

BEFORE THE
TEXAS RACING COMMISSION
AUSTIN, TEXAS

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COMMISSION MEETING
AUGUST 5, 2008

Reported by: SHERRI SANTMAN FISHER

Job #9-70597

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BE IT REMEMBERED that the above entitled matter came on for hearing on the 5th day of August, 2008, beginning at 10:34 A.M. at 6100 Guadalupe, Building E, Austin, Travis County, Texas, and the following proceedings were reported by SHERRI SANTMAN FISHER, Certified Shorthand Reporter for the State of Texas.

APPEARANCES

- Commissioners: JESSE R. ADAMS
- G. KENT CARTER
- CHARLES L. "SONNY" SOWELL
- RONALD F. EDERER
- ROLANDO PABLOS
- ROBERT SCHMIDT
- GLORIA HICKS
- BETH ANDERSON
- JIMMY ARCHER

1 CHAIRMAN ADAMS: Can we please have
2 everyone take their seats? It's a little after 10:30
3 and we've got a long agenda, so I'd like to get
4 started, if we could.

5 It is August the 5th, 2008, and I'd like
6 to call this meeting of the Texas Racing Commission to
7 order and recognize Abby Armendariz to call the roll,
8 please.

9 MS. ARMENDARIZ: Commissioner Jimmy
10 Archer?

11 MR. ARCHER: Here.

12 MS. ARMENDARIZ: Commissioner Ederer?

13 COMMISSIONER EDERER: Here.

14 MS. ARMENDARIZ: Commissioner Hicks?

15 COMMISSIONER HICKS: Here.

16 MS. ARMENDARIZ: Commissioner Pablos?

17 COMMISSIONER PABLOS: Here.

18 MS. ARMENDARIZ: Commissioner Schmidt?

19 COMMISSIONER SCHMIDT: Here.

20 MS. ARMENDARIZ: Commissioner Sowell?

21 COMMISSIONER SOWELL: Here.

22 MS. ARMENDARIZ: Commissioner Anderson?
23 Commissioner Carter?

24 VICE-CHAIRMAN CARTER: Here.

25 MS. ARMENDARIZ: Commissioner Jesse

1 Adams?

2 CHAIRMAN ADAMS: Here.

3 We do have a quorum, so at this time I'll
4 ask if there were anyone signed in to speak in the
5 public comments portion of our agenda.

6 MR. FENNER: No, sir. I've received no
7 cards.

8 CHAIRMAN ADAMS: We have none? Okay.
9 Thank you very much.

10 Before we go to our general business, I'd
11 like to make note of a couple of things. I was very
12 pleased to receive in the mail the information on the
13 Texas Horse Racing Hall of Fame Gala, which, for you
14 all in the industry, is going to be held on Saturday,
15 the 4th of October, at Retama.

16 And I'm very excited to hear that the
17 2008 inductees will include racing legends Bill Allen,
18 Bobby D. Cox, Dorothy Scharbauer, and Joe Straus, Jr.,
19 and the Joann Weber Distinguished Service Award will be
20 presented to Mary Ruyle. And we are very pleased and
21 proud of these folks and would like to offer our
22 congratulations on their induction into the Texas Horse
23 Racing Hall of Fame.

24 So I'd also -- on a lighter note, I
25 received information from California that the -- about

1 the Terminator's appointing of Bo Derek to the
2 California Racing Commission. So things to come,
3 folks. It's just a warning to you.

4 COMMISSIONER SOWELL: How long do we have
5 to wait?

6 CHAIRMAN ADAMS: Well, usually in
7 California -- usually it happens in California about
8 two years before it gets to Texas, so if that's any
9 indicator, Sonny. So you and I will be gone.

10 COMMISSIONER SOWELL: It's a long walk,
11 isn't it?

12 CHAIRMAN ADAMS: The first item of
13 business is discussion, consideration, and possible
14 action on a budget and finance update. Shelley
15 Harris-Curtsinger, would you please -- chief financial
16 officer, would you please make your --

17 MS. HARRIS-CURTSINGER: Good morning,
18 Commissioners. If you will refer to page III.1 in your
19 handout, we are at this point 83.34 percent through the
20 current 2008 fiscal year as of June 30th. We are
21 currently 10.95 percent under budget looking at just
22 our operating budget; and then looking at our total
23 budget, we are 9.8 percent under budget as of June
24 30th.

25 I will be happy to answer any questions

1 if you have any.

2 CHAIRMAN ADAMS: Do we have any
3 questions?

4 I think not. Thank you, Shelley.

5 Next item, a report on racetrack
6 inspections. Carol Olewin?

7 MS. OLEWIN: Good morning,
8 Commissioners. Carol Olewin. This is a report on
9 racetrack inspection activities.

10 Good morning. This is a report on
11 racetrack inspection activities.

12 The first racetrack is Gillespie County
13 Fair. This was the routine pre-meet inspections. And
14 all items are satisfactory.

15 The next track is Gulf Greyhound Park.
16 These inspections were random and scheduled mid-meet
17 inspections. We had six items that are
18 unsatisfactory. One of those have been resolved since
19 this report was printed.

20 Next is Lone Star Park. This was random
21 inspections. And we have three items remaining on the
22 stewards' report. Those items should be addressed on
23 the dark time.

24 Next is Retama Park. These were random
25 inspections. All items are satisfactory.

1 And next is Sam Houston Race Park. These
2 were routine pre-meet inspection reports. The one item
3 that was remaining on the stewards has been corrected
4 since the report was printed.

5 CHAIRMAN ADAMS: Any questions?

6 I think we're okay on that. Thank you
7 very much.

8 MS. OLEWIN: Thank you.

9 CHAIRMAN ADAMS: A report and update by
10 executive director and staff regarding administrative
11 matters. Charla Ann King, executive director?

12 MS. KING: Good morning, Mr. Chairman and
13 members. Can you all hear me?

14 CHAIRMAN ADAMS: Fine.

15 MS. KING: I have three topics for you
16 this morning; but before I get started, I would like to
17 take a moment to introduce our new director of
18 investigations, Mike Gougler. Mike comes to us from
19 the Department of Public Safety Criminal Law
20 Enforcement Division. He has an impressive employment
21 record and brings a wealth of fresh perspective and
22 energy to assist us in reviewing and improving our law
23 enforcement and investigation functions. I'd like to
24 officially welcome Mike and encourage everyone to meet
25 him.

1 Mike, would you stand?

2 CHAIRMAN ADAMS: He's way ahead of you,
3 Charla Ann.

4 MS. KING: Okay. Good.

5 CHAIRMAN ADAMS: Good to have you, Mike.

6 MR. GOUGLER: Thank you, sir.

7 MS. KING: Now turning to my first topic,
8 an update on the process of checking the criminal
9 histories of individuals who apply for occupational
10 licenses. As you may recall, the Sunset Advisory
11 Commission staff report on the agency found that there
12 was too much delay in the collection of criminal
13 history information. In fact, sunset staff found it
14 took sometimes as long as two or three weeks to get a
15 criminal history from the time our licensing staff took
16 the fingerprints until the results were returned.

17 Thanks to the assistance and
18 encouragement of Commissioner Anderson, we met with the
19 Department of Public Safety and their electronic
20 fingerprint vendor, IBT, to explore ways to speed up
21 the process.

22 We have developed two solutions. First,
23 the department provided our investigators with access
24 to DPS's computerized criminal history database. This
25 allows our investigators to see whether a potential

1 licensee has any criminal history in Texas even before
2 submitting the fingerprints.

3 We piloted the system at this summer's
4 Gillespie fair meet. Our investigator ran all of the
5 new and renewed licenses for the opening weekend for a
6 total of 77 background checks. 25 came back with minor
7 criminal histories, allowing us to update our system;
8 and we also discovered one person had falsified their
9 license application by failing to disclose burglary
10 convictions. We were able to do this even before the
11 fingerprints came back.

12 We're also finalizing an agreement with
13 DPS's contractor, IBT, to use their electronic
14 fingerprint submission and reporting system. IBT has
15 agreed to provide the majority of the equipment at no
16 cost to the agency. The agency will pay a flat fee of
17 9.95 per fingerprint set to have FBI and Texas criminal
18 histories run. We plan on piloting this project during
19 the opening of Lone Star Park's Quarter Horse meet in
20 September.

21 You'll see later in the agenda that we
22 are requesting the Commission amend Rule 311.3 to allow
23 the agency to recover the direct and indirect costs of
24 the new fingerprinting process.

25 Next the budget hearings in preparation

1 for the legislative session. I want to thank Shelley
2 and Sammy for all of their hard work on the proposed
3 budget. Shelley will be presenting on the LAR shortly,
4 but I want to alert you to the budget hearing process.

5 Once the LAR is submitted, we will be
6 preparing for three budget hearings. They are most
7 likely to occur before our next Commission meeting
8 occurs. The first hearing will be with staff of the
9 LBB, the Legislative Budget Board, and the Governor's
10 Office of Budget, Policy, and Planning. That's usually
11 in mid September. The Chair and the agency staff will
12 make a short presentation on the FY '10-'11 budget
13 request and then answer questions. Occasionally
14 members from Senate finance and House appropriations
15 also attend.

16 Before session starts there may also be
17 hearings with the Senate finance and/or the House
18 appropriations regulatory subcommittee so that they can
19 get a preview of everyone's budget request. And that
20 usually occurs late in September.

21 The House Appropriations Committee
22 regulatory subcommittee took a different approach last
23 time around and only held their budget hearings after
24 the session started. We've not heard whether the
25 subcommittee will choose to hold hearings this fall.

1 Once session starts, budget hearings usually begin
2 early in February.

3 Both the House and the Senate usually
4 start off with the regulatory and licensing agencies
5 and we'll keep you posted as we get additional
6 information.

7 On the sunset process, we are, of course,
8 pleased that the Sunset Commission completed its
9 decisions on our agency. Now we look toward the
10 legislative session.

11 The Legislature will convene for the 81st
12 regular session on January 13th, 2009. The sunset
13 staff works with the Legislative Council to get the
14 sunset legislation drafted and then we wait for the
15 bill to be introduced. Hopefully, early on we'll get
16 word about who will sponsor our sunset bill. If any of
17 the Commissioners would like a refresher on the Sunset
18 Commission's decisions, Jean has a copy of the decision
19 packet available. I know we provided some information
20 to you on that already.

21 My last item this morning is a short
22 report on my recent trip to the RCI model rules
23 committee meeting and the RCI board meeting.

24 It seems that our joining of RCI two and
25 a half years ago was good timing and the importance of

1 participating in the national dialogue has never been
2 as important as it is today. The sense of urgency to
3 improve the regulation of horse racing has dramatically
4 increased.

5 Our counterparts in other states and the
6 racing industry stakeholders at the national level are
7 seeing the challenges themselves with a new set of
8 eyes. Although we are not considered a large handle
9 state, we have been included and encouraged to help
10 lead and support the changes that are on the horizon.

11 I believe that we've been included for a
12 variety of reasons but most importantly because we have
13 a lot of racing going on here in Texas and our
14 regulation sets the standards in many ways. We have a
15 lot to be proud of in the strict regulatory approach
16 we've established and hopefully we can continue to
17 develop our approach and assist others in developing
18 the kinds of regulations that protect the health,
19 safety, and integrity of all those participating in
20 this complex industry.

