

BEFORE THE
TEXAS RACING COMMISSION
AUSTIN, TEXAS

COMMISSION MEETING

MAY 14, 2007

Reported by: SHERRI SANTMAN FISHER

Job #9-62797

1 BE IT REMEMBERED that the above entitled matter
2 came on for hearing on the 14th day of May, 2007,
3 beginning at 10:30 A.M. at 6100 Guadalupe, Building E,
4 First Floor Auditorium, Austin, Travis County, Texas,
5 and the following proceedings were reported by SHERRI
6 SANTMAN FISHER, Certified Shorthand Reporter for the
7 State of Texas.

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APPEARANCES

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Commissioners: R. DYKE ROGERS

13

MICHAEL G. RUTHERFORD

14

JESSE R. ADAMS

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TREVA J. BOYD

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G. KENT CARTER

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CHARLES L. "SONNY" SOWELL

18

DAVID G. CABRALES

19

ERNEST ANGELO, JR.

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JIMMY ARCHER

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1 CHAIRMAN ROGERS: If we could get
2 started, please.

3 Ms. Giberson, would you call the roll,
4 please?

5 MS. GIBERSON: Jesse Adams?

6 COMMISSIONER ADAMS: Here.

7 MS. GIBERSON: Treva Boyd?

8 COMMISSIONER BOYD: Here.

9 MS. GIBERSON: Kent Carter?

10 COMMISSIONER CARTER: Here.

11 MS. GIBERSON: Ernest Angelo?

12 MR. ANGELO: Here.

13 MS. GIBERSON: Mike Rutherford?

14 VICE-CHAIRMAN RUTHERFORD: Here.

15 MS. GIBERSON: Sonny Sowell?

16 COMMISSIONER SOWELL: Here.

17 MS. GIBERSON: Jimmy Archer?

18 MR. ARCHER: Here.

19 MS. GIBERSON: David Cabrales?

20 COMMISSIONER CABRALES: Here.

21 MS. GIBERSON: Dyke Rogers?

22 CHAIRMAN ROGERS: Here.

23 A quorum being present, we will begin.

24 This is an open meeting and we have a period of time
25 for public comment for anything that might not be on

1 the agenda. If anyone has anything that they would
2 like to speak to us about today, you're welcome.

3 Okay. Not being any, we'll move to
4 general business, discussion, consideration, and
5 possible action on the following matters: Budget and
6 finance.

7 Ms. Curtsinger?

8 MS. HARRIS-CURTSINGER: Good morning,
9 Commissioners. The budget information in your packet
10 is as of March 31st. However, the license fee
11 structure change that just took effect and payment that
12 was due on April 16th, because of that, I have passed
13 out a budget update as of April 30th for your review.
14 It should be at each of your places.

15 We are 66.67 percent through the current
16 2007 fiscal year as of April 30th. All of the active
17 and inactive racetrack license fees that were due on
18 April 16th have been received and the agency's
19 projections continue to hold true as reflected in this
20 report. I would like to personally thank the
21 racetracks and licensees for their cooperation in this
22 rule change process.

23 In addition to the budget, I would like
24 to give an update on the legislative session and the
25 agency's work on the fee schedule as it relates to the

1 budget. As the legislative session draws to an end,
2 the agency is awaiting our appropriations bill to come
3 out of conference committee. We have had favorable
4 responses from both the House and the Senate to our LAR
5 and the LBB recommendations.

6 We also continue to watch House Bill 2701
7 that would make changes to the Texas Racing Act,
8 including changes to the funding structure for the
9 agency. We will have further information at the next
10 Commission meeting on the final outcomes and impact to
11 the agency from the session.

12 Discussions have begun with the race day
13 working groups. These discussions will lead to
14 recommendations on changes to the fee schedules. We
15 have met with one of the racetracks in person and have
16 had a conference call with the management from one
17 other greyhound racetrack. We will have a meeting on
18 the greyhound race day working group after this
19 Commission meeting today.

20 If you have any questions, I'll be happy
21 to answer them.

22 CHAIRMAN ROGERS: Commissioners,
23 questions?

24 Thank you.

25 A report on racetrack inspections.

1 Mr. Neely?

2 MR. NEELY: Good morning, Commissioners.
3 Tom Neely, director of investigations.

4 If you'll review your report, you'll see
5 that there are still some outstanding issues for
6 pari-mutuels; but that should be satisfied today with
7 your rule adoption on cancellations.

8 The maintenance issues at Corpus Christi
9 have been resolved, both on the racing judges and
10 veterinarian.

11 The enforcement issue at Lone Star Park
12 from April has to do with streetlights between the shed
13 rows and they have placed in work orders for TXU to get
14 those fixed. It just hasn't been done to this date.

15 Under Manor, the executive inspection
16 issues that are outstanding, we have a letter from
17 Mr. Phillips addressing those issues and he's
18 formulating a plan to address them. Most of it was
19 facility maintenance and some minor staffing issues
20 that we'll be addressing before the next meet.

21 CHAIRMAN ROGERS: Commissioners, any
22 questions?

23 Thank you, Mr. Neely.

24 MR. NEELY: Thank you.

25 CHAIRMAN ROGERS: Ms. King, could you

1 give us a report on the RCI annual conference, please?

2 MS. KING: Yes, sir.

3 Mr. Chairman and Commission members,
4 Dr. Marsh and I attended the annual meeting of ARCI,
5 the Association of Racing Commissioners International,
6 on April 24th to 27th. It was a good meeting with an
7 extensive agenda. The programs and committee meetings
8 covered most all aspects of racing regulation.

9 We participated in the discussion of
10 policies, including those on wagering security, drug
11 testing and medication, backside security, stewards'
12 and judges' performance, greyhound racing, Quarter
13 Horse racing, and enforcement issues pertaining to
14 trainers.

15 A number of model rules were proposed or
16 amended and adopted at the meeting. The list of rules
17 considered included wagering security and tote
18 standards, requests for split samples, toe grabs,
19 safety reins, Pick N pools, Win Three pools, medical
20 personnel and equipment, and medication and drugs,
21 including anabolic steroids.

22 We will be reviewing the model rules
23 carefully and considering their applicability to
24 Texas. Our working groups will be an important part of
25 this review process, and staff looks forward to

1 obtaining input from the Commissioners as well as our
2 stakeholders.

3 Staff is currently assessing
4 opportunities to serve on RCI committees. It is clear
5 to have an impact on the condition of regulation
6 nationwide and regionally, we need to participate in
7 the committee work. Also along those lines, I'm
8 pleased to announce that I've been elected to the RCI
9 board of directors which will be an important
10 opportunity for all of us to have more direct impact
11 on, and to learn from, other racing jurisdictions.

12 In addition to the board involvement, we
13 also have a special opportunity to participate with RCI
14 because they have selected Austin, Texas, as the
15 location for their annual conference next year. It is
16 an exciting opportunity for all of us, the
17 Commissioners, staff, and the industry, to get involved
18 and participate in a way that we have not done so
19 before.

20 One of the observations made at the
21 meeting this year pointed out the fact that industry
22 attendance has been low. Apparently in some years past
23 the regulators conference drew more attendance from the
24 industry than in recent times. RCI is interested in
25 more participation of racing stakeholders, and I

1 believe that bringing the conference to Texas may give
2 us the chance to bring fuller participation by everyone
3 in racing.

4 I look forward to hearing from folks
5 about the conference. For example, at the meeting of
6 the Texas Equine Research Account Advisory Committee
7 last week at Texas A&M, there was significant interest
8 demonstrated in the potential for this conference and
9 what Texas can bring to the table.

10 Mr. Chairman, that concludes my report.
11 If there are questions about RCI, I'm happy to answer
12 them.

13 CHAIRMAN ROGERS: Questions?

14 Congratulations on your election.

15 MS. KING: Thank you, Mr. Chairman.

16 CHAIRMAN ROGERS: We will move to
17 proceedings on racetracks, discussion, consideration,
18 and possible action on the following matters:
19 Allocation of the Texas Greyhound Association of
20 interstate cross-species purse money for the period of
21 May 1st, 2007, through April 30th, 2008.

22 Commissioners, that's under Tab 3.

23 Mr. Jackson?

24 MR. JACKSON: Good morning,
25 Commissioners.

1 Commissioners, as of April 30th, the
2 Texas Greyhound Association's approval for allocating
3 purse money collected from cross-species wagering
4 conducted at Texas horse racetracks under Section
5 6.091(d) of the Texas Racing Act expired. Under Tab 3
6 of your agenda packet, you will find a proposed formula
7 for allocation of purse money collected from these
8 sources of wagering submitted by the Texas Greyhound
9 Association pursuant to Commission Rule 303.102(d)(2)
10 for your consideration and approval. This proposed
11 formula for allocation had been previously approved by
12 the Commission for use for the period of May 1, 2006,
13 through April 30 of 2007.

14 The Texas Greyhound Association further
15 requests that the Commission approve this proposed
16 formula for allocation of purse money collected for use
17 until the next scheduled Commission meeting. The Texas
18 Greyhound Association has expressed a need to further
19 evaluate the allocation formula with their staff and
20 with the Commission's greyhound race day working group
21 based on recent events that may have far-reaching
22 effects on the Texas greyhound industry.

23 Commissioners, the staff has received
24 written comments from each of the three greyhound
25 racetracks in support of the TGA's request. These

1 comments have been included under Tab 3 for your review
2 as well. If you have any questions, Diane Whiteley,
3 the executive director of the Texas Greyhound
4 Association, is here today; and if you have any
5 additional questions for the staff, I am more than
6 happy to answer if you have some.

7 CHAIRMAN ROGERS: Thank you.

8 Questions of Mr. Jackson?

9 Ms. Whiteley, do you have something you
10 want to add to that? We're pleased you're able to be
11 here today.

12 MS. WHITELEY: Me, too. Everyone keeps
13 wanting to take my pulse. Thank you.

14 Good morning, Commissioners. This is
15 really a difficult aspect of our purses because it has
16 become such a large part of our greyhound purses is the
17 allocation of the cross-species. And it has been
18 originally modeled with almost like a mirror with the
19 global cross-species agreement and that has been
20 flipping a little as well.

21 This is based on the horse simulcasts
22 that each of the greyhound tracks take in. And Gulf
23 Greyhound has always gotten the bulk of it because they
24 simulcast the most in the horses. And it's becoming
25 apparent that Corpus and Valley are almost equal even

1 though Corpus runs year-round. Valley has caught up to
2 it on horse simulcasts.

3 We've got a couple of issues going on.
4 One, of course, is our legislative session and which is
5 coming to a close and we'll find out what happens
6 there. Our other big issue was the legislation in
7 Florida. And while it doesn't -- you wouldn't think
8 that it would apply to Texas, it certainly does. If
9 they pass supplements to their purses with VLT's, that
10 will make the Texas purses the lowest in the nation and
11 so we look for kind of an exodus to happen. And so
12 we're awaiting their special session that's coming up
13 now in June.

14 And in the interim we want to work with
15 the Commission and I need to speak directly with the
16 racetracks and find out what their plans are for the
17 future in light of our legislative session before we
18 can make a really good decision. So we're just asking
19 for an extension until the next Commission meeting.
20 But there is a lot of things going on right now that
21 will really impact our industry.

22 CHAIRMAN ROGERS: Will that give you
23 enough time?

24 MS. WHITELEY: There's never enough time,
25 but at least we're hoping that the tracks can give us

1 an indication of what kind of dates that they will be
2 requesting for next year because this will go through
3 almost five months of next year as well. So we need to
4 know what dates that they're going to be requesting so
5 that we can make sure that the purses are as good as we
6 can get them.

7 CHAIRMAN ROGERS: Commissioners,
8 questions?

9 COMMISSIONER BOYD: I do have one
10 question. In your -- in Mr. Triplett's letter to Sammy
11 Jackson, it did talk about the fee charged by the TGA.

12 MS. WHITELEY: Yes.

13 COMMISSIONER BOYD: Have you had time to
14 address that issue?

15 MS. WHITELEY: Sure. We are allowed --
16 under the rules we're allowed up to 20 percent as an
17 administrative -- an administration fee. We receive
18 these funds every week from all the Thoroughbred tracks
19 and then we make an allocation. We have it verified by
20 the Racing Commission and then we cut the checks out to
21 the three greyhound tracks. So this fee is part of our
22 administrative aspect of this and also to monitor and
23 to try to ensure the fairness of it.

24 Last fall the TGA board voted to increase
25 it from 15 percent to 20 percent. The reason being is

1 that in case we were successful with legislation that
2 we would have some savings in our organization to help
3 us with a referendum. So that extra five percent we
4 had been putting into savings and it's not been used
5 for any other purpose than that.

6 And we anticipate -- at the end of this
7 session, we're having a board meeting, a TGA board
8 meeting, at the end of May; and I anticipate that we
9 will request that to go back down to 15 percent, to get
10 the additional five percent out to purses. And we've
11 done a really good job, I think, the last two years of
12 reducing our expenses in the office in our overhead.
13 We've done a tremendous job in that. And if we can
14 increase the amount going to purses, we certainly want
15 to do that as well because we realize how important it
16 is to keep that group going for us. So to the extent
17 that we can keep our expenses down in the office, we
18 strive to do that and I think we've been very
19 successful doing that.

20 COMMISSIONER BOYD: Thanks.

21 CHAIRMAN ROGERS: Thank you.

22 MS. WHITELEY: Thank you.

23 CHAIRMAN ROGERS: Any other comments?

24 Okay. I would entertain a motion to
25 continue the current allocation of interstate

1 cross-species purse money until the next Commission
2 meeting.

