real quick and turn to somebody. Where are you
 11:57:49 **25** at? Carding work in that scenario.

11:58:01 **1** CHAIR ROGERS: Yes, Sammy.
 11:58:05 **2** SAMMY JACKSON: Mark, I would really suggest
 11:58:07 **3** we use the word "card."
 11:58:09 **4** MARK FENNER: Card?
 11:58:09 **5** SAMMY JACKSON: The reason is why is that in
 11:58:12 **6** that section where they have to go to the stewards to
 11:58:13 **7** seek approval, we're now setting it at a higher number
 11:58:16 **8** and now we're going to want to drop it one. And the
 11:58:19 **9** whole scenario in this whole action is that's when
 11:58:23 **10** they're determining what they're putting on the race
 11:58:24 **11** card to offer to the public. To say that they cannot
 11:58:27 **12** card means they can't put in the program. If it's not
 11:58:30 **13** on the program, then they can't offer it.
 11:58:32 **14** MARK FENNER: Should we make the same
 11:58:34 **15** amendment then on -- where it uses the word "race" in
 11:58:38 **16** the body of the proposal?
 11:58:40 **17** No. Okay.
 11:58:40 **18** SAMMY JACKSON: This will work to get what
 11:58:43 **19** the Commission wants done.
 11:58:44 **20** MARK FENNER: Let me make sure I understand
 11:58:46 **21** your recommendation, then. An association shall not
 11:58:48 **22** offer Trifecta wagering on any card that has fewer than
 11:58:52 **23** five wagering interests.
 11:58:53 **24** SAMMY JACKSON: No, it's on any race.
 11:58:56 **25** MARK FENNER: Then where do you want the

11:58:58 **1** word "card"?

11:58:58 **2** SAMMY JACKSON: At the end of the sentence.

11:59:00 **3** The sentence that you're trying to add. Read that back

11:59:03 **4** to me.

11:59:03 **5** MARK FENNER: Association cannot add

11:59:05 **6** Trifecta wagering on fewer than five wagering interests.

11:59:10 **7** SAMMY JACKSON: Association shall not card

11:59:12 **8** any race -- association shall not request to card a

11:59:22 **9** race. That's the best way to put it. That means they

11:59:25 **10** cannot request it.

11:59:27 **11** MARK FENNER: An association shall not

11:59:29 **12** request.

11:59:30 **13** SAMMY JACKSON: To card.

11:59:31 **14** MARK FENNER: To card.

11:59:33 **15** SAMMY JACKSON: A race with fewer than, in

11:59:35 **16** that scenario, it would be five then. Kind of writing

11:59:43 **17** on the fly today.

11:59:44 **18** CHAIR ROGERS: I don't know if this is the

11:59:46 **19** fly or not. But if you pass this the way it is and you

11:59:49 **20** set an administrative rule that clarifies this and you

11:59:54 **21** have clear direction to set that administrative rule,

11:59:56 **22** would that be the same thing as trying to rewrite --

11:59:59 **23** ERNEST ANGELO: That's what the intent is.

12:00:00 **24** CHAIR ROGERS: Wouldn't we be better off

12:00:02 **25** taking the time to actually do it the way it ought to be

12:00:04 **1** done in the paddock. I mean, this gives stewards the

12:00:06 **2** discretion to do it less. And then we clearly direct

12:00:09 **3** the staff to set an administrative policy that meets

12:00:12 **4** what we're talking about, which is, that it can only go

12:00:15 **5** down by one, however that needs to be done. Because it

12:00:18 **6** may affect one section or another. Would that not be a

12:00:22 **7** cleaner way to do this?

12:00:23 **8** CHARLA ANN KING: We could do that.

12:00:24 **9** MARK FENNER: We could actually do that.