21 I make this statement to ensure that, as
22 Commissioners, you'll be ready to identify the policy
23 issues and potential changes that you think are
24 important for us to pursue and participate in. There
25 will be a broad range of choices when reviewing the

1 various policy issue areas. In addition, there's been
2 a marked increase in participation from groups like the
3 Jockey Club, the NTRA, the Jockeys' Guild, and the
4 national HBPA, who are all now attending the meetings,
5 coming to the regulators for support and assistance in
6 making changes to their own industry. I anticipate
7 further participation and activity on policies relating
8 to greyhound racing as well.

9 I will be happy to provide a more
10 detailed briefing on the recent meeting but want to
11 mention just a couple of items so that you'll know
12 they're coming your way.

13 At the model rules committee we heard
14 recommendations and discussion on toe grabs, riding
15 crops, injury reporting, mandatory continuing education
16 for trainers, claiming rules, and TCO2 testing. The
17 committee made progress in refining proposed policy and
18 is recommending for RCI approval of mandatory
19 continuing ed requirements for licensed trainers
20 starting in 2010.

21 The recommendations on riding crops
22 needed a little more work, though they were almost
23 there, and that will be considered at a model rules
24 committee meeting in October. That will be the next
25 time the model rules committee gets together. We're

1 also anticipating further discussions on TCO2 testing
2 at that time, along with some items such as prerace
3 exams, helmets, and shock wave therapy.

4 I should mention two items from the RCI
5 board meeting. We voted on the reclassification of
6 various drugs as recommended by the RCI veterinary
7 pharmacology committee. In most all cases, the drugs
8 were being moved to a stricter classification or new
9 drugs were being added.

10 The other important item that I should
11 mention is in regard to a certification program for
12 secondary pari-mutuel organizations. They're referred
13 to as SPMO's. An SPMO is an entity other than a
14 licensed racetrack association that offers and accepts
15 pari-mutuel wagers. This may include off-track
16 wagering sites and account wagering systems.

17 As we all know, there's been tremendous
18 growth of wagering in the account wagering sites
19 outside the United States. This does, however, expose
20 our pari-mutuel pools to wagering operators with
21 unknown qualifications, backgrounds, and intent. Some
22 less desirable operators have been identified who have
23 gained access to the pools, so there is a need to make
24 sure that entities coming into the pools have been
25 reviewed and investigated.

1 The proposal adopted by the RCI board is
2 to authorize the development of an SPMO certification
3 program that would require entities be certified by RCI
4 before being eligible to receive simulcast signals and
5 accept wagers and come into the U.S. pools. The intent
6 is to have this requirement in place by January 2010.
7 Sammy and Carol have been working on this issue
8 diligently and have some good materials to share.
9 We'll be putting together a packet for your review in
10 the near future.

11 Mr. Chairman, that concludes my report.
12 I'll be happy to answer any questions.

13 CHAIRMAN ADAMS: Thank you, ma'am.
14 Before I entertain any questions, I would like to
15 commend you for your efforts. Charla Ann has been
16 serving on the board of directors of RCI for several
17 years now and serves ourselves and the industry very
18 well in that respect. She's also helping with the
19 model rules committee as well. So I'm very pleased and
20 would like to applaud your efforts there. Thank you
21 very much.

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

23 CHAIRMAN ADAMS: And if I might regress a
24 second, you touched on the sunset review process. I
25 think staff did a tremendous job in monitoring and

1 supporting the Sunset Commission in their efforts in
2 review. And I'd like to especially applaud my fellow
3 Commissioner Sowell for his efforts to -- in taking on
4 the challenge of trying to support the industry by
5 getting the Legislature to allow us to help where we
6 could along the lines of supporting the industry.

7 That portion of our request did not get
8 approved, but it did get well -- it was well received
9 and did get full attention of the review committee. So
10 I think at some point in time that may still have a
11 chance of becoming a reality. But Commissioner Sowell
12 took that on personally and on his own and did an
13 extremely good job with that.

14 Any questions then of Charla Ann on her
15 report at this time?

16 Thank you, ma'am.

17 Hearing none, we'll move on to the report
18 by the working group on policies, procedures, and
19 ethics. Commissioner Ron Ederer?

20 COMMISSIONER EDERER: Well, of course,
21 what I've been requested to do is to review and revise,
22 if necessary, the ethics policy of the Racing
23 Commission with the assistance of staff and, in
24 particular, Mark Fenner, as well as my fellow
25 Commissioners, in particular Beth Anderson. We put

1 together not one but two drafts.

2 The second draft now, after considerable
3 input from Ms. Anderson, has now been submitted to the
4 Attorney General's office and we're waiting for input
5 from the Attorney General's office. When they come
6 back with their proposals, then we will all get
7 together again and put together a final draft. But at
8 this point in time we're still waiting on them and
9 they've been -- let's just say it's now in process.

10 CHAIRMAN ADAMS: Okay. Any questions for
11 Ron?

12 Thank you very much, Commissioner
13 Ederer.

14 A report by working groups on the future
15 funding for the Texas Racing Commission. Commissioner
16 Pablos?

17 COMMISSIONER PABLOS: Thank you,
18 Mr. Chair. Our charge is really to find an alternative
19 form of funding for this agency. We've been asked to
20 begin the process of looking forward to see how we
21 might fund our agency. At the present time we rely on
22 the operations of those folks that we regulate, and so
23 the idea is to figure out how we might present an
24 alternative form of funding.

25 Charla Ann has done a great job in

1 beginning the budgeting process as we heard earlier.
2 We've got the legislative appropriations request in
3 front of us today. We've got -- I believe there's a
4 deadline coming up on that to submit it. There will be
5 hearings on it. And really right now, at this point,
6 the focus is on identifying other ways of funding.

7 And so what I've asked Charla Ann to do
8 is to take a look at other states and see how they fund
9 their agencies and she'll begin that process and report
10 back to us so that we can take a look at that.

11 Of course, we're looking at a decline in
12 the industry and we don't want this agency and its
13 operations to suffer from any decline in revenues. And
14 so being that we do rely on the industry, it seems
15 appropriate to begin to look at other ways of funding.

16 I'll report next time on what Charla Ann
17 reports to me. Thank you.

18 CHAIRMAN ADAMS: Thank you, Commissioner
19 Pablos.

20 This task that Rolando was charged with
21 is probably the most difficult or as difficult a one as
22 I have seen in my five years on the Commission and we
23 will not take it lightly and it will take some time in
24 order to accomplish. I fully am aware of that. So
25 thank you for your efforts.

1 The next item is a presentation on --
2 Tino is not here yet, correct?

3 MR. FENNER: No, sir.

4 CHAIRMAN ADAMS: Okay. The next item was
5 to be a presentation on Oklahoma's enforcement
6 efforts. The executive director from Oklahoma is on
7 his way here as we speak, so we'll set this item aside
8 and pick it up when he does arrive.

9 So we'll go on then to Item G, the
10 Commission's legislative appropriations request for
11 2010 and 2011. Shelley Harris-Curtsinger, chief
12 financial officer, please?

13 MS. HARRIS-CURTSINGER: Commissioners, we
14 have satisfied the Governor's office and the LBB's
15 instructions regarding submitting a baseline budget at
16 a level not to exceed the amount expended in fiscal
17 year 2008 and budgeted in fiscal year 2009 plus the two
18 percent employee pay raise in 2009.

19 Agencies are required to submit a
20 supplemental schedule detailing how they would reduce
21 the budget request by 10 percent or down by 90 percent
22 in general revenue-related funding. On page III-6E in
23 your packet, you will see a summary of the 2010-'11
24 base legislative appropriations request along with the
25 2009 operating budget. These are the three items I

1 plan to talk about in detail today.

2 I bring your attention to the top of the
3 page, III-6E, to the column for the appropriated 2009
4 legislative appropriations. The agency approved
5 appropriations of 10,243,252. The agency does not
6 expect to expend all of these appropriations and has
7 estimated a lapse for fiscal year 2009 of \$450,000.
8 This is attributed to the decline in revenue collected
9 for the Texas-bred incentive fund and the Corpus
10 Christi Greyhound Racetrack closure. We have
11 decreased -- we are reducing our request for 2010 and
12 2011 to \$9,841,212 and \$9,841,211 respectively.

13 Also under the base appropriations I
14 would like to point out the rider appropriations. In
15 2009, '10, and 2011, you will see the new horse
16 racetrack rider. I point this out because we have
17 estimated only one racetrack to open per year. As your
18 agenda will address race dates today, I would ask that
19 you keep in mind how many tracks might open in a fiscal
20 year. Whether we keep the request at one track opening
21 per year will depend on the approval of race dates and
22 do we need to increase that number in either fiscal
23 year 2010 or 2011.

24 The section below the base appropriation
25 details where the appropriated funds are actually

1 expended. This is referred to as the object of expense
2 and the categories include salaries, personnel costs,
3 professional fees and services, consumable supplies,
4 travel, rent-building, and rent-machine and other. The
5 last two items are grants, which is the Texas-bred
6 incentive program, and then capital budget.

7 In terms of estimated expenditures, the
8 first area I would like to address is other personnel
9 costs, which have gone up over the last four years.
10 Part of this is because in the 79th legislative
11 session, longevity was calculated every three years of
12 service. During that session they changed the
13 calculation to every two years of service. Longevity
14 is a service credit paid to employees with more than
15 two years of service and increases every two years
16 thereafter.

17 Also we have a lot of employees that
18 currently meet the retirement rule of 80 or are very
19 close. We estimate that within the next three years we
20 will have between 12 to 14 employees who will be
21 eligible for retirement. Because of that, we will have
22 lump-sum payouts for allocation of vacation and
23 overtime that will be on the books.

24 We have budgeted accordingly. And
25 especially in fiscal year 2009, the number of employees

1 that are eligible is higher. Thus the estimated other
2 personnel costs are higher. These costs are not
3 appropriated and are expenditures that we must work
4 into our existing budget.

5 The other expenditure that needs to be
6 mentioned is, of course, travel costs. One reason that
7 the increase is due to the -- in fiscal year -- in the
8 current fiscal year, excuse me, the comptroller has
9 twice increased the amount paid for mileage. On
10 September 1st, 2007, at the beginning of fiscal year
11 '08, the mileage rate was 48.5 cents per mile. It
12 increased to 50.5 cents per mile on January 1st of 2008
13 and on July 1st increased to 58.5 cents per mile.

14 We have factored in increases to cover
15 those costs as well as costs associated with additional
16 inspections that the agency is planning in upcoming
17 months. The sum of that rolls down to the total that
18 we will ask for in base appropriations for fiscal year
19 2010 and 2011.

20 If you go to the full-time equivalent
21 positions information on the bottom of the page, you
22 will look at 2007 and 2008. We are operating at right
23 at 72 FTE's. We have been lapsing FTE's. And so with
24 the closing of Corpus Christi Greyhound Track, we are
25 requesting a reduced amount of base FTE's. We are,

1 however, requesting appropriations and FTE's that have
2 been dedicated from the base budget in an exceptional
3 item should the inactive racetrack reopen.

4 With the overview of the base budget, I
5 will move to the second page of your handout, III-7,
6 which gives you a summary of the exceptional items
7 requested totals and on page III-9 you will find a
8 summary of the description of each exceptional item.