3 COMMISSIONER BOYD: So move.

4 VICE-CHAIRMAN RUTHERFORD: Second.

5 COMMISSIONER CABRALES: Second.

6 CHAIRMAN ROGERS: A motion made by
7 Commissioner Boyd, seconded by Commissioner
8 Rutherford.

9 All in favor?

10 COMMISSIONERS: Aye.

11 CHAIRMAN ROGERS: The motion passes.

12 We have a request by Gillespie County
13 Fair Association for approval of addendum to the
14 totalisator contract with United Tote Company.

15 Mr. Fenner?

16 MR. FENNER: Commissioners, Gillespie
17 County Fair did request an amendment to their contract
18 with United Tote. We've provided the materials to
19 you. It is a very minor amendment. And staff,
20 Ms. Olewin, has reviewed that contract and finds it to
21 be acceptable; so the staff recommends approval.

22 If you have any questions, Ms. Olewin can
23 answer them.

24 CHAIRMAN ROGERS: Any questions?

25 Okay. I would entertain a motion to

1 approve the amendment to the totalisator contract
2 between Gillespie County Fair Association and United
3 Tote.

4 COMMISSIONER CABRALES: So move.

5 COMMISSIONER SOWELL: So move.

6 CHAIRMAN ROGERS: Okay. A motion made by
7 Commissioner Cabrales and seconded by Commissioner
8 Sowell.

9 All in favor?

10 COMMISSIONERS: Aye.

11 CHAIRMAN ROGERS: The motion passes.

12 Okay. We have a request by Retama Park
13 for approval of an amendment to the totalisator
14 contract with AmTote International.

15 Mr. Fenner again.

16 MR. FENNER: Commissioners, the same sort
17 of thing. We have a minor amendment, mostly extending
18 the term of the contract. Staff has reviewed it and
19 finds that it's acceptable and recommends approval.

20 CHAIRMAN ROGERS: Any questions?

21 I would entertain a motion to approve --

22 VICE-CHAIRMAN RUTHERFORD: So move.

23 CHAIRMAN ROGERS: -- the amendment to the
24 totalisator contract -- let me get it all out here so
25 she gets it on the minutes -- to approve the amendment

1 to the totalisator contract between Retama Park and
2 AmTote international. A motion made by Commissioner
3 Rutherford.

4 COMMISSIONER ADAMS: Second.

5 CHAIRMAN ROGERS: Seconded by
6 Commissioner Adams.

7 All in favor?

8 COMMISSIONERS: Aye.

9 CHAIRMAN ROGERS: The motion passes.
10 Thank you.

11 We have a request by Sam Houston Race
12 Park for approval of a change in the board of
13 directors.

14 Mr. Neely?

15 MR. NEELY: Good morning, Commissioners,
16 again. We have a request from Sam Houston Race Park
17 that Mr. Bob Bork be approved as a member of the board
18 of Sam Houston Race Park. His position would be as
19 vice-chairman. The Commission recommends approval.

20 CHAIRMAN ROGERS: Is that a promotion?
21 Because we wouldn't want to approve a demotion.

22 MR. NEELY: He wouldn't commit himself.
23 I asked him that question.

24 COMMISSIONER SOWELL: So move,
25 Mr. Chairman.

1 CHAIRMAN ROGERS: Okay. That motion has
2 been moved by Commissioner Sowell.

3 Is there a second?

4 COMMISSIONER BOYD: Second.

5 CHAIRMAN ROGERS: Seconded by
6 Commissioner Boyd.

7 This is a motion to approve the
8 appointment of Bob Bork as vice-chair of the board of
9 directors of Sam Houston Race Park.

10 Any discussion?

11 All in favor?

12 COMMISSIONERS: Aye.

13 CHAIRMAN ROGERS: All opposed?

14 The motion carries.

15 Okay. In the matter of an application
16 for a Class 2 horse racetrack in Webb County, we have
17 LRP Group.

18 Mr. Moltz?

19 MR. MOLTZ: Thank you, Mr. Chairman. For
20 the record, I'm Bill Moltz, here on behalf of LRP
21 Group.

22 And we have filed a motion. We would
23 request approval of that motion. The motion -- well,
24 as you all recall, at the last meeting the applications
25 of Laredo Race Park and LRP Group were severed into two

1 separate proceedings. LRP Group's license was issued.
2 And we're now requesting to withdraw as a party from
3 the portion relating to Laredo Race Park and to inform
4 the Commission that we support the issuance of their
5 license and, to the extent the Commission does issue
6 the license, to let you all know that we have no intent
7 of appealing that decision. So basically we request
8 permission to withdraw from that matter entirely.

9 CHAIRMAN ROGERS: Mr. Fenner, does that
10 smile mean that you approve of that?

11 MR. FENNER: I agree with it, yes, sir.

12 CHAIRMAN ROGERS: Okay. Questions for
13 Mr. Moltz?

14 Okay. I would accept a motion to approve
15 LRP Group's motion to withdraw as a party.

16 COMMISSIONER CABRALES: So move.

17 CHAIRMAN ROGERS: Commissioner Cabrales
18 has made the motion.

19 Is there a second?

20 COMMISSIONER ADAMS: Second.

21 CHAIRMAN ROGERS: Seconded by
22 Commissioner Adams.

23 I would ask for an amendment maybe to
24 that motion to allow the Chair to sign that order, if
25 that would be acceptable.

1 COMMISSIONER CABRALES: I'll amend my
2 motion in that manner.

3 CHAIRMAN ROGERS: Is the second okay?

4 COMMISSIONER ADAMS: Yes, that's fine.

5 CHAIRMAN ROGERS: All in favor?

6 COMMISSIONERS: Aye.

7 CHAIRMAN ROGERS: All opposed?

8 The motion passes.

9 Mr. VanMiddlesworth?

10 MR. VANMIDDLESWORTH: Thank you,
11 Mr. Chairman, Commissioners.

12 We have a virtually identical motion. In
13 fact, you'll see that the words are almost exactly the
14 same. In the part of the case that was severed that
15 relates to the LRP Group application, we also filed a
16 motion to withdraw from that proceeding. We also state
17 our intention not to appeal the issuance of a license
18 to LRP Group for Laredo. And we present that motion
19 for your consideration.

20 CHAIRMAN ROGERS: Any questions?

21 Thank you.

22 I would accept a motion to approve Laredo
23 Race Park's motion to withdraw as a party.

24 COMMISSIONER ADAMS: So move, Mr. Chair.

25 VICE-CHAIRMAN RUTHERFORD: Second.

1 CHAIRMAN ROGERS: Moved by Commissioner
2 Adams, seconded by Commissioner Rutherford.

3 All in favor?

4 COMMISSIONERS: Aye.

5 CHAIRMAN ROGERS: The motion passes.

6 Could we go back and amend that motion?

7 Let's go back again and put that back on the table to
8 allow the chairman to sign that order.

9 COMMISSIONER CABRALES: I didn't make the
10 motion.

11 COMMISSIONER ADAMS: That's fine.

12 VICE-CHAIRMAN RUTHERFORD: No problem.

13 CHAIRMAN ROGERS: We're okay with the
14 second?

15 All in favor of that?

16 COMMISSIONERS: Aye.

17 CHAIRMAN ROGERS: Okay. The motion
18 passes.

19 It's those pesky details.

20 Okay. We had on the agenda a request for
21 Valley Race Park's approval of a change in ownership.

22 Mr. Fenner?

23 MR. FENNER: Commissioners, we're
24 requesting that we delay consideration of this item.
25 It's quite a large contract. Some of you have it in

1 front of you. And while I have had an opportunity to
2 look through it some, I have not reviewed it to the
3 extent I really should. And many of you have not had
4 an opportunity to review it and I know that some of you
5 had questions and we've not had an opportunity to
6 answer those.

7 In addition, the purchaser, Mr. Camberg,
8 has not been available to come to today's meeting and I
9 think it's very important that you have an opportunity
10 to ask him some questions directly. We're going to try
11 and get him arranged to be here for the next Commission
12 meeting.

13 So for those reasons, we'd request that
14 we delay consideration of this item.

15 CHAIRMAN ROGERS: Okay. I'd just like to
16 make a couple of short comments. Other Commissioners
17 may have some thoughts.

18 I've reviewed that contract. And I know
19 that you're not in a position to make an official
20 recommendation on it. And the Legislature certainly
21 may give some change in the way the statute is. The
22 Attorney General might decide to reinterpret the
23 statute in some manner.

24 But I would hope that since this is going
25 to come before the next Commission meeting that there

1 certainly be some additional changes in that contract
2 because it still appears to me to not -- while it's a
3 lot better contract, it doesn't come very close to
4 actually making a real sale. So as you look at that
5 and you make your recommendation to the Commission in
6 your next -- in the next meeting, I certainly think
7 it's something to consider.

8 I would hope that the folks involved in
9 this would take a real serious look about whether this
10 is a real sale or not a real sale. And in my opinion,
11 looking at it, it would be very difficult to say that
12 it's a sale. So I just make that as a comment.

13 Any other comments from other
14 Commissioners?

15 Okay. We will be postponing the
16 application for Laredo Race Park for the Class 2 horse
17 racetrack license in Webb County pending the outcome of
18 the motion -- or the item just before this.

19 We move to approval of a security bond
20 for LRP Group.

21 MR. FENNER: Commissioner? Mr. Chair?

22 CHAIRMAN ROGERS: Yes.

23 MR. FENNER: I would like to take up H,
24 however, the very next one, which is the application
25 itself for the racetrack license.

1 CHAIRMAN ROGERS: Okay.

2 MR. FENNER: And the reason we need to do
3 that is because the current interim order says that the
4 license is granted if they submit the contract, which
5 they did, by May 4th; but it also has to be approved at
6 today's Commission meeting. So if we're going to take
7 this up at a future meeting, we would like to revise
8 the interim order to allow you to take this up at the
9 July meeting.

10 CHAIRMAN ROGERS: So we would need a
11 motion to approve the revised interim order
12 conditionally granting the racetrack license to Laredo
13 Race Park and allowing the Commission to take up that
14 issue at the July meeting.

15 MR. FENNER: Yes, sir. It's a very
16 simple order.

17 CHAIRMAN ROGERS: Okay. And with that
18 motion, we would need the permission for the Chair to
19 sign the order.

20 MR. FENNER: The change is in Part 2
21 where it says now in July 2007. Previously it was May
22 14th, 2007.

23 COMMISSIONER ADAMS: So move,
24 Mr. Chairman.

25 CHAIRMAN ROGERS: Okay. Moved by

1 Commissioner Adams.

2 COMMISSIONER CABRALES: Second.

3 CHAIRMAN ROGERS: Seconded by
4 Commissioner Cabrales.

5 Discussion?

6 COMMISSIONER CARTER: I have a question.
7 What's the time line on this? It says July 2007. Do
8 we need it 10 days ahead of time, 15 days ahead of
9 time? Do you have a date on that, when you're going to
10 have it?

11 MR. FENNER: Well, that's an interesting
12 question because Chair Rogers had expressed an
13 indication that he would like to have some further
14 edits to the contract. Considering that -- if we want
15 to make this change and have that -- any additions or
16 changes to the contract come in, quite frankly, I would
17 request that it be more than 10 days in advance because
18 it's pretty tight with this time.

19 COMMISSIONER CARTER: 14 days?

20 MR. FENNER: 14 days would be good.

21 COMMISSIONER CARTER: I think if we're
22 going to have time to review this, we all need it in
23 time before the meeting.

24 MR. FENNER: So we'll make an edit to
25 this to say that, number one, Maxxam's presentation of

1 the final sales and management contract for Valley Race
2 Park to Commission staff at least 14 calendar days
3 before the Commission meeting in July 2007.

4 COMMISSIONER ADAMS: That's fine with me,
5 Mr. Chairman.

6 CHAIRMAN ROGERS: Would that be okay to
7 change the motion to that, the order as amended?

8 COMMISSIONER ADAMS: That's fine.

9 CHAIRMAN ROGERS: How about the second?

10 COMMISSIONER CABRALES: Second.

11 CHAIRMAN ROGERS: Any other discussion?
12 All in favor?

13 COMMISSIONERS: Aye.

14 CHAIRMAN ROGERS: All opposed?

15 Okay. The motion passes. If you'll
16 prepare that order, we will sign it.

17 Okay. This would be approval of security
18 bond for the LRP Group under Tab 8. I think that comes
19 in your supplemental material, Commissioners. I think
20 it came in that.

21 Mr. Fenner?

22 MR. FENNER: Commissioners, this one is a
23 little more complicated. We have here -- we're only
24 going to be taking up two of the security orders today
25 because Laredo Race Park is not eligible for

1 consideration on this yet. So we have LRP Group, which
2 is Laredo Downs, and we also have the Hidalgo, Valle de
3 los Tesoros, to consider.

4 What we tried to do here is, first of
5 all, the rule and the act say that for a new license
6 you have to require security be put up to ensure that
7 they comply with the rules. And the rules also say to
8 make sure that the racetrack is actually built.

9 We looked at this in terms of trying to
10 determine what is the appropriate amount of security to
11 require and also how will that function in terms of if
12 security has to be forfeited.

13 The way we looked at it is there's really
14 two income streams or revenue to the Commission or to
15 the State that we considered. One was the pari-mutuel
16 tax, which essentially comes off of simulcasting. It's
17 the simulcasting tax. And that's revenue to the
18 General Revenue Fund. There's also revenue to the
19 accredited Texas-bred fund. That's the incentive
20 program that is used for purses.

21 Now, based on the materials that they
22 have provided to us as part of the application process,
23 we determined that a calendar quarter's worth would be
24 an appropriate amount to require up front in order to
25 make sure that the track is actually built and that

1 wagering begins when it's supposed to do that.