12:00:26 **10** ERNEST ANGELO: Leave it in or --

12:00:28 **11** CHAIR ROGERS: In that case, if that were

12:00:31 **12** acceptable, we would withdraw that amendment. We'd just

12:00:34 **13** withdraw it and we would approve this the way it is,

12:00:37 **14** which gives the stewards discretion with the -- with a

12:00:40 **15** clear instruction that we would have an administrative

12:00:43 **16** rule that says -- not in our rulemaking, but

12:00:48 **17** administrative policy that says, it isn't going down but

12:00:52 **18** one.

12:00:52 **19** ERNEST ANGELO: It seems like it ought to be

12:00:55 **20** in the rule, but maybe I'm wrong.

12:00:57 **21** CHAIR ROGERS: Well, my concern on the rule

12:00:58 **22** is just that -- I'm on the same page you are on the

12:01:00 **23** rule. My concern is that we've got one section that

12:01:02 **24** says one thing, there's another section that says

12:01:06 **25** another. And we may wind up creating more -- I'm not

12:01:07 **1** sure that we get the amendment and get it clarified here

12:01:10 **2** without any of us actually having the rule in front of

12:01:13 **3** us, other than knowing Sammy. And I'm very thankful

12:01:18 **4** you're here, but --

12:01:18 **5** SAMMY JACKSON: I know you-all are probably

12:01:20 **6** going to in go into executive session later this

12:01:23 **7** morning. You might want to table it now until you're in

12:01:26 **8** executive session and come up with something --

12:01:28 **9** CHAIR ROGERS: To present back. That would

12:01:30 **10** be fine.

12:01:31 **11** ERNEST ANGELO: That's a good idea.

12:01:32 **12** CHAIR ROGERS: Would you withdraw your

12:01:34 **13** amendment?

12:01:34 **14** ERNEST ANGELO: That's fine.

12:01:35 **15** CHAIR ROGERS: Withdraw a second?

12:01:37 **16** CHARLES SOWELL: Yes.

12:01:38 **17** PROCEEDINGS ON RACETRACKS

12:01:38 **18** CHAIR ROGERS: Okay. We'll table this for a

12:01:41 **19** moment.

12:01:41 **20** Okay. Proceedings on racetracks.

12:01:43 **21** Consideration and possible action on the following

12:01:45 **22** matters. We have a request by Magna Entertainment

12:01:51 **23** Corporation for approval and a change of management in

12:01:54 **24** the board of directors.

12:01:55 **25** And Mr. Neely.

1 A. Request by Magna Entertainment Corp for Approval

12:01:57 **2** of a Change in Management and Board of Directors.

12:01:57 **3** TOM NEELY: Commissioners, we had a request

12:01:59 **4** from Magna Entertainment Corporation, Texas Racing, to

12:02:04 **5** change their chief executive officer and chairman to

12:02:08 **6** Mr. Don Amos. The procedures were followed. Department

12:02:14 **7** of Public Safety did conduct a background investigation

12:02:16 **8** on Mr. Amos. And they reported to us that they did not

12:02:22 **9** find anything that would be detrimental to the public

12:02:24 **10** interest or the racing industry. So at this time, we

12:02:26 **11** would recommend approval of Mr. Amos.

12:02:28 **12** CHAIR ROGERS: Accept a motion in that

12:02:30 **13** effect.

12:02:30 **14** CHARLES SOWELL: So moved.

12:02:31 **15** CHAIR ROGERS: Motion made by

12:02:35 **16** Commissioner Sowell.

17 LOUIS STURNS: Seconded.

12:02:37 **18** CHAIR ROGERS: Seconded by

12:02:38 **19** Commissioner Sturns.

12:02:40 **20** All in favor.

21 BOARD MEMBERS: Aye.

22 CHAIR ROGERS: Motion passes.

12:02:41 **23** At this point, we will -- we might as well

12:02:46 **24** do that.