9 All of these exceptional items correspond
10 to either a new or existing rider that provide
11 additional appropriation authority and flexibility to
12 the Commission to a variety of regulatory scenarios
13 based on industry changes. If a rider that authorizes
14 an appropriation is new, an exceptional item is usually
15 required by the LBB.

16 We are asking for five exceptional items,
17 with a total of 3.9 FTE's in each fiscal year. The
18 total appropriations request is \$341,775 for fiscal
19 year 2010 and the same in fiscal year 2011.

20 Now for the exceptional items.
21 Exceptional Item 1 would reactivate the inactive
22 greyhound racetrack with an estimated 90 performances
23 of live racing and 364 days of simulcast racing during
24 each year of the biennium. It includes 1.2 judges, .7
25 veterinarian, one licensing clerk, and one auditor.

1 This item also requests \$112,447 in appropriations to
2 remit Texas-bred incentive program funds collected.

3 Exceptional Item 2 would increase the
4 appropriations authority for the new horse racetrack
5 rider in each fiscal year from \$269,015 to \$303,600.
6 This is to adjust the cost of salaries and travel
7 should the rider be activated. The figures currently
8 in the rider are from 2004 cost estimates and this
9 exceptional item would increase the rider by \$34,585
10 each fiscal year.

11 Exceptional Item 3 and Item 4 are similar
12 in that both address additional live race dates beyond
13 the base estimates. Item 3 will give the agency
14 additional appropriation authority for FTE's to staff
15 and regulate live greyhound performances beyond the
16 estimated live performances included within the base
17 appropriation.

18 Item 4 will give the agency additional
19 appropriations and FTE's to staff and regulate live
20 horse race days granted beyond the estimated live horse
21 race days included within the base appropriation
22 authority. These are estimated at zero cost
23 exceptional items.

24 Exceptional Item 5 also relates to Item 3
25 and 4 in that it would establish the base appropriation

1 authority for live and simulcast race day estimates in
2 fiscal year -- each fiscal year of the biennium. This
3 would include the base appropriation authority to staff
4 and regulate two greyhound racetracks conducting 419
5 performances of live racing and 728 days of simulcast
6 racing and five horse racetracks conducting 277 days of
7 live racing and 1600 days of simulcast racing in each
8 fiscal year of the 2010-'11 biennium.

9 We will ask for one rider revision which
10 would change the rider for new racetrack applications.
11 This rider has previously been activated when the costs
12 exceeded \$75,000 to process a racetrack application.
13 However, this is too much for the agency to absorb and
14 we are asking to activate the rider when the costs
15 exceed \$15,000.

16 Page III-8 totals the base request with
17 the exceptional items. Page III-9 is the exceptional
18 items -- explanation of the exceptional items which I
19 have just outlined. And page III-10 through III-16 is
20 the detail for the riders.

21 As I mentioned at the beginning of this
22 presentation, the 10 percent biennial base reduction
23 option schedule is required by the Governor's office
24 and the Legislative Budget Board. On page III-17 you
25 will see included the suggested reductions and they are

1 1.26 million reduction in the Texas-bred incentive
2 program, 150,000 reduction in wagering system security
3 testing contract, 476,000 of salaries and other
4 personnel costs for 3.8 FTE's and supervise and conduct
5 racing, and 52,000 of salaries and personnel costs for
6 one FTE in occupational licensing program strategy.

7 This concludes the summary of the
8 agency's budget request as well as the exceptional
9 items. If you have any questions, I would be happy to
10 answer them.

11 CHAIRMAN ADAMS: Are there any
12 questions?

13 Okay. I have a question.

14 MS. HARRIS-CURTSINGER: Yes, sir.

15 CHAIRMAN ADAMS: Refresh me again as to
16 where this -- where we go -- where this goes from
17 here.

18 MS. HARRIS-CURTSINGER: Okay. We have to
19 submit this in an LBB form, which is a computer
20 program -- it's called ABEST -- that is due on August
21 the 13th. And once we get that submitted and it is
22 due, then they will look it over and we'll start the
23 hearing process.

24 What we need you all to do is if you
25 approve the budget as we've submitted it or as we've

1 presented it, we need you to have a motion that would
2 approve the budget and then also I have -- Abby has a
3 certification form that you would need to sign.

4 CHAIRMAN ADAMS: Okay. I thought I
5 understood that, so I just wanted to make sure.

6 If there are no -- if there are no
7 questions at this time, the -- yes. Commissioner
8 Schmidt?

9 COMMISSIONER SCHMIDT: I just had one
10 question. Could you expand a little bit about the
11 wagering compliance inspections reduction?

12 MS. HARRIS-CURTSINGER: Yes, sir. That
13 is the item that we were given last session to have a
14 contract to do wagering security system checks and,
15 from that, testing. And we have a contract that is in
16 place at this time. And beyond that, I'm going to let
17 either Sammy or Carol explain what that contract
18 actually does.

19 MR. JACKSON: It's a contract with Gaming
20 Laboratories International that does a certification of
21 the totalisator systems that we hub through at this
22 point. It's a new project that we just initiated the
23 contract on June 24th and we're working with them at
24 the moment. We currently do have people on staff who
25 can do portions of that testing, not to the high end

1 that that gaming laboratory can do. But we believe,
2 going through the process, that we ourselves will learn
3 as much. We were going to reevaluate this contract
4 over the next two years to see if we needed to renew
5 it.

6 So it's a plan that we submit -- we would
7 like to hold on to it at this point, but it is a plan
8 that we have to submit to make cuts and this is one
9 where we thought we had staff that could do the
10 majority of the work. But if forced into this, then we
11 would have to make that tough decision.

12 COMMISSIONER SCHMIDT: This ensures the
13 integrity of our tote systems.

14 MR. JACKSON: That is part of it, yes.

15 COMMISSIONER SCHMIDT: Thank you.

16 CHAIRMAN ADAMS: Okay. Commissioner --

17 VICE-CHAIRMAN CARTER: Something struck
18 me on this right at the end where you're reducing your
19 budget. And under directive, you're to decrease the
20 budget by 10 percent, correct?

21 MS. HARRIS-CURTSINGER: Only in the
22 supplemental form. Last legislative session we had to
23 actually reduce it by 10 percent within the
24 strategies. So it's not as severe. I don't know if
25 that's the right word for you. But they asked us to go

1 through the motion and give them ideas. Because we
2 haven't had to do the cut in each and every strategy,
3 we haven't gone -- had to go to the level of detail
4 that we had to before last session.

5 VICE-CHAIRMAN CARTER: It seems to me
6 that of a 1.9-million-dollar reduction, 1.2 of that
7 comes out of the incentive program. So really all
8 we're doing is decreasing the money that we give to the
9 incentive plans, right?

10 MS. HARRIS-CURTSINGER: We're reducing
11 the appropriations. We can only pay out what is
12 brought in, and at this point we're not paying out what
13 we're bringing -- we're not bringing in enough to pay
14 out all of the appropriations that we are given at this
15 time.

16 VICE-CHAIRMAN CARTER: Okay. All right.
17 Thank you.

18 MS. HARRIS-CURTSINGER: Uh-huh.

19 CHAIRMAN ADAMS: Did you have a question,
20 Commissioner Ederer?

21 COMMISSIONER EDERER: Well, I think I
22 have a couple of questions. Say again what you just
23 repeated. As far as the incentive -- no. I don't
24 understand what you're saying.

25 MS. HARRIS-CURTSINGER: Okay. We are

1 given appropriations. We are given budget authority
2 through the Legislature and the LBB. And of that, we
3 collect from the tracks the money to pay out for the
4 Texas-bred incentive program. A large part of our
5 lapse that you will see in those documents is from that
6 program because we cannot pay out the funds unless they
7 are brought in. We pay out everything that comes in,
8 but we still end up lapsing funds.

9 COMMISSIONER EDERER: But the money that
10 comes in is paid out.

11 MS. HARRIS-CURTSINGER: Absolutely.

12 VICE-CHAIRMAN CARTER: And we're not
13 talking about cutting that.

14 MS. HARRIS-CURTSINGER: No.

15 VICE-CHAIRMAN CARTER: Okay. That was
16 what I wanted to clarify. That was the way I
17 understood it.

18 COMMISSIONER EDERER: I have a question.
19 Maybe I just don't understand budgets very well or
20 something. But you get back over here and you're
21 talking -- this is object of expense information
22 listed. I'm at III-8. Salaries and wages, are you --
23 I'm just curious about salaries and wages. Are you
24 freezing your salaries for the next three years?

25 MS. HARRIS-CURTSINGER: For the most

1 part, yes. Unless the Legislature approves a salary
2 increase, this agency has done very little in giving
3 merit increases.

4 COMMISSIONER EDERER: So the Legislature
5 is controlling it?

6 MS. HARRIS-CURTSINGER: To the extent
7 that if any salaries are given, they would be from the
8 legislative -- through the legislative process.

9 MS. ANDERSON: Well, across-the-board --
10 to clarify, the across-the-board increases, like the
11 two percent, come from the Legislature; and the only
12 way we can do merits is if somehow in our general
13 revenue or our fee income that could legally be used
14 for that, that would be the only way we could fund
15 merits and we just don't have any surplus of those to
16 apply to merits?

17 MS. HARRIS-CURTSINGER: That is correct.

18 COMMISSIONER EDERER: And the only way
19 we're going to get it is if the Legislature gives it to
20 us?

21 MS. HARRIS-CURTSINGER: Or if we raise
22 fees or through some other avenue have more cash that
23 could then be used to give merits.

24 COMMISSIONER EDERER: So if more cash
25 does come in through raising of fees or whatever, we're

1 not locked into this.

2 MS. HARRIS-CURTSINGER: No. That is
3 correct.

4 COMMISSIONER EDERER: Okay.

5 CHAIRMAN ADAMS: Sammy --

6 MS. HARRIS-CURTSINGER: Yes. Up to the
7 level of our appropriations.

8 MS. ANDERSON: I have one question on the
9 travel line. It's my understanding that in the past
10 we've actually -- not only are we not giving our people
11 increases, but we have not even been able to fully
12 cover their travel expense. Does this budget increase
13 in travel also contemplate reimbursing them the full
14 State per diem for travel?

15 MS. HARRIS-CURTSINGER: We are working
16 towards that process. We don't have everything in
17 place, but we have -- we are working to get there.
18 There are a lot of moving factors, a lot of it -- some
19 of it being race dates aren't approved. We don't have
20 schedules for the next three years. We don't know, you
21 know, who might retire, who we might have to replace.
22 So there's a lot of moving pieces to it. But we are
23 working towards that goal.

24 CHAIRMAN ADAMS: Other questions?

25 The Chair would recognize a motion to

1 adopt the draft legislation appropriations request for
2 2010-2011 for submission to the Governor and the
3 Legislative Budget Board subject to the Chair's final
4 review and authorization.

5 COMMISSIONER SOWELL: So move.

6 COMMISSIONER SCHMIDT: Second.

7 CHAIRMAN ADAMS: Moved and second.

8 All those in favor please say aye.

9 COMMISSIONERS: Aye.

10 CHAIRMAN ADAMS: Any opposed?

11 The motion carries.

12 Thank you very much, Shelley.

13 I see that our esteemed guest has
14 arrived. So all of you all know Tino and so we're
15 going to go ahead and back up to his point in the
16 agenda. And I'd like to recognize Constantin -- Rieger
17 or Rieger?