2 Looking at the materials, Sammy Jackson
3 was able to make an estimate of how much would be lost
4 every day that simulcasting or live racing is not
5 conducted and how much would be lost to the General
6 Revenue Fund and to the ATB fund.

7 In the case of Laredo Downs, you're
8 looking at a total security deposit of \$140,000. If
9 they don't begin simulcasting when they're scheduled to
10 do so, which would be January 1 of 2009, then they will
11 lose or forfeit \$1237 each day that will go to the
12 General Revenue Fund. Excuse me. That's wrong. 1237
13 will be forfeited. 693 of that will go to the General
14 Revenue Fund. \$141 will go to the Commission to
15 compensate for our costs. And \$503 will go to the ATB,
16 the accredited Texas-bred incentive program.

17 For live racing, it would be six
18 hundred -- \$967 will be forfeited. 760 of that will go
19 to the ATB program. \$207.50, which is 10 percent of
20 the live racing fee, would go to the Commission to
21 compensate for the costs incurred by the Commission.
22 That's for each day of live racing that doesn't occur.

23 Similarly, for Valle de los Tesoros, they
24 have a bond requirement of \$180,000 because they
25 projected a higher handle. For live racing days that

1 they don't conduct, it would be \$951.50 forfeited. 744
2 of that would go to the ATB fund. \$207.50 would go to
3 the Commission to compensate for costs. For
4 simulcasting, it's \$1812 will be forfeited for each
5 simulcast race date that's not run. 731 of that amount
6 would go to the ATB programs, 1,040 to the General
7 Revenue Fund, and then 10 percent or \$41 would be for
8 the simulcasting fee.

9 Now, we've made some proposed changes in
10 your new materials that you may want to look at from
11 what you originally saw. If you'll turn, for example,
12 on the Valle de los Tesoros, page six -- it's probably
13 the same for both -- at the very top you'll see that
14 there's now a force majeure clause that's slightly
15 different than what you looked at before. It has a
16 little more detail about the types of incidents that
17 could lead to the force majeure.

18 You'll also see an interesting paragraph,
19 the big paragraph on page six. The parties have
20 expressed concern that there are some inactive licenses
21 out there now that do not put up a security, at least
22 currently; and they are concerned that they would be
23 treated differently in the future if they have to put
24 up a bond, forfeit the bond, and yet they see that the
25 other licenses, the inactive ones, are not.

1 So they suggested this paragraph that
2 would say that it's the intent of the Commission that
3 the security required be consistent with the rules and
4 as they may be amended and that all licensed racetracks
5 which are not yet operating be treated consistently.
6 It allows them to petition the Commission -- you can't
7 require it, but they can petition the Commission to
8 amend or rescind the order to achieve consistency.

9 I'm open to feedback about those two
10 paragraphs.

11 COMMISSIONER CABRALES: Mark, can I ask
12 you a question about that last section you just
13 described?

14 MR. FENNER: Sure.

15 COMMISSIONER CABRALES: When those
16 licenses were first granted to those other
17 associations, did they post a bond in connection with
18 those? I mean, was it a situation where there was a
19 bond and, as time went on, parts of it got forfeited
20 and so now it's down to zero or were they issued
21 without a bond at all?

22 MR. FENNER: I'm going to have to defer
23 to someone with more institutional memory because I
24 don't believe that they required a bond at the time.
25 But I might ask -- does anybody know? I should ask

1 Mr. Alexander.

2 MR. ALEXANDER: You've never asked me to
3 put up a bond.

4 COMMISSIONER CABRALES: If we didn't ask
5 him to put up a bond, was there a rule in place back
6 then at the time those licenses were issued that would
7 have even allowed the Commission to request a bond?

8 COMMISSIONER BOYD: Yes.

9 COMMISSIONER CABRALES: So we had that
10 rule in place but we didn't ask for the bond?

11 MR. FENNER: That's correct. It's in the
12 act. And that has not changed. It's always been
13 there.

14 CHAIRMAN ROGERS: Explain the bond just a
15 little bit to us here. Let's assume that somebody
16 built on time and they were simulcasting by 2009. Then
17 they would get their bond money back.

18 MR. FENNER: They would get their bond
19 money back when they complete their first live race
20 meet.

21 CHAIRMAN ROGERS: Which would be the end
22 of that simulcast session or the -- oh, the first live
23 race meet. Okay. Then let's assume that they don't
24 build. Okay? So what happens then? You forfeit the
25 bond. Do you put up an additional bond or do you

1 forfeit your license? Or what actually is the next
2 step if somebody doesn't build?

3 MR. FENNER: If we are in a position
4 where somebody is not building that track and they do
5 forfeit their bond or we can see that the bond is going
6 to be forfeited, because we have a calendar quarter's
7 worth and because you all meet six times a year, it's
8 our intention to come to you and ask to require
9 additional security.

10 CHAIRMAN ROGERS: So either the tracks
11 that have licenses would either build or it would
12 become considerably more expensive for them to hold the
13 license in anticipation of building or trading or
14 whatever else they chose to do.

15 MR. FENNER: Yes, sir.

16 CHAIRMAN ROGERS: Any comments on this --
17 not on the bond particularly at this moment. I guess
18 we could comment on the bond. But is there a comment
19 on the other paragraph?

20 COMMISSIONER BOYD: How many licenses
21 are -- or how many does this apply to? Do you know
22 that? When you're saying "be treated consistently,"
23 how many others are out there?

24 MR. FENNER: Right now there are two
25 licenses that are inactive, the Austin Jockey

1 Club/Longhorn Downs as well as the Saddle Brook in
2 Amarillo.

3 CHAIRMAN ROGERS: Now, what happens if
4 you had a present track that were to close, just as an
5 example under this scenario, whether it be a horse or a
6 greyhound track? Would they then -- under our rules
7 would they be required to post a bond to keep their
8 license or they just would -- they would just be
9 closed?

10 MR. FENNER: Under our current rules
11 there would be no requirement for them to put up a
12 security bond.

13 CHAIRMAN ROGERS: I guess I have a little
14 bit of angst --

15 VICE-CHAIRMAN RUTHERFORD: They'd lose
16 their license.

17 CHAIRMAN ROGERS: I don't know if they'd
18 lose their license or not. I mean, they'd just be
19 inactive.

20 I guess it's always been kind of the hope
21 of the Commission since I've been on it that these
22 tracks that have licenses would build and that they not
23 be, you know, granted just for trading material or for
24 whatever but that they would have real value both to
25 the State and to the racing industry and that horsemen

1 would have a place to run and that they would actually
2 get built.

3 And I guess I'm a little reluctant to tie
4 this bond -- which I think on new tracks is a good
5 idea. I'm a little reluctant to tie that to whatever
6 may happen on the other tracks because it just isn't
7 clean. I mean, the rule hasn't even been proposed on
8 the other tracks yet and we haven't got the comment
9 back from that yet and we don't -- I mean, while we are
10 moving forward with that plan that we would be doing a
11 bond on those tracks, some of those have -- Longhorn
12 Downs has been around since '89.

13 I guess I'm just a little reluctant to
14 tie the two together. If we're going to say, a new
15 track, you've got a license. You came before us, said
16 you were going to build. You're going to build.
17 That's the plan. You know there's a bond requirement.
18 I would be in favor of putting that bond there, period,
19 handling the existing tracks as a separate issue
20 because we don't even have that rule in place yet.
21 We're going to apply for that rule. I mean, that's --
22 I mean, assuming that the motion passes to publish it
23 in the Register and those people will have an
24 opportunity to comment and other people will have an
25 opportunity to comment and it should move along.

1 But if it doesn't, I think to say we're
2 not going to post any bond on any track if it doesn't
3 happen -- something that we think is going to happen
4 doesn't happen, I don't -- the new tracks, I don't
5 think it's inconsistent to say if they were going to
6 have a bond posted that they be posted. They came
7 before us and said they were going to build and we have
8 taken that on good faith and I think we should assume
9 that they're going to.

10 MR. FENNER: Okay. Do I see agreement
11 that this particular paragraph should be struck?

12 CHAIRMAN ROGERS: I would propose that
13 that be struck.

14 COMMISSIONER CABRALES: I mean, I would
15 tend to agree with you. If we're going to rely on a
16 new rule that we haven't yet passed and that hasn't
17 gone through comment to try to place bonds on existing
18 licensees, then that puts those licensees in a
19 different position than what I think we're trying to do
20 here with new licensees.

21 And so while I agree that the outcome of
22 this paragraph ought to be the goal of the Commission,
23 I'm not sure that we need to write it into the order
24 because I think these are different in character
25 because these are new licenses as opposed to the ones

1 that we've been dealing with in that new rolling
2 period -- in that new role.

3 MR. FENNER: I can fix that. So when you
4 make a motion, we'll make a motion to approve it --

5 CHAIRMAN ROGERS: Based on what you sent
6 us originally.

7 COMMISSIONER CABRALES: Well, except that
8 it had a different force majeure clause and there was a
9 pair of finding of fact about the fact that the orders
10 are uncontested.

11 MR. FENNER: There is a new Finding of
12 Fact No. 4 --

13 COMMISSIONER CABRALES: How about can
14 we --

15 MR. FENNER: -- which is pretty
16 straightforward. The order granting a Class 2 license
17 to Valle de los Tesoros in this case becomes final
18 today, May 14th, 2007, as uncontested.

19 CHAIRMAN ROGERS: So, Mark, what motion
20 do we need here? Or what discussion do we need to
21 craft this motion?

22 COMMISSIONER BOYD: And also aren't there
23 some more changes in this that you just handed us out
24 this morning from what we had already received? Like
25 No. 7 and No. 8.

1 MR. FENNER: Well, there were some
2 changes in the --

3 COMMISSIONER BOYD: Well, actually moved
4 it down.

5 MR. FENNER: It just moved it down. And
6 I think there was a change in the date, where we pushed
7 the simulcasting start date back to January 1 of 2009
8 because that would be closer to the beginning of the
9 actual live racing date. And originally I had it out
10 so far that they would be collecting simulcast revenue
11 for the ATB in excess of one year for the live racing
12 date and that could be a problem under another part of
13 our rule where that can be moved to another track.

14 COMMISSIONER BOYD: Okay.

15 MR. FENNER: Was that an accurate
16 statement, Sammy?

17 CHAIRMAN ROGERS: So the drop-dead date
18 before the bond takes place is January 1st, 2009, to
19 begin simulcasting --

20 MR. FENNER: Yes, sir.

21 CHAIRMAN ROGERS: -- on the new
22 license -- the two new licenses that we have granted.

23 MR. FENNER: Yes, sir.

24 CHAIRMAN ROGERS: Any other comments?

25 MR. FENNER: Mr. Moltz may have some

1 comment.

2 CHAIRMAN ROGERS: Mr. Moltz? While we're
3 sorting through our thoughts, you can tell us what you
4 think.

5 MR. MOLTZ: Okay. I'm glad I caught you
6 before the motion was voted on.

7 First, with regard to this paragraph, all
8 this paragraph does that we're requesting is say that
9 we're treated like everybody else. We're aware that
10 there's rules coming up later this morning to do this
11 on a more global scale -- by "this," I mean require
12 bonds -- on a more global scale than just the new
13 licenses. And we're in the unfortunate position of
14 being here talking about the amount of the bond and the
15 mechanics of the bond before there's been public
16 comment and really a chance to vet this whole -- how
17 you go about doing this.

18 And all we're saying is that after you do
19 that and if you take public comment on this rule and
20 you decide that, well, you know, maybe there's a better
21 way to it, that we be -- it only says we can come ask.
22 It doesn't tie anything. It says that we can come back
23 and say, okay, you all have decided that this is not
24 the best mechanism or, instead of this number, we're
25 going to use that number or whatever. We can say,

1 okay, you've now come out with your rule -- and this
2 will all happen before this bond is forfeited. This is
3 over a year down the road -- if there is a rule there
4 that would treat us differently than everybody else now
5 that you've got your rules in place that we be
6 allowed -- and I guess we are allowed anyway, but we
7 would like the order to say so we could anticipate --
8 that we would come back and say, hey, now that you have
9 figured out exactly the best way to do this, we want
10 that to apply to us, too, and not be us the only
11 license out here that has Bond A while everybody else
12 has a bond calculated by Method B.

13 And all it says is that we can ask you.
14 We can petition you to do that. It doesn't tie it to
15 where -- you know, if I come up here six months from
16 now and say, "Hey, this is different than everybody
17 else's," you can say, "We know. So? Go home."

18 We're just asking for the ability to come
19 and bring that to your attention and to change it if
20 possible.

21 CHAIRMAN ROGERS: I guess my thought is
22 that when you say -- when you say it is the intent of
23 the Commission to do this, then while you may just have
24 the right to come ask, you have the right to rely on
25 that, that that's the -- I'm not a lawyer; but if we're

1 saying right in the order that it's the intent that
2 everything be equalized, then you pretty much have a
3 case to equalize it whether the Commission really wants
4 to do that or not. There might be reasons why it might
5 be a different calculation or formulation.

6 I guess I think it's two separate issues
7 as to whether the tracks that are already in existence
8 put up a bond. They've gone -- they've gone 17 years
9 without a bond and without building, and I think that's
10 a separate issue that the Commission is going to have
11 to handle. But on new ones, where it's understood that
12 when you apply for the license that you're going to
13 build and you represent that you're going to build,
14 then I don't see anything wrong with holding you
15 accountable to what you say you're going to do when
16 you're standing here.