12:02:49 **25** We will -- okay. Adoption of rule amendment

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12:02:59	1	303.93, quarter horse rules.
12:03:04	2	Mr. Fenner.
	3	B. Adoption of Rule Amendments to §303.93, Quarter
12:03:05	4	Horse Rules.
12:03:05	5	MARK FENNER: This is another rule that
12:03:08	6	you-all voted to publish. And it has been published in
12:03:12	7	the Texas Register. It's been out there for the 30 days
12:03:16	8	required. And it's now up for adoption.
12:03:18	9	This is pretty much a technical cleanup to
12:03:21	10	bring the rule into the same format or requirement that
12:03:27	11	is actually being practiced by the Texas Quarter Horse
12:03:31	12	Association. What it does is change the deadline for
12:03:33	13	filing of the application for accreditation to
12:03:37	14	April 15th without having to pay a late fee. It's now
12:03:44	15	ready for adoption, if you-all so choose.
12:03:47	16	CHAIR ROGERS: Okay. Mr. Werstler, did you
12:03:51	17	want to address this?
12:03:59	18	ROB WERSTLER: Good morning, again, or
12:04:00	19	almost afternoon.
12:04:01	20	This time I am representing Texas Quarter
12:04:04	21	Horse Association. I'm just here to entertain any
12:04:06	22	questions you might have on the rule adoption.
12:04:08	23	CHAIR ROGERS: Any questions?
12:04:11	24	Thank you.
12:04:12	25	Accept a motion to adopt.

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12:04:16	1	TREVA BOYD: So move.
12:04:17	2	CHAIR ROGERS: Moved my Commissioner Boyd.
12:04:20	3	JIMMY ARCHER: Second.
12:04:20	4	CHAIR ROGERS: Seconded by
12:04:22	5	Commissioner Archer.
12:04:23	6	All in favor say aye.
12:04:24	7	BOARD MEMBERS: Aye.
12:04:25	8	CHAIR ROGERS: Motion passes.
	9	C. Request by Gulf Greyhound Park for Approval of
	10	Totalisator Contract with United Tote for Gulf
	11	Greyhound Park and Gillespie County Fair and
	12	Festivals Association.
12:04:26	13	CHAIR ROGERS: Under the Texas Racing Act,
12:04:28	14	Article 179(e), Section 6.03 of the Texas Vernon Civil
12:04:34	15	Statutes, Commission may open executive session to
12:04:37	16	review a totalisator contract in order to have a
12:04:41	17	discussion of and any questions regarding the
12:04:44	18	totalisator contract, the Commission must go in
12:04:48	19	executive session. I would accept a motion to go into
12:04:51	20	executive session.
12:04:53	21	CHARLES SOWELL: So move.
12:04:55	22	ERNEST ANGELO: Second.
12:04:56	23	CHAIR ROGERS: We're not dismissing, we're
12:04:59	24	just going into executive session.
12:05:00	25	Motion to go into executive session to

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12:05:03	1	review agenda Items B through C totalisator contract
12:05:06	2	pursuant to Texas Racing Act Article 179(e), 6.03.
12:05:11	3	I would accept that motion.
12:05:11	4	CHARLES SOWELL: So move.
12:05:12	5	CHAIR ROGERS: So move for
12:05:14	6	Commissioner Sowell.
12:05:15	7	Seconded by Commissioner Angelo.
12:05:18	8	We are in -- all in favor.
12:05:20	9	BOARD MEMBERS: Aye.
12:05:21	10	CHAIR ROGERS: We are in executive session
12:05:23	11	at 12:02.
12:05:26	12	EXECUTIVE SESSION
12:14:00	13	(Meeting reconvened at 12:13p.)
12:16:47	14	CHAIR ROGERS: Okay. We will call the
12:16:48	15	meeting back to order after executive session. We are
12:16:51	16	coming back at 12:15 and would accept a motion to
12:16:58	17	approve the totalisator contract between Manor Downs and
12:17:03	18	United Tote.
12:17:05	19	LOUIS STURNS: So moved.
12:17:07	20	CHARLES SOWELL: Second.
12:17:08	21	CHAIR ROGERS: Motion made my
12:17:09	22	Commissioner Sturns and seconded by Commissioner Sowell.
12:17:13	23	All in favor.
12:17:13	24	BOARD MEMBERS: Aye.
12:17:14	25	CHAIR ROGERS: Motion carries. Would accept