18 MR. RIEGER: Rieger.

19 CHAIRMAN ADAMS: Executive director of
20 the Oklahoma Horse Racing Commission. And he has come
21 here today to talk to us and to show us what Oklahoma
22 has been doing in their enforcement efforts regarding
23 the unlicensed brush tracks.

24 So it's your floor, if you'd like. And I
25 don't know -- are you going to begin, Mark?

1 MR. FENNER: Well, no, sir.
2 Commissioners, he does have a PowerPoint presentation.
3 I'd like to bring down the screen. We've set some
4 chairs to the side.

5 (Discussion off the record)

6 MR. RIEGER: Hi. My name is Constantin
7 Rieger. I'm the executive director of the Oklahoma
8 Horse Racing Commission. And I appreciate the
9 opportunity and Charla Ann's invitation to present a
10 little background of what we've done --

11 (Discussion off the record)

12 MR. RIEGER: Okay. Are we ready? I want
13 to thank the Commission, Charla Ann, for allowing me
14 the opportunity to present this little slide show for
15 you. Mr. Chairman, nice to see you again. Commission
16 members that I don't know, how are you?

17 This is a culmination of about a year's
18 worth of work so far and, trust me, we are not
19 finished. Somebody is just not getting the message in
20 Oklahoma anyway. Hopefully, sooner or later they
21 will.

22 The first thing that had to start in
23 Oklahoma, we had a little bit of legislation but we
24 needed to firm the legislation up. It just wasn't
25 strong enough for us to conduct the investigation and

1 then have enough teeth to do the prosecution at the
2 same time.

3 We did several things. At one time they
4 were skirting around the admission issue. These
5 illegal racetracks were charging for parking and it
6 wasn't really an admission fee, so we had to add the
7 parking in there. And then there's also a number of
8 times when they charge a fee to race the horse. There
9 was one opportunity that we know of that was a
10 5,000-dollar entry fee for each starter that was a
11 six-horse field and it was a winner-take-all purse. So
12 these things are not little sideshows.

13 We also have the part about conducting a
14 race meet without a license. That's always been in
15 there, but we added the non-pari-mutuel wagering.
16 There is a lot of hand-to-hand wagering, head-to-head,
17 and then there's also some calcutta type pool wagering
18 in some places. So that's the non-pari-mutuel wagering
19 that we were able to add into our legislation.

20 The legislation reads as follows. I
21 won't read it for you. I'm sure you all can read.
22 It's very simple actually as far as the legislation is
23 concerned. There was one discussion in the Legislature
24 when we presented this and it went through all the
25 normal process that a law takes and it went through

1 without any objection. I don't know that there could
2 have been any objection to taking down something that
3 was illegal.

4 It's an easy piece of legislation and it
5 has a strong penalty, up to 10 years, a 10,000-dollar
6 fine for each offense. So each race day that we go in,
7 that we send in undercover officers, each race day is
8 an offense; and then each race, therefore, is then an
9 offense. So the offenses kind of stack up if we go in
10 there a number of times.

11 It's pretty sharp penalty-wise. It
12 stings. The one and only conviction that we have so
13 far, they had a 25,000-dollar fine and they're on about
14 15 years probation right now for the number of
15 offenses. Only several of the charges were deferred.

16 The license required statute and then
17 this is the conducting without a race -- without a
18 license and it has the same penalty, a 10,000-dollar
19 fine and 10 years.

20 The charges that we ended up filing --
21 and the Attorney General's office was the prosecutorial
22 agency for us on this. We didn't go with the local
23 DA's. And that's something that you guys will have to
24 decide, if your AG's office prosecutes for you or if
25 you go to the separate DA's.

1 We had a State RICO charge, which
2 everybody kind of wondered why we did it, but it was a
3 pretty good hammer. The racketeering was a State
4 racketeering. Conspiracy obviously went with the
5 crime. Commercial gambling we had, dice table, the
6 head-to-head betting and the pool wagering, and then
7 also the illegal drug possession. Some trainers
8 obviously needed a little help in their training
9 skills. Those were basically the charges that we
10 presented and that the AG's office went after.

11 The preparation and the investigation
12 itself was a long time. Somebody asked why it took so
13 long, but I think you had to do it right. We sent
14 people into these racetracks. It's kind of dangerous.
15 And they had to feel their way around. It's very
16 cliquish. Quite a large Hispanic community
17 participates in the racing. We had to find the right
18 people to go in. They're very sensitive about who they
19 let in.

20 We had large expense as far as travel,
21 equipment that we didn't have, cameras. We've got some
22 of the neatest surveillance stuff now that I've ever
23 seen, so kind of neat toys that we have now. Computer
24 air cards we had to get because most of the time there
25 was no service in any of the areas that we went to.

1 Protective vests, radio communications.

2 We had to work on the intelligence. Our
3 officers are extremely dedicated and I can't thank them
4 enough. The limited staff of the Oklahoma Racing
5 Commission's law enforcement division is a 10-member
6 staff; and one agent in particular, Kerry Spencer, he
7 deserves a lot of credit for his work in taking down
8 some of these tracks.

9 We had a huge confidentiality factor that
10 we had to deal with because at some of the places
11 sheriff's deputies actually worked the front gate as a
12 little side gig. So we couldn't go to that sheriff and
13 say, "Hey, we need some help." That wouldn't have
14 worked very well.

15 Other agencies that assisted, I think in
16 the next -- I can't remember if I listed them all.
17 Yeah, we did. In the next couple of slides you'll see
18 how many agencies actually assisted us in the
19 take-down. And the hardest part -- I walked in. You
20 guys were talking about your budget just now. We got
21 no appropriated funds for any of these operations.
22 We've done this within our own budget. It's been
23 tough. But it's just something we felt like needed to
24 be done.

25 We ended up cultivating a couple

1 informants. They're very reluctant to talk about what
2 goes on at these tracks. But we were very fortunate to
3 end up having some actual licensees that were
4 forthcoming enough at least to help us out in some of
5 these racetracks. And you'll be surprised how many
6 licensed folks do participate in these racetracks.

7 We did an awful lot of surveillance, a
8 lot of pictures. We actually have State police that
9 flew over these properties so we could get the lay of
10 the land, a number of undercover operations. One of
11 the most important things they did was keep an eye on
12 the front gate and we started taking pictures of all
13 the cars that came in and out, vehicle tag checks and
14 as many folks as we could ID photo-wise, either through
15 cross-checking our database real tediously. There's no
16 real program that allows you to -- not like on CSI. It
17 doesn't work quite like that. It's very labor
18 intensive. And then obviously record searches, the
19 property, who owns it, who's -- and we have some lease
20 agreements in one place. The operators, the names.
21 And it all really takes an inordinate amount of time to
22 put together one racetrack that we took down.

23 The raid itself, July 29th, '07, over 200
24 law enforcement officers participated. We had two
25 helicopters that flew about head level, it felt like.

1 There was a lot of dirt up in everybody's face, but it
2 was very intimidating. They were very low, at treetop
3 level probably. We had a fixed-wing aircraft over the
4 top of it that was coordinating with the State police.

5 We actually had mounted patrol, two
6 tactical police officers on mules that were chasing the
7 runners into the woods. We had several drug dogs, a
8 beautiful mobile command post, a brand-new mobile
9 command post from the Oklahoma Highway Patrol,
10 absolutely fascinating, a big giant trailer that had
11 slide-outs. And we actually got a grant from Homeland
12 Security for it. And then information officers for the
13 highway patrol, for OSBI, and for handling the media
14 was another issue.

15 The 200 officers came from officer safety
16 on our end and then also protecting the fans. We
17 didn't want anything to get out of hand. We wanted to
18 make sure we had enough of a presence to keep anything
19 from happening. We did have a couple of small
20 incidents, but no officers were hurt. Two people got a
21 little stupid, so they got hurt. But no officers were
22 injured.

23 I want to point out -- I didn't write
24 this in. We've done this several ways now. We did
25 this grandiose raid and it, you know, made all the news

1 and it was wonderful and fine and everything went
2 great. But we also did one with a search warrant, hung
3 it on the front door. We confiscated the starting
4 gate. There was nobody on the property. They're in
5 the process of pleading out currently, a second
6 racetrack that's almost finished prosecution-wise. And
7 we did that with a search warrant, 20 officers. We had
8 eyes on the place for two days and basically went in
9 when nobody was there. It made it a lot easier, a lot
10 safer. We didn't have to deal with the horses. So
11 we've done it several different ways, just to give you
12 an idea of how we took these places down.

13 The third one actually we did with a
14 consent to search and the property owners allowed us to
15 go in and execute our search. And we took their
16 starting gate, several computers, and several items
17 through the consent to search. So there's actually
18 three different ways that we've done this so far.

19 The agencies that deserve some
20 recognition, the Oklahoma Highway Patrol and their
21 assistance, OBI. The Chickasaw Lighthorsemen offered
22 us several officers and a drug dog. The Oklahoma
23 Department of Agriculture processed the horses.
24 Homeland Security, Immigration and Customs had two
25 officers, although they were instructed not to do

1 anything. It was nice of them to come, though. It
2 really was. The Oklahoma Attorney General's office who
3 prosecuted for us. Oklahoma State University School of
4 Veterinary Medicine is where the horses were boarded.
5 And the veterinary board sent two officers. And we
6 actually got some assistance from the National Guard
7 who used it as a training exercise and provided a water
8 truck and several tents as it was quite hot that day.

9 Approximately 600 patrons were there that
10 day. That's probably more than most of our racetracks
11 get anymore. It was absolutely amazing. Our intel,
12 through all the surveillances that we did and the
13 undercover operations, it was 200, 300 people tops on a
14 typical race day. We believe we got there -- and this
15 was a date, July 29th, that was picked six weeks
16 prior. You don't put together 200 officers overnight.
17 So it took us a long time to plan and prepare. And the
18 day we ended up picking was July 29th and I think we
19 got there on futurity day.

20 The number of horses that were there, the
21 patrons that were there, 85 horses confiscated.
22 Typically there were 20 or 30 horses there and that's
23 what we told ag, there will be 20 or 30 horses there.
24 We got there and it was just like any other racetrack
25 on race night. And they had a barn that looked just

1 like a receiving barn, bridles hanging, horses on the
2 wall, fans blowing. It was just like a racetrack, just
3 like any other track you could envision.

4 We confiscated a number of vehicles, a
5 tractor, some four-wheelers. There was photo finish
6 equipment. All these places have an elaborate photo
7 finish system. Horse trailers, jockey uniforms,
8 saddles and tack, illegal medicines, mostly the
9 veterinary kind, a starting gate, a number of cases of
10 beer, which was terrible but we had to confiscate it,
11 several weapons and some illegal drugs, about 109,000
12 in funds.

13 The two girls that were working the
14 admissions gate had been working for about two hours
15 and they each had over \$5,000 in 20's in their
16 pocket -- in their fanny packs. Both of those gates --
17 they had two entry gates. Both of them were -- the
18 girls were escorted by armed security guards. That was
19 a big priority for us, to take down the armed security,
20 so that we could take that factor out of it.