17 MR. MOLTZ: I suppose we had presumed
18 that it was the intent of the Commission to treat
19 everybody equally and that somehow my client is not to
20 be treated differently than any other racetrack. And I
21 guess what I'm hearing is that you want to reserve the
22 right to treat us differently than others. And I guess
23 we would disagree with that, that we all ought to be
24 the same. We've all got racetracks. My client does
25 plan on building this. I think we're just throwing

1 around words up here.

2 But it does seem unfair that my client
3 would be held to something that nobody else is held
4 to -- well, and this cuts both ways. You might notice
5 that the executive secretary can come in and ask you to
6 up our bond or whatever. But we would think that they
7 ought to be treated similarly.

8 CHAIRMAN ROGERS: I think the intent
9 would be to treat them similarly; but for some reason,
10 if, just as an example, we were to determine that our
11 rules didn't allow us to go back and charge the people
12 who already had licenses, just as an example, if that
13 were the case, I don't think it would change the fact
14 that new licenses we expect to have a bond on that they
15 would be built.

16 I mean, I expect that our rules do allow
17 us to do that, to do everybody the same; but we haven't
18 even gotten to the comment period on that yet. So I
19 personally think it's two different issues.

20 But, Commissioners, I mean, it's up to
21 you all. What do you think?

22 COMMISSIONER CABRALES: I agree with the
23 Chair on this. I think a new licensee is in a
24 different position with respect to some of these issues
25 than somebody who's already holding a license. I think

1 the -- if there's been a statute in place all along,
2 the inattention or decisions made by a prior
3 formulation of this Commission 15 years ago is an issue
4 that's down the road already. We're dealing with new
5 licenses. I think these new licenses stand in a
6 different position.

7 And I agree with the Chair that you're
8 completely able to come in at any time after that new
9 rule has been put in place and make your case. And
10 you're very able to do it. I mean, we certainly heard
11 you the last time on the other issues. And so I think
12 the Commission would be receptive -- I know I certainly
13 would be. If there's an instance where you do think
14 that it's entirely arbitrary on our point in how you're
15 being dealt with versus another batch of licensees,
16 then I would certainly want to hear it and welcome you
17 back at any time to do that. But I don't think it
18 needs to be in the order in order to allow that to
19 happen.

20 MR. MOLTZ: Could I also make -- moving
21 on just a little bit, we've also got -- in each of
22 these orders, there's a new Finding of Fact No. 4 and
23 it's very uncontroversial. Basically what that says
24 is -- and we support that -- that -- as a matter of
25 law, both of these orders become final today. It's

1 really kind of a coincidence that the meeting is
2 today. It's 20 days after the original order and it's
3 today. And we recognize that. That sets the date by
4 which the bond is to be filed. It's 10 days after the
5 order becomes final and unappealable. That's today.
6 That's 10 days from today, 10 business days.

7 And also the last sentence about both of
8 the licenses being uncontested, that just is to
9 recognize the fact that somewhere in the record of this
10 proceeding that each of the parties has withdrawn from
11 the opposition of the other party, that they're no
12 longer contesting, so the record in the case shows
13 that.

14 And finally, the new force majeure, that
15 was actually proposed by Laredo Race Park when they
16 were still on the agenda; but we do support that. It
17 seems clearer. It makes more sense. There are some
18 issues under the wording of the -- the original force
19 majeure seemed to require an emergency. And there are
20 a lot of things beyond our control that could happen
21 that you wouldn't really say are an emergency, like a
22 Court coming in and say, "Don't do it," or something
23 like that. It's more of a standard force majeure
24 clause is what's being proposed and we support their
25 proposal.

1 CHAIRMAN ROGERS: I think if you had one
2 of those things happen, you would come in and make your
3 case; and if it were a legitimate thing, I would think
4 the Commission would be amiable to hearing from you
5 without having to put it in the order.

6 But, Mark, does this change anything in
7 the Commission's position to change this to make it an
8 uncontested case as opposed to it having been contested
9 all the time?

10 MR. FENNER: Well, the only thing that
11 occurs to me in regards to that is that there is a
12 provision of the rules that talk about applying to move
13 a racetrack. And it's -- let me find that rule. It
14 talks about you can't move if the granting of the
15 license was a result of subterfuge and there's also a
16 problem if it's a contested case. Let me find that.

17 So frankly, this change would give the
18 Commission more discretion to approve a move, not that
19 they are proposing to move their racetrack. Right?

20 MR. MOLTZ: We're not proposing to do
21 that.

22 COMMISSIONER CARTER: Is that in the
23 minutes?

24 MR. MOLTZ: We're not proposing that
25 today. I mean, I can't speak for my client way down

1 the road; but that's --

2 MR. FENNER: They said that they were
3 going to build the track.

4 CHAIRMAN ROGERS: So, Mark, is it your
5 recommendation that we leave that last sentence in or
6 we take that last sentence out? If we accept the
7 Finding of Fact No. 4 that the order -- that there's no
8 opposition now and that everybody is in support of the
9 issuance, is it your suggestion that we leave the
10 sentence in that says it's now uncontested or that we
11 take that out?

12 MR. FENNER: I believe you should leave
13 it in. I think it leaves you more flexibility.

14 COMMISSIONER CABRALES: Mark, I notice
15 that Paragraph 4 in one order is slightly -- I mean, it
16 gets to the same point; but it's slightly different
17 than the Paragraph 4 in the other one.

18 MR. FENNER: The reason being that the
19 Valle de los Tesoros was not a contested case.

20 COMMISSIONER CABRALES: That's right.
21 Okay.

22 CHAIRMAN ROGERS: Are we -- should we
23 talk about what this order is going to look like here
24 now? Then I guess the question is whether you want to
25 accept the staff's original order and add this Finding

1 of Fact No. 4 or whether you want to accept the amended
2 force majeure suggestion.

3 So, David, you're the attorney here. Why
4 don't you get us straight.

5 COMMISSIONER CABRALES: Well, I mean, the
6 motion that I would make, if you're looking for one, is
7 to accept the order that Mr. Fenner circulated today
8 that has the -- that he inserted the new Paragraph 4
9 and has the revised force majeure clause; but I would
10 modify what's been circulated to take out in its
11 entirety the paragraph on page six of the LRP Group
12 order that reads "It is" -- or begins with "It is
13 further ordered that it is the intent of the Commission
14 that this order and the security required thereby be
15 consistent with the rules of the Commission."

16 That entire paragraph out of that order,
17 I would pull that out; and with that one change, I
18 would move to then accept the LRP Group, Limited order
19 that Mr. Fenner circulated today and also would move
20 that you be allowed to sign as Chair. That would be
21 the motion I'd make.

22 CHAIRMAN ROGERS: Is there a second to
23 that motion?

24 MR. ANGELO: Second.

25 CHAIRMAN ROGERS: Seconded by

1 Commissioner Angelo.

2 Any other discussion?

3 All in favor?

4 COMMISSIONERS: Aye.

5 CHAIRMAN ROGERS: Opposed?

6 The motion carries.

7 Now, this is -- I guess actually we're
8 going to need to do this twice. So we have made this
9 motion in general; but I think we're going to have to
10 make a motion, that same motion, applying to Laredo
11 Downs and then that same --

12 MR. FENNER: You've already covered
13 Laredo Downs.

14 CHAIRMAN ROGERS: Laredo Downs was the
15 one that we just covered.

16 COMMISSIONER CABRALES: Right. Now we
17 need Valle de los Tesoros.

18 CHAIRMAN ROGERS: Okay. Valle de los
19 Tesoros.

20 COMMISSIONER CABRALES: My motion would
21 be to accept the order that Mr. Fenner circulated today
22 that has the revised force majeure clause as well as
23 the new -- I guess you didn't change Paragraph 4 on
24 this one, just the revised force majeure clause. But I
25 would further move that we take out the paragraph on

1 page six of that order that starts "It is further
2 ordered that it is the intent of the Commission that
3 this order and the security required thereby be
4 consistent with the rules of the Commission."

5 So that entire paragraph goes out. And
6 that also that you be allowed to sign as Chair. That's
7 my motion.

8 CHAIRMAN ROGERS: Is there a second to
9 that?

10 COMMISSIONER ADAMS: Second.

11 CHAIRMAN ROGERS: Second by Commissioner
12 Adams.

13 All in favor?

14 COMMISSIONERS: Aye.

15 CHAIRMAN ROGERS: The motion passes.

16 We have a request by Retama Park for
17 approval of Thoroughbred race dates for 2007.

18 Commissioners, this is Tab 9 in your book.

19 Mr. Brown? I just thought you'd already
20 be up here. You've never been bashful before.

21 MR. BROWN: I'm shy today.

22 Good morning, Commissioners.

23 COMMISSIONER SOWELL: Good morning.

24 MR. BROWN: Retama Park is requesting
25 approval of live Thoroughbred dates beginning September

1 7th and extending through November 17th. We would race
2 a minimum of nine Thoroughbred races a day -- we would
3 hope to race 10, but a minimum of nine -- and then two
4 Arabian races per week. This request is contingent on
5 the transfer of 12 race dates from Sam Houston Race
6 Park which were originally transferred by Retama to Sam
7 Houston and a transfer of a half a million dollars in
8 purse money from Sam Houston back to Retama.

9 You have in your package a letter whereby
10 Sam Houston Race Park agrees to both those requests and
11 has also requested an agenda item, which is the next
12 agenda item, actually formally transferring those dates
13 back to Retama Park.

14 We think it's important that those dates
15 be filled for the horsemen. Without our request, the
16 horsemen would be without racing for August, September,
17 and most of October this coming fall; and that
18 obviously has impacts on the horsemen, breeding, and
19 the entire industry.

20 So I'd be happy to answer any questions
21 that you have.

22 CHAIRMAN ROGERS: Okay. Thank you.

23 Would someone from Sam Houston come give
24 us a blessing on this?

25 MR. BORK: When our dates were originally

1 allocated for 2007, you might recall that Retama did
2 not have an application for any racing dates; and at
3 that time we volunteered to take 12 of their dates if
4 they would send us \$500,000 to cover the purse money
5 for that period.

6 At the last Commission meeting, that was
7 undone; and I volunteered at that time that we would
8 happily -- if Retama wanted the 12 days back, we'd be
9 happy to give them back to them and give them the
10 \$500,000. So that's the second part of Retama's
11 request, that they have the dates earlier in the year
12 and then take those 12 days back also.

13 CHAIRMAN ROGERS: You have no opposition
14 to that?

15 MR. BORK: No.

16 CHAIRMAN ROGERS: Any questions?

17 Thank you.

18 COMMISSIONER ADAMS: I have a question of
19 Mr. Brown.

20 CHAIRMAN ROGERS: Mr. Brown?

21 MR. BORK: He snuck away, didn't he?

22 CHAIRMAN ROGERS: He did.

23 COMMISSIONER ADAMS: Mr. Brown, is it
24 your desire to actually have these dates back or is
25 this just the only thing that's left you due to the

1 fact that, in my opinion, Sam Houston did not uphold
2 their part of the deal?

3 MR. BROWN: This is the only thing left;
4 and we think it's important for Retama to race at some
5 point; and if we go too long without racing, I think it
6 hurts us in our own community and it really hurts the
7 horsemen a lot as well. We're not, I mean, as you can
8 imagine, a hundred percent happy doing this. We were
9 caught off guard at the last Commission meeting and
10 caught really off guard. But this is the best thing,
11 we feel, for everybody. We don't want to go, quote,
12 unquote, "dark" with Thoroughbreds for very long. I
13 don't think that's good for anybody.

14 Now, we could have not come back and not
15 requested anything and just waited for the next
16 Commission meeting or the Commission meeting after July
17 1st and reapplied for the 2008 dates; but I think that
18 would have left the industry in too much of a -- with
19 too much of a question mark.

20 COMMISSIONER ADAMS: Thank you, sir.

21 MR. BROWN: Sure.

22 CHAIRMAN ROGERS: Any other comment?

23 Anybody else want to testify on this?

24 Okay. I would entertain a motion -- we
25 have somebody? If you'd like to say something, we

1 don't want to cut you off.

2 Okay. We would accept a motion to
3 approve the 32-day Thoroughbred race meet for Retama
4 Park as requested, which would include a transfer of 12
5 Thoroughbred days and \$500,000 in purse money from Sam
6 Houston Race Park to Retama Park.

7 MR. ANGELO: So move.

8 COMMISSIONER SOWELL: Second.

9 CHAIRMAN ROGERS: Moved by Commissioner
10 Angelo, seconded by Commissioner Sowell.

11 All in favor?

12 COMMISSIONERS: Aye.

13 CHAIRMAN ROGERS: The motion passes.

14 I'd like to get an update at this point
15 from Sam Houston Race Park.

16 MR. HURWITZ: Mr. Chairman and
17 Commissioners, I'd first like to introduce myself. My
18 name is Shawn Hurwitz. I've recently been named the
19 CEO and president of Sam Houston Race Park. And so
20 thank you for allowing me the opportunity to introduce
21 myself to you and hopefully get to know you guys much
22 better over the years.

23 I'm sure many of you have heard about the
24 management changes at Sam Houston Race Park. I wanted
25 to go into a little bit more detail.

1 First of all, as the chairman noted
2 earlier, Bob has been named as vice-chair of the
3 board. So a nice congratulations to Bob for, yes, a
4 promotion to a new position. And the reasoning for
5 that was to free him up to work on a lot of big-picture
6 items for the park rather than having to continue to
7 deal with all of the day-to-day operations.

8 And one of the main things that he's been
9 working on and I think we're making a lot of progress
10 on is trying to get the Breeders' Cup to Sam Houston
11 Race Park, which would be great for the State of Texas
12 and for Sam Houston Race Park. So we're working hard
13 on that.