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12:17:16	1	a motion to approve the totalisator between Gulf
12:17:18	2	Greyhound Park and United Tote for the Gulf Greyhound
12:17:21	3	Park and Gillespie County Fair and Festival Association.
12:17:26	4	TREVA BOYD: So move.
12:17:27	5	CHAIR ROGERS: Moved by Commissioner Boyd.
12:17:27	6	COMMISSIONER SOWELL: Second.
12:17:28	7	CHAIR ROGERS: Seconded by
12:17:31	8	Commissioner Sowell.
12:17:32	9	All in favor.
12:17:33	10	BOARD MEMBERS: Aye.
12:17:34	11	CHAIR ROGERS: Motion passes.
12:17:35	12	We will go back to the discussion on
12:17:41	13	adoption of rule amendments 321.310 and 321.314 Trifecta
12:17:51	14	and Superfecta.
12:17:53	15	Mark, do you have something for us?
12:17:54	16	MARK FENNER: Yes, sir. I believe that the
12:17:56	17	motion would look like this: I'm just going to read all
12:18:00	18	of M. "An association shall not offer Trifecta wagering
12:18:05	19	on any race placed on the official program that does not
12:18:08	20	have six or more different wagering interests, unless
12:18:11	21	approved by the Board of Stewards or Judges. The Board
12:18:15	22	of Stewards or Judges may not approve a Trifecta wager
12:18:19	23	on a race with fewer than five wagering interests."
12:18:22	24	And then an amendment to N, we'll do an
12:18:26	25	insert. "In the event scratches after the animals leave

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12:18:30	1	the paddock cause the number of different wagering
12:18:33	2	interest to fall below six or below an amount previously
12:18:37	3	approved by the Board of Stewards or judges, the Board
12:18:40	4	of Stewards or judges may order the wager be canceled
12:18:42	5	and the pool to be refunded, if deemed in the interest
12:18:43	6	of wagering integrity."
12:18:46	7	So on the end portion, we have inserted the
12:18:49	8	phrase, "after the animals leave the paddock."
12:18:52	9	CHAIR ROGERS: Now, is that one on Trifecta,
12:18:55	10	one on Superfecta?
12:18:57	11	MARK FENNER: This would be the change for
12:18:59	12	Trifecta. The amendment on Superfecta would be the
12:19:02	13	same, except, of course, instead of using five as the
12:19:05	14	floor, we would use six.
12:19:06	15	CHAIR ROGERS: Okay. Any concerns about
12:19:08	16	that motion?
12:19:09	17	CHARLES SOWELL: I just want to make sure
12:19:11	18	that no other references anywhere in the rules that
12:19:14	19	would be in conflict with this change.
12:19:16	20	MARK FENNER: I don't believe so. Trifecta
12:19:19	21	and Superfecta seem to be pretty stand alone. We tried
12:19:22	22	to divide it other ways that it covers both greyhounds
12:19:25	23	and horses.
12:19:27	24	ERNEST ANGELO: I move adoption of the
12:19:29	25	amendment as stated.

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12:19:29	1	KENT CARTER: Second.
12:19:30	2	CHAIR ROGERS: Okay. Got a motion by
12:19:32	3	Commissioner Angelo, got a second by Dr. Carter.
12:19:36	4	Any discussion?
12:19:37	5	All in favor.
12:19:39	6	BOARD MEMBERS: Aye.
12:19:39	7	CHAIR ROGERS: All opposed.
12:19:42	8	MIKE RUTHERFORD: Nay.
12:19:43	9	CHAIR ROGERS: Quote Mr. Rutherford as
12:19:45	10	opposed.
12:19:46	11	Okay. The only thing I think we have
12:19:50	12	left --
12:19:51	13	ERNEST ANGELO: Excuse me, we need to vote
12:19:55	14	on the main motion now.
12:19:56	15	CHAIR ROGERS: Well, we would -- I thought
12:19:59	16	that we were adopting it as amended.
12:20:02	17	MARK FENNER: Good point. That was a motion
12:20:03	18	to amend the proposal.
12:20:05	19	CHAIR ROGERS: We will accept a motion to
12:20:07	20	adopt, then, 321.310 and 321.314 as amended.
12:20:19	21	ERNEST ANGELO: I guess, I'll move it.
12:20:21	22	CHAIR ROGERS: Moved by Commissioner Angelo.
12:20:25	23	LOUIS STURNS: And I'll second.
12:20:27	24	CHAIR ROGERS: And seconded by
12:20:28	25	Commissioner Sturns.