21 Illegal beer sales, illegal gambling, the
22 cost of admissions, the entry fees, all those things
23 added up. A number of the patrons that were seen
24 around the dice table, they were all apprehended. And
25 109,000, of that, we probably gave back about 40,000

1 through the court system and people making claims for
2 it.

3 But there was a lot of cash on the
4 property. I've never seen anything like it. My wife
5 lets me have about \$20. These guys were walking around
6 with thousands. It was just absolutely amazing.

7 We were fortunate enough, through the
8 search warrants that we executed on the property, to
9 find a ledger book. And this may be one of the things
10 that you can present that may have some impact to your
11 Legislature. There was 940,000 in his handwriting, the
12 general manager's handwriting, in a 10-month period,
13 all cash. There were no ATM's, no Visa machines. It
14 was all cash. Admission fees, beer sales, percentage
15 of the dice table, he had it all broken down in a very
16 neat little ledger book.

17 Food sales, win pictures, DVD sales,
18 entry fees. We have a number of DVD's from separate
19 race days that I think they probably did -- you know,
20 if they ran this Sunday, next Sunday you could buy a
21 DVD from last week, win pictures. They occurred
22 basically on a weekly basis unless the weather really
23 messed them up.

24 The State loss of tax revenue, the other
25 fees associated with licensing, liquor license, the

1 illegal racetrack not getting a license in the proper
2 fashion, the drug testing reimbursements to the State,
3 none of these things happen at these illegal
4 racetracks. The State benefits zero from that.

5 We seized 85 horses. 60 of them were
6 registered Quarter Horses, Thoroughbred, Paints, and
7 Apps. These horses were eligible to participate at any
8 racetrack in the country.

9 After the raid I received a phone call
10 from a racing office staff member at Lone Star Park;
11 and she informed me that in an effort to hustle races
12 on a weekend, they'd need a horse or two, they would
13 call a trainer and he would say, "Sorry. I'm running
14 in Oklahoma this weekend." There were no races in
15 Oklahoma, official races.

16 So Lone Star actually lost betting
17 interests to the illegal racetrack, as well as Blue
18 Ribbon Downs probably and maybe even Remington Park as
19 these horses ran other places instead of at the legal
20 licensed racetracks.

21 When she told me that, it was almost full
22 circle. We felt here's an illegal racetrack that's
23 directly affecting a legal, hardworking racetrack in
24 its effort to try to fill races. They were losing
25 horses to an illegal operation.

1 Some of the drugs we found there even
2 astonished me and I've been around awhile in racing.
3 The blister packs of Ritalin were everywhere.
4 Everybody's tote box or everybody's tack box in the
5 trailers, I can't tell you how many Ritalin packs we
6 found. That must be the drug of choice on the bush
7 tracks.

8 Several loaded syringes. One we sent to
9 the laboratory. It shut Industrial down for four
10 days. They had to clean out their machine it had so
11 much cocaine in it. And when you send them a syringe
12 with red liquid in it, you have no idea to tell them
13 what to look for. She put it into the -- the patron
14 put it into the machine and it shut her machine down
15 for four days. She had to rinse it out.

16 Cocaine and lidocaine in one 10-cc
17 syringe. One had Benzodiazepine in it. We can't
18 figure out why. The majority of Quarter Horses were
19 there. That's usually not what they do for Quarter
20 Horses. Two packets of personal use cocaine. I guess
21 somebody got lucky and dropped it before they got to
22 the processing table. And then, as you'll see, there's
23 some pictures of some assorted medications that were
24 found throughout the property. And this is one -- this
25 is one racetrack that we found all these things at.

1 When we confiscated the horses, the next
2 day or two, while they were at the farm being processed
3 and looked over, five of them came up with severe
4 abscesses in the neck from either improper or
5 unsanitary injection sites. Those horses went to the
6 clinic and had to stay there for a couple of weeks
7 while they had their abscesses drained and taken care
8 of. They were quite grisly by the way. It's not
9 pleasant to see. That's the aftereffects of illegal
10 things going on.

11 These were a couple of the cocaine
12 packets that were found on the ground as the crowds
13 disbanded and we finished processing people.

14 This was in the tack room, the main tack
15 room. This was just the beginning. A lot of the drugs
16 everybody will know, Clenbuterols and Banamines and
17 antibiotics, and not necessarily anything really
18 illegal in this. It was probably just the drugs that
19 they had to take care of the horses. In this stack
20 there was nothing of the illegal variety. This was all
21 in one tack room of the main operator.

22 This was a little toolbox that was found
23 in one of the trailers and that did contain several
24 blister packs of Ritalin along with other injectables.
25 This was from a licensed trainer who had four horses

1 there that day, four very nice horses that he doesn't
2 train anymore, by the way.

3 A little refrigerator on the property.
4 As you can see, it's not very sanitary; but the poor
5 horses, they got it.

6 The illegal beer sales, three dollars a
7 can. The vehicles were searched -- our agents were
8 searched every time they went in there. They popped
9 the trunk or looked in the back or the bed of the
10 truck, whatever they were driving. And they wanted to
11 make sure they didn't bring in any alcohol so that you
12 had to buy everything there.

13 The health concerns from the food sales,
14 plenty of flies as you can probably imagine, improper
15 storage. The Health Department, I'm sure, was never
16 there checking them out. This was the grill where all
17 the food was cooked and it was a little nasty, I've got
18 to tell you.

19 This was one of the concession stand, our
20 agents disposing of some of the evidence, the beer,
21 which really made me sad. This was the same picture.
22 It's just this was one of the -- you can see the
23 freezer in the back. They used that as a big ice
24 chest. Then they had food. There were some limes
25 there you can see in a container. Just flies

1 everywhere. I don't think the Health Department would
2 have given them approval.

3 This would have made for a great crawfish
4 boil; but unfortunately, we had to use their tractor to
5 get rid of it. The law enforcement said we couldn't
6 keep it. I was very disappointed. I thought you'd
7 chuckle over those.

8 The court proceedings, we processed
9 everybody there. In retrospect, we probably did way
10 more than we needed to do. We ended up prosecuting
11 about 44 people. Nobody went to a trial, no jury
12 trials, no kinds of trials. Everybody pled. Nobody
13 got prison time, which it wasn't a thing to throw
14 somebody in jail when we first started talking, but we
15 definitely wanted to send a message, a number.

16 The two operators received -- one
17 received 10 years suspended sentence and then the other
18 is on about 15 years probation right now. Several
19 deferred sentences as they work through the charges.

20 Again, the charges, racketeering,
21 conspiracy, illegal/commercial gambling, operating a
22 racetrack without a license, and charging admission at
23 an illegal track.

24 We were lucky to get a special
25 dispensation from the District Court which actually

1 made a fine into an assessment; but unfortunately, we
2 get that at a hundred a month; so at 25,000, I don't
3 think it's going to help us in the near future. But at
4 least we got it. We worked out a better deal in the
5 second prosecution actually.

6 And the Attorney General handled -- the
7 Attorney General's office handled all our prosecution
8 in the first case -- in the first and second cases.

9 We've received at least two anonymous
10 phone calls of facilities in Texas now that we can
11 confirm. We know where they are. We've passed that
12 information to DPS.

13 We had a website announcement about
14 seized property. We were inundated with phone calls,
15 where can I get my horse and where can I get my money,
16 how can I get my money back. So we had to actually put
17 some website announcements on our website.

18 We've received requests from our
19 neighbors. I'm here today for Texas. We've gotten a
20 request from Nebraska to do the same thing. And New
21 Mexico indicates that they have some problems. So this
22 is not just Oklahoma. It's not just Texas. I think
23 it's a culture that permeates as an outcast of the
24 racing industry. There are people that like to race
25 and they like to race on weekends. However, it's

1 illegal to do and that's what we're here for.

2 Can I tell you? Please don't confiscate
3 horses. I said three times in early meetings, "No
4 horses, no horses, no horses," and somehow the
5 Department of Agriculture got involved and said, "Hey,
6 we'll take care of the horses." Bad move. Please,
7 when you go in, if you do it on a race day, let them
8 take their horses home, issue them citations, do
9 whatever you need to do. It's definitely what not to
10 do.

11 214,000 was our bill for almost a year
12 for 85 head, of which 40 of them we gave back in time
13 as they went through the court process. We recently
14 had a sale on July 19th and, thankfully, got \$190,000
15 back, so we're not in bad shape with Oklahoma State
16 University. They're not suing us yet.

17 We have currently one completed racetrack
18 prosecution-wise, one that's pleading right now.
19 That's the one we served the search warrant on. Those
20 two operators, we charged two people. They're
21 currently pleading. We have one that has pending
22 charges relating for the local DA. We gave this one to
23 a local DA to handle and we're waiting on him to file.
24 And just yesterday we filed probable cause affidavits
25 for a fourth racetrack and my agents are currently

1 working four others, all in Oklahoma. So we received
2 some information about the second racetrack that we
3 took down. Their operator is already in Athens,
4 Texas.

5 MS. ANDERSON: Did the operators that you
6 have either -- that you filed charges against, were
7 you -- I mean, did they have prior criminal activity in
8 racing or gambling? Or I mean, were they --

9 MR. RIEGER: Amazingly, no. No. The one
10 guy had some disturbing the peace charges, the one big
11 racetrack that we took down. The only thing they ever
12 filed against him was disturbing the peace, disturbing
13 the peace. He had a number of disturbing the peace
14 charges. He was the lessee of the property. And they
15 kept charging him with disturbing the peace. That's
16 all the sheriff could come up with. He'd pay his
17 200-dollar fine and every weekend --

18 MS. ANDERSON: But they didn't have any
19 criminal background priors unrelated to one of these
20 tracks.

21 MR. RIEGER: No. None of the -- the big
22 players, none of them had previous serious convictions,
23 drugs, anything like gambling, nothing like that, no,
24 ma'am.

25 A grocery list. Charla Ann, take notes

1 because this is the stuff you'll have to buy if you go
2 forward. I can't tell you how much fun my agents had
3 going to the police store all the time. But it's
4 really things they needed. We didn't know what was
5 going to happen. We knew we had armed guards at the
6 gate and people get stupid sometimes with weapons, but
7 they did a great job immediately taking down those two
8 things. That was a priority.

9 We got some neat undercover cameras
10 smaller than what I'm wearing right now. We had to get
11 video cameras. We got a couple of cameras that can
12 take pictures far away.

13 We had to rent some vehicles. Every time
14 they went in, they had to have a different vehicle, so
15 we got real friendly with Enterprise and they always
16 had a nice little pickup for us, different kind,
17 different colors, different cars. We just had to
18 change it up all the time because our agency has two
19 vehicles, so we couldn't keep bringing those and they
20 were afraid -- the agents were certainly afraid to
21 bring their own vehicles because there was some
22 counterintelligence going on.

23 The second racetrack that we took down
24 with the search warrant, there was a picture of my two
25 agents, an eight-by-ten, hanging on the wall in their

1 room. That bugged us a lot because that told us that
2 they thought we might have been there and they didn't
3 know for sure. But that was a very disturbing picture
4 to my agents. To all of us, for that matter. They're
5 crafty. They're very cliquish. They don't like
6 outsiders. And it's difficult to get in.

7 Weapons. Travel. The evidence fund,
8 we're lucky enough to have a little evidence fund. We
9 had to have some money to go bet with. They had to
10 have some money in case they were able to make some
11 wagers.