14 Then also Bob has had the honor of being
15 elected to head the TRA. So that's a big job and also,
16 again, that's good for Sam Houston Race Park, I think
17 good for Texas racing. So that's been going on.

18 In addition to Bob's new duties, we have
19 made other significant and I think very positive
20 changes to the park. Management, Andrea Young has been
21 named executive vice-president and chief operating
22 officer of Sam Houston Race Park. She was most
23 recently the president of the Houston Comets, the
24 basketball team, and was with the Houston Rockets
25 organization for a number of years and has significant

1 sports and entertainment background which I think can
2 really help us to broaden what we're doing and has a
3 lot of operating and marketing experience.

4 In addition, Mike Vitek will be leaving
5 Sam Houston Race Park after, I believe, 13 years with
6 our company. He'll be remaining on in other duties,
7 but he's going to be going -- moving on to work on some
8 real estate matters that he has wanted to do for a long
9 time. So, Mike, thank you for all your service to
10 Texas racing and to Sam Houston Race Park over the
11 years.

12 And he'll be replaced by a gentleman
13 named David Jackson who was senior director of finance
14 for the Toyota Center, the Houston Rockets, the Houston
15 Comets, and the Thunder Bears. So the Rockets may not
16 be so happy with Sam Houston Race Park, but we're happy
17 to have these people. I think they'll do a very good
18 job.

19 Both under Bob and Andrea's leadership,
20 we have begun to significantly broaden what we're doing
21 at Sam Houston Race Park. We're building the largest
22 outdoor concert venue in Houston in the infield. We'll
23 be able to have 20,000 people to a concert in our
24 infield. And, you know, times -- at times like these,
25 we need to look at all types of entertainment to make

1 the tracks work financially and so we're making major
2 investments in Sam Houston Race Park to be able to do
3 that and I think that will really help. In addition,
4 we've hosted recently Cirque du Soleil in our parking
5 lot. And we intend to do many more things such as that
6 and things like the Breeders' Cup.

7 Lastly, since my being named in my new
8 position, I've worked very hard with Charla Ann, Mark
9 Fenner, and Sammy to improve the relationships between
10 Sam Houston Race Park and the Racing Commission staff.
11 And I'll leave it to them to tell you whether that, in
12 their mind, is helpful; but from my perspective, it
13 certainly is; and they've been terrific to work with
14 and I thank them for helping to educate me on protocols
15 and the ways of the world within the Racing
16 Commission.

17 So thank you for allowing me time to
18 introduce myself. I look forward to working with you
19 and I look forward to continuing to work with other
20 Racing Commission staff over the years.

21 If there's any questions, I'd be happy to
22 answer them.

23 CHAIRMAN ROGERS: Thank you.

24 MR. HURWITZ: Thank you.

25 CHAIRMAN ROGERS: Okay. If we could get

1 an update on Austin Jockey Club and on Longhorn Downs.

2 Mr. Brown?

3 MR. BROWN: Bryan Brown with the Austin
4 Jockey Club this time.

5 I'm going to give you just a quick couple
6 of thoughts and then introduce Mike Burleson who will
7 be here to answer your questions on specifics about
8 where they stand in their process.

9 We appreciate the Commission's patience
10 in this matter. We have a long history of trying to
11 find land. Personally, I think I could chart a nice
12 unsuccessful pattern of trying to find land for
13 racetracks with regard to Austin Jockey Club, so I know
14 how hard it is. I know what Mr. Barnett and
15 Mr. Burleson are going through.

16 But at the same time I think it's real
17 important for them to be allowed the time to find the
18 right piece of land to structure their track the way
19 they need to because it will be best for the industry
20 if it's done that way.

21 Having said that, Mr. Burleson will
22 answer any questions you have. And again, we
23 appreciate your patience. We think it's important that
24 a careful study of land be done by this group and be
25 allowed to find what should be best for the industry.

1 CHAIRMAN ROGERS: Before we do that, I
2 think we're going to take about a five-minute break so
3 all the Commissioners can be here to hear this. So
4 we're going to stand in recess just a moment.

5 (Recess from 11:33 a.m. to 11:45 a.m.)

6 CHAIRMAN ROGERS: Okay. If we can begin
7 again.

8 Mr. Burleson?

9 MR. BURLESON: Thank you, Commissioners,
10 for the opportunity to give you an update this
11 morning. I realize we'll be talking a little bit about
12 the progress we've made, some of the lack thereof, and
13 I won't take up much of your time. We appreciate your
14 patience through this process. I know it's wearing a
15 little bit thin and I'm cognizant of the reasons for
16 that. We fully appreciate the fact that you've got
17 responsibilities to the industry and to the State, so
18 it's a good thing that you encourage folks from time to
19 time to step up the pace where possible.

20 I am Mike Burleson. I represent Billy
21 Bob Barnett and his partners in Dallas City Limits. I
22 have been in that capacity since, I believe, about
23 November of 2005 after the agreement was made to
24 purchase the stock in Longhorns Down, Inc., which is
25 the owner of a Class 2 horse racing license originally

1 issued to Judge A. W. Moursund at Round Mountain,
2 Texas.

3 The plan was and has been and is to
4 purchase Longhorn Downs, Inc., and move that Class 2
5 license to Dallas County, Texas. The first plan that
6 Mr. Barnett and his partners came up with involved a
7 grand entertainment complex in downtown Dallas. We
8 made a trip and visited with each of you, with the
9 exception of Mr. Cabrales, of course, about that
10 project at that time.

11 It involved a total equine entertainment
12 facility with a hotel, convention center, retail
13 outlets, and a lot of entertainment outlets. It also
14 involved a land swap with the City of Dallas, which the
15 City Council in about January or February of '06
16 decided against. So having that happening, we were
17 forced back to Square One, so to speak.

18 Then the City of Irving came forward and
19 expressed an interest in the project to locate in Las
20 Colinas. They were and still are very aggressive in
21 the promotion of activity in that area ultimately to
22 replace some of their loss with the Dallas Cowboys, who
23 can play in Irving, I understand, through 2009 if they
24 need to and then they'll be moving to a new location
25 out in Arlington.

1 Anyway, the problem with the Las Colinas
2 project and their interest was that they really didn't
3 desire to have any gaming activity or any pari-mutuel
4 activity at that site. So at that time these two
5 projects were separated.

6 They were only separated -- it was a
7 separation that was only geographical in nature. The
8 same ownership structure is still in place as has
9 always been there. It will be two projects now located
10 in two different locations. And the horse track
11 project will have some additional entertainment venues
12 added to it to compensate for the loss of that part of
13 the business to the Las Colinas project.

14 The Las Colinas project is a tremendous
15 thing, heavy involvement with the City of Irving. It
16 involves a convention center, theaters, live concert
17 venue, equine venue, hotel, parking facilities. It's
18 going to be big and it's well under way.

19 The racetrack site has presented a
20 problem, however; and it's been one that is not that
21 hard to understand, especially for you, Mr. Chairman,
22 in the real estate business. But north Dallas real
23 estate is really, really hot. Finding a site that is
24 suitable, that has the market desirability, that is big
25 enough in size, 150 to 200 acres, in the first place,

1 is very, very difficult; and when you add in the things
2 that have to go with it -- it can't get across into
3 Denton County. The pari-mutuel referendum did not pass
4 there in 1988. The local politics have to work, as you
5 know. So there are many factors that enter into -- and
6 the price is very, very high. There are many factors
7 that enter into that; and that's what, in a nutshell,
8 has made this process so difficult.

9 We engaged Henry S. Miller & Company
10 early on, as you know, and have looked at almost an
11 infinite number of sites. About last January we found
12 what we thought was a great site, almost too good to be
13 true, in the northwest corner of Dallas County. We met
14 down here with the owners of that property, reached an
15 agreement in principle; and we were so confident in
16 that site and the deal that we had on it that we began
17 to put together the plan for -- to present to you for
18 approval of a license and approval of a site change and
19 did, in fact, complete that plan.

20 In the interim, however, the market got a
21 little bit hotter; and before all the ingredients in
22 the option could be negotiated, drafted, and signed,
23 the short story is we lost that deal. We had an
24 option. Some other people came in and offered to buy
25 it for cash and close in 45 days. We couldn't do

1 that. So we were back to Square One again.

2 Having said all that, we now have a
3 location. It's 165 acres in size. It went under
4 contract last week. The contract has been executed by
5 all the parties involved. Escrow money is in place.
6 And everything relative to that is in as good a shape
7 as we can get it until we close on the property.

8 Having said that, we had a full
9 presentation to make to the Commission, planning on the
10 March meeting, based on the site that we had in
11 January. We'll go home and start now -- already have
12 started, but tomorrow we'll really start the process of
13 updating all of those materials, revising it, adapting
14 it so that it will fit the new location. And we did,
15 in fact, present to staff last week a written request
16 to be placed on the agenda in July for approval of the
17 change of ownership of Longhorn Downs, Inc., and
18 approval of a site change from Travis County, Texas, to
19 Dallas County, Texas.

20 We will -- and I'm here today to make two
21 commitments to you based on anything that is under our
22 control. We will submit all of our material to staff
23 by November 1.

24 CHAIRMAN ROGERS: By when?

25 MR. BURLESON: Pardon me. By June 1.

1. And that should give time -- we have a little DPS work
2 that has to be completed, so they can get that and
3 they'll have -- whenever the next meeting is, the 24th
4 of July or whatever, they'll have 50, 60 days to give
5 that a look and we can address problems that we have at
6 that time.

7 But it's our intention, number one, to
8 complete the submission of all the necessary paperwork
9 to staff by June 1, be on the agenda on July the 24th.

10 I'll answer any questions that I can, if
11 you'll allow us a little bit of leeway as far as direct
12 questions on the site because the ink is hardly dry on
13 the contract and we have a little bit more homework and
14 background work that we need to do before we announce
15 the location of that.

16 CHAIRMAN ROGERS: Commissioners?

17 VICE-CHAIRMAN RUTHERFORD: When is --
18 Mike, when is it you're expected to close on the
19 property? When do you estimate you're going to close?

20 MR. BURLESON: We have a year; but we
21 basically have to start from scratch now with
22 engineering, construction, and all those things. So it
23 would be a year or less. There is a heavy -- I won't
24 say heavy. There is a substantial amount of increase
25 in the escrow money that has to be deposited, I believe

1 on a monthly basis; so each month that we get into it
2 increases the amount of escrow money that's at risk.
3 So I mean, it's a firm real estate deal and it's a
4 plain vanilla contract that's not -- that doesn't have
5 any hidden flaws in it that I can see or that I've been
6 advised of.

7 COMMISSIONER SOWELL: Mike, does that
8 mean there aren't any environmental problems or
9 wetlands or anything like that that you might run
10 into?

11 MR. BURLESON: No, we do have to address
12 that, which is why we had to --

13 COMMISSIONER SOWELL: That's part of your
14 due diligence.

15 MR. BURLESON: Right. Which is why we
16 have to have the year to close, in case we run into
17 stumbling blocks on those or a myriad of other issues.

18 CHAIRMAN ROGERS: Commissioner Boyd?

19 COMMISSIONER BOYD: Mike, given this
20 going through, is your plan to build this on the same
21 scale as you were when you originally met with each one
22 of us?

23 MR. BURLESON: No. But there will be a
24 considerable amount of entertainment venue construction
25 over and above a racetrack and a simulcast pavilion.

1 We have to work the site plan and see -- we don't --
2 we're not sure yet just what we can fit on that site
3 plan at this point. I think it does have very good
4 access. It's near two interstates. And it's actually
5 right on the proposed new loop for Dallas that will be
6 built, I understand, within two years, what they call
7 the outside Dallas loop, I believe Loop 9.

8 COMMISSIONER BOYD: So with the intention
9 of some entertainment and then live racing
10 accommodating all breeds. Is that still the
11 intention?

12 MR. BURLESON: Yes, ma'am. Definitely.

13 COMMISSIONER BOYD: Thank you.

14 MR. BURLESON: My bosses are in the
15 entertainment business. That's what they do.

16 CHAIRMAN ROGERS: So let me be clear.
17 What you're going to do is you're going to present the
18 ownership change by the 1st of June?

19 MR. BURLESON: We'll also include the
20 location change. We'll be far enough along in the next
21 two weeks, when we submit all our information to you,
22 that we will know 75 percent where we stand. I think
23 any problems -- any problems that we can't find out
24 about in the interim between now and June 1 will be
25 just problems that we decide to deal with rather than

1 deal-killing problems.

2 CHAIRMAN ROGERS: Okay. Any other
3 questions?

4 Thank you.

5 MR. BURLESON: Thank you.

6 CHAIRMAN ROGERS: An update on Saddle
7 Brook Park.

8 Mr. Alexander?

9 MR. ALEXANDER: Chairman, Commissioners,
10 and staff, I appreciate you letting me come and bring
11 you an update on Saddle Brook Park.

12 It sounds a little bit like maybe I'm
13 ahead instead of behind. We have plenty of land in
14 Amarillo, Texas, so we're in pretty good shape where
15 that goes.

16 This license that I have was actually
17 issued in 1989 and was Lubbock Downs and the person
18 that was going to build that died and it was never
19 built. Lone Star Park bought that license, didn't move
20 it. They just bought it with the approval of the
21 Commission. And then I bought that license from Lone
22 Star Park and moved it to Amarillo with the approval of
23 the Commission in 2001.

24 I bought a 286 plot of land in Amarillo
25 for two and a half million dollars that was on I-40 and

1 in the proper county, because Amarillo is split by two
2 counties and, amazingly enough, one of them approved
3 the referendum and one of them did not.