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12:20:29	1	All in favor.
12:20:30	2	BOARD MEMBERS: Aye.
12:20:31	3	CHAIR ROGERS: We have this thing covered
12:20:33	4	now.
12:20:36	5	JOHN FERRARA: Pardon me.
12:20:37	6	CHAIR ROGERS: Motion passes.
12:20:38	7	JOHN FERRARA: Did we pass it for
12:20:40	8	Superfecta?
12:20:40	9	MARK FENNER: I viewed that as covering
12:20:43	10	both. Your opinion is both.
12:20:45	11	CHAIR ROGERS: I put them both in the
12:20:47	12	motion, I think.
12:20:47	13	Okay. Next Commission meeting. We need to
12:20:58	14	schedule the meetings for both August and September.
12:21:04	15	And our August meeting, it has been proposed, and I
12:21:12	16	think everybody is okay with, Thursday, August 10th.
12:21:25	17	And we have our legislative authorization request is due
12:21:28	18	on August 11, so it's important that we meet by then.
12:21:32	19	And then for race dates, we are proposing
12:21:38	20	Friday, September 8th. But that we schedule that
12:21:44	21	meeting beginning at 1:00 instead of 10:30.
12:21:51	22	MIKE RUTHERFORD: September 8th.
12:21:52	23	CHAIR ROGERS: September 8th.
12:21:57	24	KENT CARTER: Why the later date?
12:21:59	25	CHAIR ROGERS: You mean later in the

		84
12:22:00	1	afternoon?
12:22:01	2	KENT CARTER: Later time.
12:22:02	3	CHAIR ROGERS: One of the people on this
12:22:06	4	have another conflict. But I felt like it was important
12:22:10	5	that both people who were on this race date working --
12:22:13	6	KENT CARTER: Okay.
12:22:14	7	CHAIR ROGERS: -- be here for that meeting.
12:22:16	8	KENT CARTER: That's fine.
12:22:17	9	CHAIR ROGERS: The only way to do that,
12:22:19	10	would be -- we tried every other date to try to find an
12:22:22	11	acceptable date.
12:22:23	12	KENT CARTER: That's fine.
12:22:24	13	CHAIR ROGERS: Felt like they needed to be
12:22:25	14	here for that.
12:22:26	15	TREVA BOYD: Mr. Chairman, I'm sure you're
12:22:29	16	aware, I'm not going to be available.
12:22:31	17	CHAIR ROGERS: I have that.
12:22:32	18	Okay. Is that okay with everybody?
12:22:34	19	CHARLA ANN KING: Excellent.
12:22:36	20	CHAIR ROGERS: Okay. Any other business to
12:22:38	21	come before the Commission?
12:22:39	22	We are adjourned.
12:22:40	23	(Commission meeting adjourned 12:21 p.m.)
	24	
	25	

1 THE STATE OF TEXAS)

2 COUNTY OF TRAVIS)

3

4 I, CAROLINE CHAPMAN, Certified Shorthand

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

6 Texas, do hereby certify that the above and foregoing

7 contains a true and correct transcription of all

8 portions of evidence and other proceedings requested to

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

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

11 occurred in open hearing or in chambers and were

12 reported by me.

13 WITNESS MY OFFICIAL HAND this the 7th day of

14 July, 2006.

15

16

17

18 _____
CAROLINE CHAPMAN, Texas CSR #467

19 Expiration Date: 12/06

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