12 At the raid, obviously the transportation
13 of the horses, the towing services. It was amazing to
14 see them put a starting gate up on a trailer.

15 We had drinks and water for all of the
16 officers. It was quite warm that day.

17 This was a briefing about three hours
18 prior to going in. All those agents in the room,
19 whether they're State police, Ag, OSBI, they all
20 participated in the event.

21 This was our line, a caravan of about 120
22 vehicles. That's Agent Spencer on the phone. One of
23 my worst moments was right about four o'clock. We sent
24 in the two undercovers again that day. And my wife
25 told me two weeks prior, "This is going to get out.

1 There's not going to be anybody there. They won't even
2 be racing there that day." She said, "There's too many
3 people involved." And I was very fearful of that
4 myself.

5 I was waiting on a phone call from
6 Kerry. And I don't know if that's the phone call from
7 the agent. But I was never more happy to get a phone
8 call from inside saying how many people were there and
9 that they were racing today because it was an unknown.
10 We planned six weeks out. For this big one, we planned
11 six weeks out. That's a lot of folks on a Sunday
12 afternoon that worked really hard to get this thing
13 done.

14 We had helicopters in the air. We had an
15 airplane in the air. And we didn't know for sure if
16 they were racing. So it was a little scary moment for
17 me, but I got through it.

18 That was my escort vehicle, by the way.
19 They made sure to protect me. I don't know why.

20 This is a little sign, just a little
21 nondescript sign, Red River Playground. It's on a
22 little road right off of I-35. If you've traveled
23 between Dallas and Oklahoma City, you've seen it every
24 time you went up the road. It's on the west side of
25 Interstate 35 right before the Thackerville casino, the

1 WinStar Casino. It's not quite there anymore, but it
2 was.

3 We did a clever little thing with the
4 media. A friend of mine is a PIO with the historical
5 society and he said, "Let me take care of it. I know
6 what to do." He called all the media outlets and said,
7 "Guys, meet me in Ardmore. Fill your gas tank up and
8 bring some videotape. We've got something for you."
9 And they showed up. It was kind of amazing how they
10 did it. They brought all their big trucks and it made
11 the news pretty good.

12 This is one of my favorite shots here.
13 Those helicopters were on each side of the racetrack
14 and the racetrack was to the left of the helicopters.
15 They were stirring up a lot of dirt.

16 That's I-35 right there. That's another
17 one of my favorite shots. We actually shut down I-35
18 southbound. There's officers on the very right of the
19 screen there. The runners were coming out of the woods
20 when they took off and there were officers placed along
21 the outside, thinking that they might want to run that
22 way. I didn't know they were going to block off I-35.
23 That was kind of neat. But they did that for
24 everybody's safety in case anybody got loose. But that
25 was closed down for about a half hour. We shut the

1 interstate down for a half hour. I'm sure there's some
2 people not very happy with me.

3 This was as we were gathering them up,
4 trying to keep the crowd from getting too mad at us.
5 There was plenty of officers, but a lot of kids as
6 you'll see. I don't know if you can tell, but there's
7 three jockeys in the seats. One was a licensed
8 jockey. The others we didn't have licenses for. We
9 checked with Texas, too, to see if they were licensed
10 and none of them had licenses.

11 This was processing. That's -- that's
12 the big trailer, the highway patrol's trailer. This
13 was the processing as we processed, a lot of kids, a
14 family atmosphere, luckily, again, no trouble.
15 Everybody pretty much behaved.

16 These were the two mules that went after
17 the runners.

18 This is one of my favorite things. We
19 never got to show it because we didn't go to trial.
20 This was their overnight board. This was the race
21 board. It showed what time post time was, showed how
22 many races they ran. And there's no more checkmarks
23 after four o'clock, so you can kind of tell when we got
24 there.

25 One of the other racetracks had an

1 elaborate website that posted overnights on the website
2 on Thursday for Saturday's races. We knew when they
3 were running. They were very nice to post that
4 online. And the website doesn't work anymore, by the
5 way.

6 These two pictures were found as the
7 agents gathered evidence. This was a futurity in '06.
8 We believe it was the Red River Playground Futurity.
9 It had a 5,000-dollar entry fee. The guy in the red
10 shirt was the operator of the racetrack. It's kind of
11 funny how he won, isn't it? But the guy in the blue
12 shirt is the owner of the horse and he was also one of
13 the operators. The guy in the white shirt is actually
14 a licensed trainer, Quarter Horse trainer. And that
15 was at the racetrack that we took down hard.

16 This was a photo we found at the
17 racetrack where we just served the search warrant. And
18 it's almost like "Where's Waldo" because you can't even
19 see the horse. It's a win picture. They had a real
20 nice winner's circle. They had a straightaway
21 racetrack, a beautiful concession stand, stainless
22 steel fixtures everywhere, and a real nice operation, a
23 very clean place. I think I said somewhere along the
24 way, if they would have applied for a license, that
25 place might have gotten one as a small fair meet. But

1 they never wanted to do it the right way.

2 MS. ANDERSON: I have another question.
3 This banner in this picture with MBNA, I mean, that's a
4 legitimate business sponsoring an illegal futurity
5 race?

6 MR. RIEGER: I don't know that that's
7 a -- that picture actually is a Remington Park blanket,
8 so somebody might have had it in a vehicle, won it at
9 the real racetrack possibly. And I don't know for
10 sure. We don't know who the horse is. It's just
11 something -- it was a photo we found.

12 MS. ANDERSON: That makes me feel
13 better.

14 MR. RIEGER: Yeah. It's not -- it's a
15 Remington Park blanket that I'm wondering if that horse
16 didn't win it, that they were proud to show that that's
17 the horse. I never really followed it up because they
18 pled out, so I've got other stuff to worry about now.

19 I'll be glad to take any questions if you
20 guys have anything for me. I appreciate your
21 attendance, by the way.

22 Yes, sir?

23 COMMISSIONER SCHMIDT: Sir, I enjoyed
24 your presentation. You mentioned the abscesses with
25 the horses. Did you routinely drug test the horses you

1 confiscated? And if you did --

2 MR. RIEGER: No. And I actually offered
3 that up to Oklahoma State University to see if they
4 wouldn't want to do some kind of a study. I mean, they
5 had a captured audience. And they couldn't work
6 anything out. They didn't think timing-wise or -- you
7 know, we offered them, in order to maybe pay the fee --
8 our breeders program, the Oklahoma-bred program, has
9 some funding that we could have given the university to
10 do some studies; but they couldn't come up with a study
11 quick enough.

12 We did ask them, though, and they
13 certainly could have done something, but they didn't do
14 any further testing on them except to get them well.
15 The horses did recover, by the way. They have little
16 holes in their necks now, but they did recover.

17 Yes, sir?

18 MR. JORDAN: You know, the number of
19 horses that you all confiscated seems staggering. Was
20 that possibly an ongoing training facility there, too?
21 Or was it just horses there that day?

22 MR. RIEGER: It was both. It was both.
23 Because one of the guys we interviewed actually said he
24 couldn't run until after -- he couldn't work until
25 after 7:30 and the board -- the last race was about

1 7:30. So there may have been some horses there that
2 were just getting some gate training and maybe didn't
3 have access to a gate where they were but,
4 unfortunately, they got caught up in the mix.

5 You know, we couldn't discern which ones
6 were there for training or racing at that time. When
7 the decision was made to take them all, we took them
8 all. And, you know, 40 of them were actually returned
9 to their owners as they went through the legal
10 process. But we did take them all. And you're right.
11 They might have been there to train, some of them. I
12 don't think Phoebe O'Toole was there to train.

13 Yes, sir?

14 CHAIRMAN ADAMS: Tino, you mentioned four
15 tracks that you've identified.

16 MR. RIEGER: That we're working right
17 now.

18 CHAIRMAN ADAMS: That you're working
19 right now. Do you have any idea how many -- how big a
20 picture it is totally or how many more may be there?

21 MR. RIEGER: Golly, no. It seems like
22 when we go, we find out another one every time they go
23 somewhere, you know, whether -- whatever parts of the
24 state we go to. We went out to the Panhandle, found
25 one place, and they stumbled on another racetrack that

1 we don't even have -- I mean, that's such a far drive,
2 it's not very convenient to get to. I mean, you almost
3 have to go there and spend a couple of weeks.

4 But they stumbled on another one, sign
5 out front, admission fee, the whole thing. They took
6 some pictures of it. But they found one just by
7 accident. You know, it's amazing what really is out
8 there. And I've got to tell you, I know two here; and
9 if there's two, I'm sure there's more.

10 MR. JORDAN: One other little thing, a
11 clarification maybe. You said the southbound traffic
12 was stopped. That was just because it happened to be
13 on the southbound side of the highway, right? It
14 wasn't because everybody was coming to Texas, right?

15 MR. RIEGER: We were trying to keep them
16 from going to Texas.

17 COMMISSIONER EDERER: Were any aliens
18 prosecuted?

19 MR. RIEGER: No. ICE was there, though.
20 It was -- we tried. And they said they could do this
21 every day. They could get a hundred or two aliens.
22 Every day they could do that. They didn't need our
23 help. It was disturbing. I felt the same way as you
24 all.

25 CHAIRMAN ADAMS: Very good.

1 MR. RIEGER: Yes, sir?

2 VICE-CHAIRMAN CARTER: I find it a little
3 unusual that the Racing Commission has to enforce the
4 law. Is the DPS not pursuing this?

5 MR. RIEGER: Well, we have our own law
6 enforcement division within the Racing Commission; and
7 I think with the laws being set up the way they were
8 that they're in our Title 3A, which is our racing law.
9 It says that it's illegal to have these racetracks.
10 With our law enforcement unit within the Racing
11 Commission, we felt it was our charge to do.

12 MS. ANDERSON: Do we have similar law in
13 Texas on the books or do we need law?

14 MR. FENNER: We do not have similar laws
15 to what Mr. Rieger described early on, those two laws
16 about making it illegal to have a non-pari-mutuel race,
17 where you're charging admission fees and parking fees
18 and those types of things. We could really use those.

19 MR. RIEGER: Thank you all very much for
20 having me.

21 I'm sorry. One more question.

22 MR. COLBATH: Just on a larger scope --

23 MR. FENNER: Could I get you to identify
24 yourself?

25 MR. COLBATH: My name is David Colbath.

1 I'm from Seguin, Texas, east of San Antonio.

2 MR. RIEGER: Okay.

3 MR. FENNER: Just for the record.

4 MR. COLBATH: On a larger scope, do you
5 fill your race dates with every race all the time?

6 MR. RIEGER: Do we fill our -- yeah,
7 sure, we do.

8 MR. COLBATH: So why would we have these
9 people wanting to start these other racetracks like
10 that?

11 MR. RIEGER: I think it's a little bit
12 cultural. It's a fun atmosphere for them. I've gone
13 to some racetracks in Louisiana. They've done some
14 neat little shows before the Derby or Preakness, I
15 think, a year or two ago. They're neat little places.
16 It's a fun afternoon. I'm sure that place would have
17 been fun on Sunday afternoon had it not been so illegal
18 and had so many illegal things not been going on
19 there.