4 So we submitted all of our -- we spent
5 hundreds of thousands of dollars on architectures and
6 infrastructures and so forth and presented all our
7 plans to the Commission in 2002 and with the full
8 intentions of having that track open by now.

9 One of the first problems we ran into was
10 our sewage. And the way it wound up was that the State
11 of Texas was going to basically make us build a water
12 sewage treatment plant and that added millions of
13 dollars to the project. So we fought that for a year
14 and a half.

15 And we were fortunate enough that a
16 community out past us, away from Amarillo, was going to
17 build a whole new school district out there, a
18 brand-new school, and the State was going to make them
19 do the same thing. So we got with them and got with
20 the City of Amarillo and it looks like that there's a
21 possibility that we'll be able to pipe our sewage into
22 the sewage system in Amarillo and save us millions of
23 dollars. So that's one of the things that we're
24 working on right now.

25 Because of that, I'm not able to give you

1 a time line of when we're going to have this facility
2 built or when we're going to be able to start racing.
3 The only thing that I can tell you is that it has
4 always been our intention to have a racetrack in
5 Amarillo. Amarillo needs to have a racetrack. The
6 national headquarters of the American Quarter Horse
7 Association is in Amarillo. And the closest racetrack
8 to us in Texas is 360 miles away.

9 So, you know, we're pretty much isolated
10 up there in Amarillo. We're kind of the stepchild of
11 the state. So we've always intended to do what we said
12 we'd do in the first place, but a lot of things have
13 gotten in the way of doing that. So we're still
14 hopeful to get it done. We still plan to do it. We
15 are just unable to give you a definite time line right
16 now.

17 And there's some other things that have
18 happened that I would like to visit with you about.
19 During the time that -- in the last three or four
20 years, we've had another racetrack open up in Hobbs,
21 New Mexico, that has video lottery terminals. They're
22 an hour-and-a-half drive from Amarillo. Their horse
23 purses are going to be 10 to 15 times what we could
24 ever offer.

25 Also Remington Park in Oklahoma City,

1 which is a three-hour drive the other direction, now
2 have video lottery terminals. Their purses are going
3 to be 10 to 15 times what our purses could ever be the
4 way we're structured. You can drive 60 miles and go to
5 an OTB or an off-track betting center just across the
6 Oklahoma line.

7 So Texas tracks aren't playing on a level
8 field. We can compete with anybody if we're playing on
9 a level field. So these sort of things make it pretty
10 difficult and make profits pretty paper thin. And I
11 don't think it would be prudent of this Commission to
12 force someone to build a racetrack that has the
13 distinct possibility of going broke. That doesn't make
14 us look good. Nor do I think that they should put --
15 in our case particularly, make us put up bonds and give
16 you definite dates and try to take our license from
17 us. That seems pretty unfair to me.

18 There's a word that we could use -- when
19 you all were discussing this earlier about the other
20 tracks wanting to be treated like everyone else,
21 there's a word that's been used forever in all of our
22 cities and all of our states and that's called
23 grandfathering. It's not unusual to make new rules and
24 grandfather in other tracks that have been out there
25 for a long time. So that's -- I think that's what I

1 would ask the Commission to do in our case anyway.

2 It's not like we haven't been doing what
3 we said we were going to do. The timetable is just
4 longer. All of the tracks in Texas are in trouble.
5 We've had four racetracks and one greyhound track go
6 broke in this state. And that doesn't look good.

7 The very first track that opened up and
8 ran the first race in Texas was Brady. Ms. Boyd knows
9 where Brady is. It's just a short drive from San
10 Angelo. And I was there on that opening day. They had
11 the track open and we watched from under tents. It
12 didn't make it. It went broke.

13 Bandera was the next track that opened
14 up. They operated for about, I think, five years.
15 When Retama Park opened up, that put them out of
16 business. They went broke. Retama Park didn't make
17 it. They went broke, too. The people that own it now
18 are not the people that opened it up. Trinity Meadows
19 at Weatherford, the minute that Lone Star Park opened
20 up, they went broke, too. So I just don't think it's
21 prudent today to compare all the tracks that we have
22 left and make them comply by all the same rules.

23 A good example is -- I think probably one
24 track that has a possibility of opening up and really
25 being successful is in Laredo. They've got 20 million

1 people to draw from. We're up in the Texas Panhandle;
2 and if you start at the top of Texas and go all the way
3 down to Midland, Texas, we have less than a million
4 people. And then we're surrounded by gaming states up
5 there, every corner. So we have to be careful what we
6 build. We have to be careful with our time line
7 because I don't want to be a statistic.

8 So I'm just asking this Commission to
9 bear with us, give us a little leeway. There's not
10 anybody in the world that wants this track in Amarillo,
11 Texas, worse than I do.

12 So I'll be glad to answer any of your
13 questions. I want to work with all of you to the best
14 of my ability. And I'm here to answer any questions
15 you might have for me. So thank you very much.

16 CHAIRMAN ROGERS: Questions?

17 COMMISSIONER BOYD: I'm curious,
18 Mr. Alexander. What questions could you answer? I
19 didn't hear any answers today. You know, I heard that
20 you're going to put it off. To when?

21 MR. ALEXANDER: You asked me -- the
22 letter that I got asked me to speak to you and give you
23 a time line of when I was going to build the track and
24 have it open and give you live race dates. That was
25 what you asked me. And I said I am not in a position

1 to do that today. Maybe by the next Racing Commission
2 I can give you some definite dates. But I got the
3 letter three business days ago asking me to appear. So
4 I wasn't prepared to give you a direct race date
5 today.

6 COMMISSIONER BOYD: I guess my intent on
7 the question was you originally got the license and I
8 wondered then, you know. You kept putting us off. We
9 never heard from you on when you were going to make any
10 progress at all. And I'm just curious why you wait
11 until now to update us. The last I heard was the
12 sewage treatment plant issue and I haven't heard
13 anything since.

14 MR. ALEXANDER: I was -- we sent Paula
15 Flowerday a letter on a regular basis. If there were
16 no changes, the letter said there were no changes. If
17 we had something to tell her, then we did. When the
18 regime changed, we didn't continue those updates
19 because we didn't have anything to tell you.

20 COMMISSIONER BOYD: So because these
21 other tracks around you have built up now, you think
22 that's going to be your reason for delay? I mean, had
23 you started earlier, do you think that that would have
24 helped at all?

25 MR. ALEXANDER: I think I probably would

1 be broke by now. That's what I think.

2 COMMISSIONER BOYD: So your intent now
3 would be to do what?

4 MR. ALEXANDER: Well, our intent now
5 would be probably to downsize what we originally
6 intended and not build the church for Easter Sunday, so
7 to speak. We're going to have to be very careful.

8 CHAIRMAN ROGERS: Any other questions or
9 comments?

10 Thank you.

11 MR. ALEXANDER: Thank you very much.

12 CHAIRMAN ROGERS: Okay. We're going to
13 move to proceedings on rulemaking, discussion,
14 consideration, and possible action on the following
15 rules: The first one, under Tab 10, Commissioners, is
16 a proposal of amendment to 309.6 which is the security
17 for compliance.

18 MR. FENNER: We sent that to you as a
19 supplemental mailout.

20 Commissioners, the current security for
21 compliance rule applies to new licenses only and it has
22 no method within it with which to extend to an existing
23 license that is not operating a racetrack. There's
24 also some vagueness in it about how to determine the
25 amount of security that would be required. And so

1 we've proposed or put to you for proposal a
2 modification to the rule which you'll find on pages
3 four of nine, I believe it really begins.

4 But the purpose of it is -- let's just
5 walk through some of it. First of all, we're going to
6 retain the language that's already in there about the
7 purpose of the security is to ensure the compliance
8 with the act and the rules and also the association's
9 completion of the racetrack facilities on or before the
10 date approved by the Commission, as well as the start
11 of simulcast racing on or before the date approved by
12 the Commission.

13 We're changing it to make it possible for
14 the Commission to require security from an existing
15 license that is not active. You can designate a new
16 date by which time it must complete its racetrack
17 facilities. You can approve a date by which it must
18 begin simulcasting. You may approve a date by which it
19 may begin live racing. And you could require the
20 association to post a security amount that you
21 determine.

22 The factors or the process by which we'll
23 determine the amount of security is that the executive
24 secretary will make an estimate. She's going to use
25 either the original application or, if that application

1 that was filed by the association is so old that it's
2 no longer timely, will request updated data by the
3 association.

4 We'll estimate the pari-mutuel tax that
5 was due to the General Revenue Fund from live wagering,
6 the pari-mutuel tax due to the General Revenue Fund
7 from simulcast same species, pari-mutuel tax due the
8 General Revenue Fund from cross-species, and then the
9 general revenue dedicated account revenue from live
10 wagering pools and breakage. We'll also incorporate or
11 include in that factor the amount of funds due to the
12 Texas-bred incentive programs.

13 We'll clarify that the interest earned on
14 any U.S. Treasury bond or on an irrevocable assignment
15 of a Federally insured deposit is not subject to the
16 assignment so that the association keeps the interest.

17 There is a force majeure type clause in
18 here on page 10-8. I believe it's line 103.

19 Then it also says that if they fail to
20 conduct either simulcast racing when they're supposed
21 to or live racing when they're supposed to that we will
22 forfeit to the appropriate fund, either the General
23 Revenue Fund or to the accredited Texas-bred fund, the
24 amounts as appropriate, which is in the security bond
25 you saw earlier today.

1 They can also -- the Commission can also
2 forfeit out of the bond any portion that's appropriate
3 for fees, penalties, or interest that the Commission --
4 that the association owes to the Commission. It also
5 provides that after they complete their first live race
6 meet that the remaining security will be returned.

7 Do you all have any questions about
8 that?

9 CHAIRMAN ROGERS: Commissioners?

10 What you're proposing is that this be
11 published in the Texas Register for public comment.

12 MR. FENNER: Yes, sir.

13 CHAIRMAN ROGERS: Not become a rule yet,
14 but that it would be set out for comment.

15 MR. FENNER: Yes, sir.

16 COMMISSIONER SOWELL: I have one
17 question, Mr. Chairman. If counsel would explain
18 the -- maybe I haven't found it yet. But the force
19 majeure seems to consist only of reasons beyond the
20 association's control. Is that correct? Without
21 further definition of it? Or is it someplace else that
22 I've missed? Line 103.

23 MR. FENNER: 103.

24 CHAIRMAN ROGERS: That's all it says.

25 MR. FENNER: What I have -- you may have

1 a version that's -- do you have a page 10-9?

2 COMMISSIONER SOWELL: I'm looking at the
3 one you sent out on May 9th.

4 MR. FENNER: May I look over your
5 shoulder?

6 COMMISSIONER SOWELL: Sure.

7 MR. FENNER: Line 109, "Exceptions to
8 this requirement may be allowed only if the
9 association's failure to conduct live racing by the
10 date approved by the Commission was due to an emergency
11 that the Commission determines was unforeseeable and
12 beyond the association's control." It's a very strict,
13 very narrow force majeure clause.

14 COMMISSIONER SOWELL: I'm just curious as
15 to whether or not a claim could be made on the basis
16 that VLT's in neighboring states are beyond the control
17 of the association.

18 MR. FENNER: I'm going to assume that was
19 a rhetorical question, sir.

20 COMMISSIONER CABRALES: Mr. Fenner, just
21 as a matter of housekeeping, if we end up publishing
22 this, that clause that starts on line 103 of page 10-8,
23 I think you probably -- in the reworking of it, you
24 probably intended to remove that first clause because
25 as I read (g), which looks like it's supposed to be

1 identical except one is simulcast and one is live, you
2 don't have that introductory clause.

3 MR. FENNER: You're correct, sir. So we
4 would strike "except for reasons beyond the
5 association's control," comma, and start with "if an
6 association".

7 COMMISSIONER CABRALES: And that was line
8 103, right?

9 MR. FENNER: Yes, sir. Thank you for
10 that correction.

11 CHAIRMAN ROGERS: Are there any public
12 comments, anybody who would like to talk on this
13 issue?

14 Okay. Thank you.

15 Commissioners, any discussion before we
16 entertain a motion?

17 I would entertain a motion to publish the
18 proposed amendment to Rule 309.6 in the Texas Register
19 for public comment.

20 COMMISSIONER BOYD: I so move.

21 COMMISSIONER SOWELL: Second.

22 CHAIRMAN ROGERS: Okay. A motion made by
23 Commissioner Boyd, seconded by Commissioner Sowell.

24 All in favor?

25 COMMISSIONERS: Aye.

1 CHAIRMAN ROGERS: The motion passes.

2 Okay. Proposal of amendment to 303.41,
3 allocation of race dates.

4 MR. FENNER: Commissioners, this is
5 similar. We're requesting approval to publish this in
6 the Texas Register. Ms. Cook is distributing a
7 slightly different version. Really there's nothing
8 substantively different than what you have that she's
9 passing out right now. It's just we had a formatting
10 problem like Mr. Cabrales just identified in the
11 previous one.

12 What this would do is amend the
13 allocation of race dates rule --

14 MS. KING: Sammy is making this
15 presentation.

16 MR. FENNER: I'm so sorry. Mr. Jackson
17 will handle this one. I'm sorry.

18 MR. JACKSON: Thank you.

19 Commissioners, staff has prepared a
20 proposal amendment to Rule 303.41. Ms. Cook has just
21 handed it out to you. It's for your consideration and
22 approval.

23 This proposed amendment to Rule 303.41,
24 allocation of race dates, does several things. One, it
25 removes the July 1st requirement of submission for live

1 race dates to be conducted in the next calendar year
2 and replaces it with a provision that gives you the
3 authority to establish a time period for consideration
4 of race dates.

5 Two, it includes a provision that allows
6 for the Commission, upon its own motion or upon the
7 request of any association, to designate an application
8 period during which associations may apply for specific
9 race dates.

10 Three, it includes a provision that
11 requires the Commission to establish a time period or
12 periods for which it will consider granting race
13 dates.

14 And fourth, it requires the executive
15 secretary to publicize the Commission's designated
16 application period to the affected greyhound and horse
17 racing associations at least 30 days before the closing
18 of the period.

19 Staff prepared this proposal for
20 amendment to add more flexibility in the race date
21 allocation process. The current rule has no
22 flexibility in establishing either race date
23 application periods or limit the race date calendars to
24 be considered for approval.

25 This inability to be flexible when

1 dealing with race date issues became painfully obvious
2 and frustrating to the staff and the participants at
3 the race date working groups over the past 10 months.

4 Some examples: One, race date requests
5 due on July 1st requires Texas racetracks to submit
6 their requests without knowing the racing calendars of
7 our neighboring states' racetracks. Several of these
8 out-of-state racetracks are closer in distance to our
9 Texas racetracks than our Texas racetracks are to one
10 another.

11 Two, race date requests that cannot go
12 beyond December 31st does not allow for the full
13 discussion, planning, and commitment to meets that are
14 intended to run beyond that December 31st date.

15 And finally, number three, race date
16 discussions limited to 12 months or less do not allow
17 for the full discussion, planning, and commitment
18 needed for any substantial change in the race date
19 calendar.

20 Staff believes that this amendment will
21 give the Commission the needed flexibility while at the
22 same time maintaining structure and continuity on one
23 of the most important issues the Racing Commission must
24 consider.

25 If you have any questions for staff, I

1 will be more than happy to answer them.

2 CHAIRMAN ROGERS: Commissioner Boyd?

3 COMMISSIONER BOYD: I appreciate this. I
4 think that it will give our staff more time to plan and
5 dedicate their resources and I think that it will give
6 the tracks more time to plan for their racing schedules
7 and we won't be, hopefully, going back and changing
8 them so frequently. So I'm glad that we did this.
9 Thank you very much for the time you put into it.

10 CHAIRMAN ROGERS: Any other comment?

11 Is there any public comment on this rule
12 proposal?

13 I would accept a motion to publish the
14 proposed amendment to Rule 303.41 in the Texas Register
15 for public comment.

16 COMMISSIONER CABRALES: So move.

17 COMMISSIONER ADAMS: Second.

18 CHAIRMAN ROGERS: We have a motion and a
19 second.

20 All in favor?

21 COMMISSIONERS: Aye.

22 CHAIRMAN ROGERS: The motion passes.

23 Okay. We have -- the next ones are
24 adoptions. And these are rules that have been
25 published in the Register. Adoption of Chapter 301,

1 definitions, with amendments.

2 Mr. Fenner?

3 MR. FENNER: As part of the regular rule
4 review process which is required by the Government
5 Code, we did publish Chapter 301 with some small
6 amendments in the Register. The amendments just
7 changed the term "odds board" to "tote board" in the
8 definition. It also amends the definition of a race
9 meeting to include simulcasting. And those were the
10 only changes proposed.

11 We received no written comment in
12 response to that posting.

13 CHAIRMAN ROGERS: Is there any public
14 comment on this issue?

15 Okay. Then we would accept a motion to
16 readopt Chapter 301 with amendments as published in the
17 Texas Register.

18 COMMISSIONER SOWELL: So move.

19 COMMISSIONER CABRALES: Second.

20 CHAIRMAN ROGERS: Moved by Commissioner
21 Sowell, seconded by Commissioner Cabrales.

22 I'm close. I'm getting in the
23 neighborhood. I got there once.

24 All in favor?

25 COMMISSIONERS: Aye.

1 CHAIRMAN ROGERS: The motion passes.

2 Okay. Adoption of Chapter 319,
3 veterinary practices and drug testing, with
4 amendments.

5 MR. FENNER: This is the same sort of
6 thing. As part of the rule review process required by
7 the Government Code, both the chapter and the proposed
8 amendments have been published in the Texas Register.
9 We've received no comments to date in response to that
10 public notice. And I can go down the changes, but
11 you've already been down them once; so if you have any
12 questions, I'd be happy to answer them.

13 CHAIRMAN ROGERS: Is there any public
14 comment on these rule changes?

15 Okay. We would accept a motion to
16 readopt Chapter 319 with amendments as published in the
17 Texas Register.

18 COMMISSIONER BOYD: May I ask a quick
19 question?

20 CHAIRMAN ROGERS: Yes. Go ahead.

21 COMMISSIONER BOYD: Just refresh my
22 memory on 13-4, "This rule amendment will provide the
23 Commission veterinarian with the flexibility of
24 notifying either the owner or the trainer." Remind me
25 how we notify. Is it verbal or writing?

1 MR. MARSH: I'm Stewart Marsh, chief
2 veterinarian for the Texas Racing Commission.

3 The notification is always in writing.

4 COMMISSIONER BOYD: Always in writing,
5 okay.

6 MR. MARSH: We usually do verbal also,
7 but it's always in writing.

8 COMMISSIONER BOYD: Great. Thank you
9 very much.

10 CHAIRMAN ROGERS: Any other questions or
11 comments?

12 Okay. We would accept a motion to
13 readopt Chapter 319 with amendments as published in the
14 Texas Register.

15 VICE-CHAIRMAN RUTHERFORD: So move.

16 MR. ANGELO: Second.

17 CHAIRMAN ROGERS: Moved by Commissioner
18 Rutherford, seconded by Commissioner Angelo.

19 All in favor?

20 COMMISSIONERS: Aye.

21 CHAIRMAN ROGERS: The motion passes.

22 Adoption of rules relating to pari-mutuel
23 wagering, Tab 14.

24 MR. FENNER: This one was not part of the
25 overall rule review. This was just some individual

1 separate rule proposals. They have been published in
2 the Register. We have received no written comments in
3 response to these.

4 The new Rule 321.2 makes intentional
5 manipulation of odds and will-pays a practice that is
6 inconsistent with the honesty and integrity of racing.

7 321.29 requires an expiration date to be
8 printed on the face of a pari-mutuel ticket.

9 321.33 requires an association to print
10 the expiration date on the face of a pari-mutuel
11 ticket. So those are similar somewhat.

12 321.43 allows cancellation of wagers on
13 self-serve machines.

14 And 321.313 relates to the distribution
15 of the pari-mutuel pool for winners of Select Three,
16 Four, and Five wagers.

17 CHAIRMAN ROGERS: Commissioners, any
18 questions?

19 Is there any public comment on any of
20 these?

21 Okay. Let me get through this motion a
22 bit then. To adopt the -- the motion would be to adopt
23 the amendments to Rules 321.2, 321.29, 321.33, 321.43,
24 and 321.313 as published in the Texas Register.

25 COMMISSIONER ADAMS: So move,

1 Mr. Chairman.

2 CHAIRMAN ROGERS: Moved by Commissioner
3 Adams.

4 COMMISSIONER BOYD: Second.

5 CHAIRMAN ROGERS: Seconded by
6 Commissioner Boyd.

7 All in favor?

8 COMMISSIONERS: Aye.

9 CHAIRMAN ROGERS: That motion passes.
10 Okay. We have one other piece of
11 housekeeping, and that's going to be setting the agenda
12 for the next meeting. But before we do that, there's a
13 couple of things that I'd like to cover.

14 One is in the form of an announcement.
15 But this will be the last meeting for myself, for
16 Commissioner Boyd, and for Commissioner Rutherford.
17 And I wanted to give them an opportunity to say a few
18 words if they'd like.

19 Commissioner Rutherford?

20 VICE-CHAIRMAN RUTHERFORD: Well, it's
21 been a very interesting period. I've enjoyed it a
22 lot. But I'm kind of glad I'm retiring.

23 CHAIRMAN ROGERS: Commissioner Boyd?

24 COMMISSIONER BOYD: Thank you for this
25 opportunity. I kind of wanted to give you a little

1 brief history of how I learned who you all are and what
2 you did.

3 When I went to Sam Houston, that was the
4 first time I had ever seen a live sanctioned horse
5 race. Now, I owned horses when I was growing up. We
6 did it on the farm. We had our own unsanctioned horse
7 races on Sunday afternoon, but nothing like what I saw
8 for the first time.

9 As you'll recall, Lila, we spent -- I
10 don't think there was one corner of that racetrack that
11 I didn't cover that day. And in meeting people in the
12 barns, from the owners to the trainers to the people
13 that worked the horses, it was one of the greatest
14 experiences I've ever had.

15 And at the end of the day, for a Quarter
16 Horse race, Bob invited me down to the rail to join him
17 for that race. And I remember when the bell rang and
18 that gate opened, it was so exciting and I couldn't
19 hear a thing and it was because I was screaming so loud
20 with hundreds of other people standing around me that
21 were also excited. When I looked up at Bob, I saw the
22 biggest grin on his face and then I realized this may
23 not all be about money. It may just be about a good
24 horse race.

25 I traveled then to Retama. And when I

1 saw that grandstand, it made me realize that it was
2 really what I had seen in the movies. I mean, it was
3 exactly the grandstand that I had expected. It was on
4 a cold, crisp morning. Mike took me. There was fog on
5 the ground. I'll never forget that day as long as I
6 live. All I heard was the crack of a whip and the
7 horse's hooves as it hit the track and the steam that
8 came out of that horse. It was an exciting trip for
9 me. We went up to the crow's nest. I saw where the
10 camera filmed and saw how it operated. And it came
11 full circle for me. Part of the circle was filled that
12 day.

13 From there, I went to Gillespie. Now,
14 that was going home, because it reminded me of the
15 rodeos in my hometown. I took my whole family there.
16 During the races I noticed these people working like
17 bees at the end of the track. And I asked someone,
18 "Who are those people?" They said, "Oh, they're just
19 the owners."

20 It made me very proud at that moment to
21 be associated with such wonderful folks and, to boot,
22 that it's for scholarships. It was great. I was very
23 proud to be associated with the Racing Commission at
24 that moment.

25 From there, I went to the greyhound

1 tracks. Now, I had been to greyhound tracks before in
2 El Paso, across the border, many years; so I had seen
3 greyhound races before. But I was extremely excited to
4 go to the backside because, you know, it's so clean
5 back there. It was clean. We had to be very quiet in
6 prepping the dogs for the races. I realized how
7 delicate those hounds are, very delicate. And they
8 were handled so carefully. Again, I was very proud.
9 And lots of people, lots of people involved. It gave
10 me a picture of the scope of this industry.

11 From there, I went to the Taj Mahal of
12 racing, Lone Star. And I was greeted at the door by
13 none other than some Dallas Cowboy guy that I had seen
14 on television playing football. It was an
15 extraordinary moment for me, quite a facility. And I
16 covered every corner of that, including the hallway
17 with all the doodles. And I might add that my doodle
18 is a little bit better than the President's. He can't
19 draw, just like he can't sing or dance.

20 But it was an exciting trip for me. I
21 remember going down to the paddock and seeing all the
22 horses, how extraordinary they were, how extraordinary
23 that facility is.

24 From there, I went to the jockeys and I
25 got to attend their weigh-in. Now, those are some

1 athletic guys and gals. I was very impressed by that.
2 And they were all so friendly. But before the race it
3 became very tense, a very tense moment as they weighed
4 in to make sure everybody made it.

5 From there, then Doc invited me down to
6 the chase vehicle, which I climbed in eagerly. And
7 when the gate was moved, off we went through a cloud of
8 dust. I couldn't see a thing. And it was one of your
9 worst days, Doc. I remember it like it was yesterday.
10 Because something happened. Something wrong happened.
11 I saw a jockey jump off. And at that moment I realized
12 how important it is that they're athletes because he
13 jumped off of that Thoroughbred horse.

14 I remember him moving from the inside of
15 the rail to kind of the middle of the pack. And at
16 that moment, when something went wrong, you knew what
17 it was, and I didn't, because you look for those
18 things.

19 We chased that horse around three
20 quarters of that track. And through the windshield I
21 saw an outrider jump off of his horse in full stride
22 and run up and throw his shoulder up underneath that
23 horse because the horse was missing his back foot. It
24 got clipped off. And I saw Doc do what he does best.
25 He ran up and the curtain went up. And when I turned

1 around, there was not a sound coming from Lone Star's
2 stands. Now, that's quite a feat. But we handled
3 ourselves so well and I was so proud of us all.

4 You know, the DPS officers toured me back
5 behind the track and I got to see how the people on the
6 backside have to live and also some of your added
7 challenges, which we just get a small piece of it here
8 with the background checks and all of that. But the
9 scope of your responsibility is so much larger than
10 that. I gained a lot of respect for you that day.

11 You know, when I started this, it was for
12 the State of Texas. I thought I was serving them. But
13 when I got to know you, I realized I wanted to serve
14 you. I appreciate it very much. I'm sorry I'm
15 crying. But you -- you have a lot of expertise. A
16 lot. And I'm glad that I was associated with you.
17 Thank you.

18 CHAIRMAN ROGERS: I must not know some of
19 these --

20 VICE-CHAIRMAN RUTHERFORD: Mr. Chairman?

21 CHAIRMAN ROGERS: Yes.

22 VICE-CHAIRMAN RUTHERFORD: May I -- you
23 jumped on me first.

24 CHAIRMAN ROGERS: If you're going to top
25 that, you're not going to get a chance.

1 VICE-CHAIRMAN RUTHERFORD: But I would
2 like to add one thing. Probably the biggest benefit
3 and the most fun I've had being on the Commission is
4 meeting the staff and all the -- and making friends
5 with all the staff and from all around at the different
6 racetracks, our staff here, and meeting all the new
7 Commissioners that over the six years that we've met.
8 That's probably the most important thing that I've
9 enjoyed.