20 I think the atmosphere is family-oriented
21 and it was fun to be there, I'm sure. And I even said
22 that there were probably more people there that day
23 than were at Blue Ribbon, you know, that would have
24 been at a typical Sunday at Blue Ribbon Downs. I'm
25 almost certain of that.

1 MR. COLBATH: Do you think that culture
2 just doesn't want to get into organized racing? They
3 would just rather do the illegal bet?

4 MR. RIEGER: I think it's easier for them
5 to do it that way. They don't have to pay for
6 ambulances. They don't have to pay for drug testing.
7 They don't have to get a license. They don't have to
8 expose themselves. They could just fire up a
9 racetrack, put up a starting gate, charge some
10 admission, sell some beer, and have a great time, have
11 a little stand with a big jukebox thing and everybody
12 is happy and having a great time.

13 CHAIRMAN ADAMS: Thank you, Tino.

14 MR. RIEGER: Thank you, Mr. Chairman. I
15 appreciate it.

16 (Discussion off the record)

17 MS. ANDERSON: Mr. Chairman, I really
18 appreciate him making the trip to make that
19 presentation to us and for staff making that
20 suggestion. That was very informative.

21 CHAIRMAN ADAMS: Yes.

22 VICE-CHAIRMAN CARTER: Thank you very
23 much.

24 CHAIRMAN ADAMS: And it comes on the
25 heels of some other requests that we've had and some

1 other information we had and some requests that were
2 made of us by RCI. Am I not correct? There were -- on
3 the Federal level, there were some questions concerning
4 brush tracks in the Congressional hearings that were
5 being held, et cetera. There's all kinds of stuff like
6 this fluttering around.

7 MS. KING: In addition to the discussion
8 that we had at the House committee on licensing and
9 administrative procedures, if you all will recall that,
10 one of the things that we were trying to do is to size
11 the issue. We just don't have a lot of information
12 about it and so this is helping us.

13 When I asked for an estimate from staff
14 and others, how many tracks like this do we think are
15 in Texas, I got the estimate from 15 to 50. And so
16 it's difficult for us to know how to approach the issue
17 when we don't even really know how big it is.

18 And so that was partly why we asked --
19 well, we've raised the issue in a general way at the
20 legislative committee and to you all to gauge the
21 interest, the concern, and bringing Tino in to show us
22 what another State has decided to do about it. So we
23 offer that as just to tee up the issue, let people
24 think about it, and see what -- if we want to do
25 anything about that.

1 CHAIRMAN ADAMS: And we thank staff for
2 that.

3 Commissioner Pablos?

4 COMMISSIONER PABLOS: I have a question
5 of Tino.

6 Tino, what would you say was your total
7 price tag for this raid?

8 MR. RIEGER: That's a good question. The
9 press has kind of asked that already. We haven't put a
10 number to it yet. My fiscal analyst has a running tab,
11 but she won't tell me what it is. I'm afraid she
12 doesn't want me to see it because I might drop out.

13 It's not cheap. I mean, it definitely
14 has impacted our budget. And I don't know -- with some
15 of this confiscated money and the revenue from the
16 sale, we'll be lucky to pay OSU. If there were some
17 left over, unfortunately, our laws say it has to go
18 back to general revenue, so we wouldn't even be able to
19 spend any money or replenish our funds from any
20 leftover confiscated funds.

21 But it's been not cheap. I think the
22 State police themselves gave us a bill at one time.
23 And it wasn't really a bill. They just said, "Here's
24 what it cost us." The State police alone was 102,000.
25 But somebody might say that's what they do anyway so

1 why do they have a bill. But they broke down how much
2 it cost them for that day and it was 102,000. And I'm
3 afraid to ask what mine is. Robin knows, but she won't
4 tell me.

5 COMMISSIONER PABLOS: My question is
6 really stemming from -- you know, I understand you need
7 to send a message; but it seems that this was a very
8 elaborate effort, you know, bringing in all the
9 agencies for one meet. And I'd just ask if there's
10 other ways of achieving the same objective without
11 spending so much money.

12 MR. RIEGER: The search warrant way
13 worked real well. There was nobody there. We did it
14 on a non-race day. And we just handled it. That
15 worked a lot better. We prosecuted the two folks that
16 operated it. Much less expensive.

17 COMMISSIONER SOWELL: Mr. Chairman, a
18 question for Mr. Fenner, please.

19 CHAIRMAN ADAMS: Certainly.

20 COMMISSIONER SOWELL: Counselor, it was
21 mentioned that we don't have the same laws on the books
22 that Oklahoma used to have this and other similar
23 activities, I suppose. Do we have anything in our
24 Racing Act that would permit us to take the same action
25 here? And if so, who would have the responsibility of

1 doing that?

2 MR. FENNER: There is not an equivalent
3 provision in our Texas Racing Act to what's in the
4 Oklahoma Racing Act. Now, there are anti-gambling
5 statutes the Department of Public Safety could use to
6 prosecute an individual who was hosting a racetrack and
7 knowingly allowing illegal gambling to go on. We know
8 the TABC could be interested if they were selling beer
9 or liquor there without a license from the TABC.

10 But we do have the authority under the
11 act to regulate non-pari-mutuel racing, but that does
12 not make non-pari-mutuel racing by itself illegal, a
13 crime. Does that answer your question?

14 COMMISSIONER SOWELL: Yes, it does.

15 CHAIRMAN ADAMS: But at the present time
16 we do no regulation of non-pari-mutuel betting.

17 MR. FENNER: That is correct. We do no
18 regulation of non-pari-mutuel racing.

19 CHAIRMAN ADAMS: How would we know that
20 they existed in order to do regulation if we didn't
21 have some way to have them come forward to identify
22 them?

23 MR. FENNER: That's exactly correct.

24 CHAIRMAN ADAMS: So the problems we have
25 here in Texas are similar to Oklahoma's, but they're

1 sufficiently different to where we have -- we may have
2 a different strategy to get to the end of the mean --
3 to achieve the means.

4 MR. FENNER: I would agree.

5 Yes, sir?

6 COMMISSIONER EDERER: I think that the
7 situation in Texas is certainly much more dangerous,
8 much more dangerous. There's a history of the drug
9 cartels owning horses and racing horses at illegal
10 tracks all up and down the border, on both sides of the
11 border, and there has been for many, many years. The
12 problems that the Federal Government runs into is when
13 they seize these horses the same as you ran into
14 there. It's a real problem when you seize a bunch of
15 racehorses.

16 But if our Commission did go forward in
17 any way, there are numerous laws in the Federal system
18 that can apply. But if we were even to consider it, I
19 would suggest that the first thing we do consider would
20 be to contact the United States Attorney in the
21 district and work with the United States Attorney and
22 the FBI as far as going forward, Homeland Security also
23 because of immigration. You know, the tracks are, of
24 course, all full of -- or not all -- don't
25 misunderstand me. There are numerous illegal aliens at

1 these types of tracks. They're usually run by them,
2 especially up and down the border.

3 So I'd just suggest that if the
4 Commission does decide to go forward, if you and staff
5 do decide to look into it further, and I know you are
6 looking into it, I would certainly contact the United
7 States Attorney's office.

8 MR. FENNER: Thank you, sir.

9 CHAIRMAN ADAMS: Commissioner Pablos?

10 COMMISSIONER PABLOS: The question I
11 would have, and similar in line with Commissioner
12 Ederer's point, is: Is this enforcement within our
13 jurisdiction? Is it within the purview of this
14 Commission to enforce this activity?

15 MR. FENNER: I would tell you no, sir.
16 We do not have the authority to go out and arrest
17 people for the type of activity that they're
18 prosecuting in Oklahoma. This would require assistance
19 from the Department of Public Safety, the
20 U.S. Attorney's office, you know, local District
21 Attorneys, local law enforcement. We would not be in a
22 position to send an investigator out to a track and
23 actually arrest anybody.

24 COMMISSIONER PABLOS: Is it within our
25 jurisdiction to oversee this? I mean, I'm trying to

1 figure out what the connection is other than horses
2 being involved. What is the connection?

3 MR. FENNER: It would certainly be in our
4 jurisdiction to assist a law enforcement agency in
5 detecting and making referrals and perhaps going out
6 and making records of any licensees who are
7 participating in this type of behavior.

8 COMMISSIONER PABLOS: Thank you.

9 MS. ANDERSON: The comment was made about
10 the estimate of Texas tracks of this ilk being
11 somewhere between 15 and 50. Have our legal tracks
12 been a source -- I mean, have they reported to the
13 Commission any knowledge? I mean, is that one of the
14 ways that we've understood where some of these tracks
15 might be?

16 MR. FENNER: I'm going to defer that
17 question.

18 MS. KING: I don't think I've had any
19 discussions with the racetrack associations
20 specifically on that. The information that we've been
21 getting has been more from our staff and the licensees,
22 the trainers and other horsemen, who have been willing
23 to provide information in addition to -- now, because
24 we've raised the issue, other law enforcement folks
25 are -- you know, the network is starting to pick up a

1 little bit with people giving feedback and that's also
2 part of the reason to raise it.

3 COMMISSIONER SOWELL: Mr. Chairman?

4 CHAIRMAN ADAMS: Yes.

5 COMMISSIONER SOWELL: I'd like to ask a
6 question of Mr. Rieger, if you will, please, sir.

7 MR. RIEGER: Yes, sir.

8 COMMISSIONER SOWELL: Racing in Texas has
9 many problems without having this one. My question
10 is: Could you give us some idea of the impact, the
11 negative impact, on legal racing in Oklahoma that might
12 have occurred and is occurring on account of these
13 illegal tracks?

14 MR. RIEGER: I don't know if I could give
15 you an economic impact. I don't do that kind of
16 stuff. But I can tell you that the 600 patrons that
17 were there that day at the one racetrack that we hit
18 when it was running, if you had offered that racing in
19 a legal way, you would have gotten the revenues
20 taxation-wise to the County, to the City, to the State
21 on all the concessions, the beer. You would have
22 gotten proceeds from the legal wagering had they had
23 machines there, had they had the ability to do that,
24 had they been legal.

25 So I think if you took and made that

1 racetrack a legal racetrack, there would be some
2 economic impact to the right side of the State, as it
3 was in this case, the 940,000 that made it to the books
4 but never made it to the State at all. That would be
5 the only true gauge that I would have is that 940,000
6 that they did in 10 months.

7 If those folks would have showed up at
8 the racetrack, say, Blue Ribbon Downs, they would have
9 had a banner day. And, you know, if they would have
10 wagered legally and those horses would have
11 participated there in a legal way, Blue Ribbon would --
12 which is not one of our best racetracks in Oklahoma.
13 It struggles. But they would have had a banner day had
14 they had that kind of a crowd.

15 So that's the only way I can gauge it. I
16 don't know that there's numbers that I can give you,
17 but just in the people that attended.