10 CHAIRMAN ROGERS: Thank you.

11 COMMISSIONER BOYD: And, Mr. Chairman --

12 CHAIRMAN ROGERS: Yes.

13 COMMISSIONER BOYD: I've served under
14 three chairmen of this board. The first one knew the
15 industry up sideways and back again, knew everything
16 that was happening on the tracks, had a vested
17 interest. The second one, all I remember about that is
18 she was very tough. She could run the mechanics of a
19 meeting with no glitch. And I remember very well that
20 she recused herself a lot from the vote.

21 This is -- one of the reasons I'm saying
22 this is because we now have a chairman who is
23 objective, who doesn't recuse himself, who brings a lot
24 of levity to the board, which is great, but who shows a
25 lot of leadership skills. I think that it's very

1 important that the Governor's office continue to
2 appoint this person because leadership skills and
3 qualities are inborn. You can't teach those.

4 It's very important that the chairman be
5 able to articulate his position very well, the position
6 that we need to hear, extract the important facts out
7 of the issues, because they're complicated. They're
8 not easy. This is not an easy job. Your issues are
9 not easy. But it's important that the chairman be able
10 to do that for the board.

11 This -- with no disrespect to anybody
12 that has come previous to Mr. Rogers, this has been the
13 best chairman we've had since I've been on the board.
14 And I can't tell you how much I've learned from you,
15 Dyke. Sometimes I don't apply it, but I did learn it.
16 But I do think it's important that we continue this
17 tradition of strong leadership in the chairman's
18 position. So thank you very much, Dyke, for your
19 leadership. I appreciate it a lot.

20 CHAIRMAN ROGERS: Thank you. A couple of
21 comments I'd like to make. Thank you.

22 First off, when I took this job, I didn't
23 know which way the horses ran around the track, so from
24 a position of absolutely no knowledge. And it's been a
25 real adventure.

1 I think the most fun thing in this job
2 has been working with the Commissioners that we have.
3 I said at one time that having a Commission meeting is
4 a whole lot like making sausage. It's not just really
5 pretty; but it is actually democracy, I think, at its
6 best because we don't have any pre-meetings. We don't
7 talk about what should happen. I can count on this
8 hand, with that many fingers, the number of times that
9 I've called a Commissioner to say, "Would you like to
10 vote a certain way on a certain issue?" It just
11 doesn't happen.

12 So when I first got on the Commission, it
13 seemed like about every other motion died for lack of a
14 second; and then if it got a second, it didn't get
15 through because you didn't know really how everybody
16 else was feeling. So it's been really good having open
17 discussion, open dialogue, and I've really enjoyed
18 working with all of you all. And I've really enjoyed
19 working with the staff and I very much enjoyed working
20 with the folks in the industry.

21 It's an industry I didn't know anything
22 about but have really enjoyed the learning curve. And
23 it's been a lot of fun. There are some times it's not
24 as much fun as others, but it's been quite a bit of
25 fun.

1 And I guess I'd just like to say thank
2 you to all of you all and thank you to you guys who are
3 in the industry for, I guess, putting up with us for
4 the most part. And I'd like to apologize to everybody
5 here for screwing up your name at least once. And
6 that's it. So thank you very much.

7 MS. KING: We have a special presentation
8 for the outgoing Commissioners, but was there anybody
9 else who wanted to comment before I did the
10 presentation? Because we get the last word.

11 MR. HOOPER: Mr. Chairman, members of the
12 Commission, I'm David Hooper, executive director of the
13 Texas Thoroughbred Association.

14 And I distinctly recall when you,
15 Mr. Chairman, were appointed and you, Commissioner
16 Boyd, were appointed and, as you stated so eloquently,
17 how much you knew about the industry when you came to
18 it.

19 On behalf of the Texas Thoroughbred
20 Association, I want to express our deep appreciation
21 for the service that you've given to this State, to
22 this Commission, for all the efforts that you have made
23 to acquire the information that helped you make
24 decisions that were meaningful to us and to help us
25 give the guidance that you have. And I think that is

1 seen today with some of the changes that are coming
2 about in the rulemaking.

3 With Commissioner Rutherford, he was a
4 little more fortunate in coming on the Commission than
5 you two were because he has a long history in this
6 industry; and to have his knowledge I know was very,
7 very beneficial to all the members of the Commission
8 who served while he has been on.

9 So in closing, just on behalf of the
10 Texas Thoroughbred Association, thank you very much. A
11 job very, very well done. And I would echo
12 Commissioner Boyd's statement. You have been an
13 outstanding chairman, Mr. Chairman. Thank you.

14 CHAIRMAN ROGERS: Thank you.

15 MS. KING: This is kind of a momentous
16 occasion. And the staff probably has a lot of things
17 to say and they'll probably tell you these things
18 individually because there's a much higher voice
19 available to us at this moment from the State of Texas
20 House of Representatives where three resolutions were
21 passed in honor of our outgoing members. And so I'd
22 like to read these resolutions into the record.

23 First, House Resolution No. 1948.

24 "Whereas, Treva J. Boyd of Christoval has
25 given generously of her time, energy, and expertise to

1 serve the public good as a member of the Texas Racing
2 Commission;

3 And whereas, Ms. Boyd garnered
4 considerable experience as a labor relations manager
5 with GTE for 15 years, and is now director of American
6 Truck and RV, San Angelo's oldest RV dealership;

7 And whereas, as a committed member of her
8 community, Ms. Boyd has participated selflessly in
9 various causes and organizations in San Angelo; she has
10 been volunteer chair of the San Angelo Feast of Sharing
11 and president of the boards of directors of the Junior
12 Dance Club and the Senior Dance Club of San Angelo; she
13 has also served on the Booster Club and Site Base
14 Committee for Central High School;

15 And whereas, a proud graduate of Texas
16 A&M University, Ms. Boyd has been a member of the board
17 of directors of the Association of Former Students and
18 of the Legislative Committee; she has also served on
19 the board of the West Texas Boys Ranch;

20 And whereas, the Texas Racing Commission
21 oversees the racing industry in Texas in order to
22 ensure safe racing facilities, fair and honest races,
23 and a consistent revenue stream to the State; Ms. Boyd
24 has served on the Commission since November 17th, 1999,
25 and her unselfish dedication to the Commission and to

1 the State of Texas truly merits special recognition;

2 Now, therefore, be it resolved, that the
3 House of Representatives of the 80th Texas Legislature
4 hereby commend Treva J. Boyd for her years of service
5 to the Texas Racing Commission and extend to her best
6 wishes for the future;

7 And, be it further resolved, that an
8 official copy of this resolution be prepared for
9 Ms. Boyd as an expression of high regard by the Texas
10 House of Representatives."

11 And it's signed by the Speaker of the
12 House, Speaker Craddick, on May 11th, 2007, by a
13 non-record vote.

14 Congratulations, Treva.

15 Our second resolution, House Resolution
16 1950.

17 "Whereas, the State of Texas has
18 benefitted greatly from Michael G. Rutherford's service
19 as a member and as vice-chair of the Texas Racing
20 Commission;

21 And whereas, a graduate of the University
22 of Texas at Austin, Mr. Rutherford is the president of
23 Rutherford Oil Corporation, an independent oil and gas
24 producing company founded in 1927; he is also the owner
25 of ranches in Hays and Frio Counties;

1 And whereas, Mr. Rutherford has long been
2 a notable figure in the world of horse breeding and
3 racing; he has raced Thoroughbred stakes winners in New
4 York, California, Kentucky, Arkansas, Louisiana,
5 Florida, Maryland, and Texas, including the North
6 American International High Weight filly, Lakeway, in
7 1994;

8 And whereas, in 1986 he sold the highest
9 priced Thoroughbred yearling filly in the United
10 States, and in 2000 he sold the highest priced
11 Thoroughbred yearling colt at the Keeneland Select
12 Yearling Sale;

13 And whereas, his service to the horse
14 racing and breeding community includes his 15-year
15 tenure as director of the American Quarter Horse
16 Association; he has also been a judge for 14 years for
17 the AQHA, director of the Breeders' Cup, and director
18 of the Texas Thoroughbred Breeders Association;

19 And whereas, the Texas Racing Commission
20 oversees the racing industry in Texas and a consistent
21 revenue stream to the State; Mr. Rutherford's tenure on
22 the Commission represents a generous gift of time,
23 energy, and expertise to the State of Texas and truly
24 merits special recognition;

25 Now, therefore, be it resolved that the

1 House of Representatives of the 80th Texas Legislature
2 hereby commend Michael G. Rutherford for his years of
3 service to the Texas Racing Commission and extend to
4 him best wishes for the future;

5 And be it further resolved, that an
6 official copy of this resolution be prepared for
7 Mr. Rutherford as an expression of high regard by the
8 Texas House of Representatives."

9 Signed by the Speaker of the House on May
10 11th with a non-record vote.

11 House Resolution 1949.

12 "Whereas, the exemplary tenure of R. Dyke
13 Rogers of Dalhart as member and Chair of the Texas
14 Racing Commission stands as a shining example of public
15 service;

16 And whereas, a graduate of West Texas A&M
17 University and a longtime West Texas businessman,
18 Mr. Rogers has been the owner of North Texas Gas
19 Company, owner/director of the medical billing company
20 TRIAD, and a farmer cultivating over 3,000 acres of
21 corn and wheat; he is currently the president of
22 Frontier Fuel Company;

23 And whereas, his professional
24 affiliations include membership in the Texas Petroleum
25 Marketers and Convenience Store Association, the

1 Petroleum Marketers Association of America, and the
2 National Association of Convenience Stores;

3 And whereas, he has likewise served his
4 community as president of the Dalhart Chamber of
5 Commerce and as a member of the boards of directors of
6 the New Beginnings Retreat Center, the Dalhart
7 Independent School District, and the Dalhart County
8 Appraisal District;

9 And whereas, the Texas Racing Commission
10 oversees the racing industry in Texas in order to
11 ensure safe racing facilities, fair and honest races,
12 and a consistent revenue stream to the State;

13 And whereas, Mr. Rogers has served on the
14 Commission since November 17th, 1999, and was
15 vice-chair from February 20th, 2002, to May 26th, 2003,
16 when he was appointed as Chair by Governor Rick Perry.
17 His continuing commitment to the Commission and the
18 State of Texas is exceptional and truly merits special
19 recognition;

20 Now, therefore, be it resolved, that the
21 House of Representatives of the 80th Texas Legislature
22 hereby commend Chairman R. Dyke Rogers for his years of
23 service to the Texas Racing Commission and extend to
24 him best wishes for the future;

25 And, be it further resolved, that an

1 official copy of this resolution be prepared for
2 Mr. Rogers as an expression of high regard by the Texas
3 House of Representatives."

4 Signed by the Speaker of the House, May
5 11th, 2007.

6 I think that says it all.

7 CHAIRMAN ROGERS: That's very nice. We
8 may just decide to stay.

9 We have one other order of business. And
10 I guess I would like to thank Treva particularly for
11 her passion. It's neat to see somebody that's as
12 passionate about what she's doing as she is. I went to
13 all the tracks also; but I have to confess, I wound up
14 in Valley by accident because I thought I was going to
15 Padre Island and they put me on the wrong flight. So
16 when I showed up at 10 o'clock at night, they were a
17 little concerned about what I was doing there.

18 And Commissioner Rutherford, when I first
19 got on the Commission, I guess after a couple of years,
20 he said, "You know, I really like to work on medication
21 issues." And with Texas' inclusion in RCI, I think
22 that's something that's going to finally come about.
23 He's been very helpful in that. So I think that's
24 great and I thank you both.

25 We have one other order of business and

1 that's setting the meeting date for the next meeting.
2 And there aren't too many people who can object to when
3 this is going to be because you won't be here. So
4 let's see. The suggested dates for the next meeting is
5 July 24th and then the following meeting either
6 September 18th or 19th. Is July 24th acceptable?
7 Everybody signed off on that? So our next meeting will
8 be July 24th. And I guess we will leave a tentative
9 meeting for September 18th or 19th for whenever the new
10 Commission gets on to be sure whether they can make
11 that or not. Is that acceptable?

12 MS. KING: Yes, sir.

13 COMMISSIONER CARTER: Do you want to pick
14 one of those two days?

15 MS. KING: We can, if you'd like.

16 CHAIRMAN ROGERS: It's September 18th or
17 19th.

18 COMMISSIONER SOWELL: Either one is fine
19 with me.

20 MR. ANGELO: The 18th is better for me.

21 CHAIRMAN ROGERS: So we'll make it
22 September 18th.

23 Is that it? No other business? We're
24 adjourned.

25 (Proceedings concluded at 12:49 p.m.)

1 STATE OF TEXAS)

2 COUNTY OF TRAVIS)

3

4 I, SHERRI SANTMAN FISHER, a Certified Shorthand
5 Reporter in and for the State of Texas, do hereby
6 certify that the above-captioned matter came on for
7 hearing before the TEXAS RACING COMMISSION as
8 hereinbefore set out.

9 I FURTHER CERTIFY that the proceedings of said
10 hearing were reported by me, accurately reduced to
11 typewriting under my supervision and control and, after
12 being so reduced, were filed with the TEXAS RACING
13 COMMISSION.

14 GIVEN UNDER MY OFFICIAL HAND OF OFFICE at Austin,
15 Texas, this 21st day of May, 2007.

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SHERRI SANTMAN FISHER, Texas CSR 2336
Expiration Date: 12-31-07

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