18 COMMISSIONER SOWELL: It's an obvious
19 impact, though.

20 MR. RIEGER: I would say definitely.

21 MS. ANDERSON: I have a follow-up to
22 that. Do we, based on -- do you -- based on the
23 investigations of these ones that are in various stages
24 of prosecution and the others that you know about and
25 so forth, do they appear to be convening race dates

1 that go head to head with your legal tracks or are they
2 filling in gaps in the calendar when Blue --

3 MR. RIEGER: Blue Ribbon?

4 MS. ANDERSON: -- Blue Ribbon and the
5 others aren't running?

6 MR. RIEGER: No, ma'am. They don't
7 care.

8 MS. ANDERSON: They don't care.

9 MR. RIEGER: No, ma'am. We had races in
10 March and April and May and we took a place down in
11 July. Our agents were there. We had Remington Park
12 going on, a Quarter Horse meet, at the same time. We
13 have a wonderful meet at Remington Park Quarter
14 Horse-wise, great purses. It's really grown in the
15 last few years. And they were running head to head
16 with Remington and I'm sure they got their share of
17 races. So I don't think -- the answer is that I don't
18 think they care.

19 MS. ANDERSON: Thank you.

20 CHAIRMAN ADAMS: Any other questions?

21 If I may suggest, let's proceed with the
22 agenda. We appreciate, again, Tino's coming down from
23 Oklahoma City and joining us. And we'll certainly
24 discuss this more in the future.

25 The next item on the agenda is a report

1 and update by the Texas Quarter Horse Association as an
2 official State horse breed registry. Mr. Rob Werstler
3 is the executive director of the Texas Quarter Horse
4 Association.

5 MR. WERSTLER: Good morning,
6 Commissioners. My name is Rob Werstler. I'm executive
7 director of the Texas Quarter Horse Association. I
8 appreciate the opportunity to appear before you today
9 to give you an update on the Quarter Horse racing and
10 breeding industry in Texas as well as a brief look
11 inside TQHA. I do, however, hope it's not by
12 coincidence that I'm following Mr. Rieger's
13 presentation.

14 First and foremost, the TQHA is the
15 official State breed registry for Quarter Horses in
16 Texas and we administer the accredited Texas-bred
17 incentive program for Quarter Horses racing in Texas.

18 Every owner, breeder, mare owner,
19 stallion owner of a horse, accredited Texas-bred
20 Quarter Horse, racing in Texas who finishes first,
21 second, or third receives an incentive award and we pay
22 those out through our office. These awards are funded
23 by various forms of pari-mutuel wagering in accordance
24 with the Texas Racing Act.

25 Founded in 1976 by B.F. Phillips, Jr.,

1 TQHA is the Texas affiliate of the American Quarter
2 Horse Association in Amarillo. We're also their
3 biggest state affiliate with -- we teeter around 2600
4 members.

5 TQHA is made up of three parts. We're
6 governed by a six-member executive committee. We have
7 race, show, halter and performance, and youth
8 committees. They govern -- each committee governs
9 their own individual activities. However, they're all
10 upon final approval of our executive committee.

11 We also administer several different
12 programs to enhance racing, breeding, owning American
13 Quarter Horses, and we are also located here in
14 Austin.

15 The second to last week in July, July
16 25th and July 26th, we hosted our 11th annual Quarter
17 Horse yearling sale at Sam Houston Race Park. I'm
18 proud to announce we saw the highest bid ever for a
19 Quarter Horse at our sale, probably in Texas, at
20 \$250,000. Dr. Carter will tell you that's substantial
21 for a Quarter Horse. It's held annually at Sam Houston
22 Race Park.

23 Our sale has produced a world champion
24 named Oak Tree Special. It's restricted to accredited
25 Texas-breds. This helps our office since we do the

1 accreditations and it kind of forces people to accredit
2 those horses early to get them in our sale.

3 All of the horses that come through our
4 sale are eligible to run in a 100,000-dollar added
5 futurity the following year. This year's edition of
6 our yearling sale futurity was the largest ever, with a
7 purse of 419,000. So we're doing real well with our
8 sale.

9 Some comparisons, last year we had 316
10 horses go through the sale ring. This year we had
11 346. So we had 30 more horses. Our average last year
12 was 12,192. This year it was 11,557, which was down
13 \$635; but since we had 30 more horses and the fact that
14 we had Hurricane Dolly dump five inches of rain on our
15 sale and 13 to 15 inches depending on where you were in
16 the Valley where a lot of our buyers come from and
17 couldn't make it to our sale, we thought it was still a
18 pretty good sale. The totals were 3.9 million this
19 year as opposed to 3.8 last year. So I think we're
20 still doing real well.

21 We host several racing events, including
22 the Texas Classic. It's a million-dollar race held
23 annually at Lone Star Park. The world champion I spoke
24 of earlier, Oak Tree Special, won that and it probably
25 catapulted him to world champion status. We host a

1 Summer Showdown at Sam Houston Race Park. It's four
2 races for accredited Texas-breds. It's a total of
3 \$165,000 in purses.

4 These races are funded by Sam Houston
5 Race Park and TQHA. We use the funds we receive from
6 the cross-species fund to fund these stakes races. And
7 they've become very, very popular. It's Sam Houston's
8 biggest weekend. It's held in conjunction with our
9 sale. Our sale is Friday and Saturday. Friday night
10 we have our Summer Showdown. Saturday we have the
11 yearling sale futurity. So as I say, it's one of Sam
12 Houston's biggest weekends of the year and it's
13 definitely the biggest weekend for Quarter Horse racing
14 other than maybe the 4th of July.

15 We have a stallion auction. Stallion
16 owners donate stallion breedings to us. Last year we
17 had over a hundred breedings. We use the proceeds to
18 fund a futurity, derby, and stakes. They're all run at
19 Sam Houston Race Park.

20 A few years ago the American Quarter
21 Horse Association started something called a youth race
22 experience and asked all of their affiliates to do the
23 same. So we do it. It's really been popular. We
24 invite -- since we have race but we have halter and
25 performance and youth, most of the people in halter and

1 performance and in our youth side don't know anything
2 about racing. So we invite them to the races for a
3 full day.

4 We start out first thing in the morning.
5 We go to the stable area. We visit a bunch of
6 trainers, different barns. They talk to them about
7 training procedures. They show them the various types
8 of tack, which are completely different from what
9 they're used to. Then we take them to the jocks room,
10 show them all of that equipment, which is very
11 interesting for them.

12 Usually during the day the last two years
13 we've had the grooming elite program come in and talk
14 to them and give them a presentation which gives them a
15 lot of excellent information to use with their horses.
16 Then that evening we host them and their parents at the
17 races and they give away a trophy. And it's really
18 been a good event for us and for them.

19 Every year we have an annual meeting and
20 awards banquet in January. This year I'm proud to
21 announce that Texas Quarter Horse, Texas Thoroughbred,
22 and Texas Arabian Breeders Association are all having
23 our annual awards banquets in conjunction. Right now
24 we're hiring security personnel and bouncers; so,
25 Commissioner Sowell, if you're available that weekend,

1 we could use your help.

2 COMMISSIONER SOWELL: Thank you.

3 MR. WERSTLER: It might get interesting.

4 We also support several other equine
5 activities and organizations, such as 4-H, ROCK, which
6 is in Georgetown -- it's called Ride On Center for
7 Kids. It's a therapeutic riding academy -- the equine
8 part of Special Olympics, as well as a team judging
9 contest, that have become very popular with the AQHA.

10 We have seen our declines. Accredited
11 Texas-bred, between 2005 and 2007, we saw a drop of 30
12 percent in total racing animals. Broodmares were down
13 29 percent and stallions were down 40 percent.

14 Three examples of what is happening to us
15 here in Texas are stallions. We have a horse by the
16 name of Azoom. He was born and raised in College
17 Station. Jerry Windham bred and raised him, sold
18 through our sale, ran exclusively -- I think he had his
19 first out in Mexico and then ran exclusively in Texas.
20 You know, everything about him was Texas. Well, as
21 soon as he finished racing, he went to Oklahoma to
22 stand stud. So he hasn't been back to Texas.

23 The world champion I spoke of before,
24 same thing, bred here in Texas, raced in Texas mainly,
25 won the Texas Classic, he stands in Louisiana.

1 We had another horse by the name of
2 Bigtime Favorite. He ran here in -- mainly in Texas.
3 Granada Farms in Wheelock, which is near Bryan-College
4 Station, the gentleman that owns that farm, Jimmy
5 Eller, the people that own this horse were clients and
6 good friends and wanted to stand him at Granada Farm.
7 Someone in Louisiana offered them a million dollars for
8 him, to send him to Louisiana to stand. And Jimmy told
9 them, quite frankly, "I don't know that you'll ever
10 make that kind of money here in Texas with that
11 horse." So now he's in Louisiana. So it's very
12 difficult for those horses, when they finish racing
13 here, to stay here.

14 I always like to end on a positive note,
15 though. I'm also very proud to announce that the
16 current leading money earning Quarter Horse in the
17 United States is an accredited Texas-bred named Stolis
18 Winner. He was also born and raised in Bryan, Texas,
19 by Jerry Windham. He won the Grade 1 Rainbow Futurity
20 in New Mexico. He also won the Grade 1 Heritage Place
21 Futurity in Oklahoma City. As a matter of fact, that
22 was the first time -- I think it may be the first time
23 Oklahoma has ever had a million-dollar race. I know
24 it's the first time Remington has. And that's the
25 biggest race this -- the Heritage has ever had, the

1 largest purse. Accredited Texas-breds finished first,
2 second, and third, so we brought back the lion's share
3 and at least we're bringing back some of that VLT
4 money. Also, that horse has earned, to date,
5 \$787,000.67. So we do have some bright spots. I think
6 we're still holding our own.

7 Again, I appreciate the opportunity to be
8 here today. If you have any questions, I'll be happy
9 to answer them.

10 CHAIRMAN ADAMS: Thank you,
11 Mr. Werstler. I don't think we have any questions at
12 this time.

13 VICE-CHAIRMAN CARTER: I have one. You
14 said Azoom's first start was in Mexico?

15 MR. WERSTLER: Azoom, yes.

16 VICE-CHAIRMAN CARTER: Azoom. I assume
17 that was a pari-mutuel track.

18 MR. WERSTLER: Yes. Hippodromo. If it
19 wasn't, I wouldn't have admitted it.

20 CHAIRMAN ADAMS: Thank you, Rob.
21 Appreciate it very much.

22 For those of you all who may not -- who
23 may not have been at the last meeting, we have started
24 this process of hearing from each of the breed
25 registries on a regular basis, having a report given.

1 And so we will -- we'll be hearing from the other
2 breeds as the Commission meetings -- as other
3 Commission meetings are scheduled and that's put into
4 our agenda. So we thank Mr. Werstler for taking out
5 his time and preparing and bringing us his
6 information.

7 I'd like to ask now, before we go into
8 the proceedings on racetracks, that we take a short
9 break for lunch. What is appropriate for time? Folks
10 need to go somewhere else to eat, so we need to give
11 them enough time.

12 MS. KING: 45 minutes.

13 CHAIRMAN ADAMS: 45 minutes. Is that
14 okay? It's about 23 after right now. Let's say 10
15 after. 10 after 1:00 we'll reconvene. Thank you all.

16 (Recess from 12:23 p.m. to 1:11 p.m.)

17 CHAIRMAN ADAMS: Can I have everyone take
18 their seats, please? I'd like to reconvene the
19 meeting. It's now 11 minutes after 1:00 on August the
20 5th, 2008. And the next item on the agenda will be
21 proceedings on racetracks, discussion, consideration,
22 and possible action on the following matters: A
23 request by Sam Houston Race Park for approval of
24 totalisator contract with Scientific Games Racing,
25 LLC. Mr. Fenner?

1 MR. FENNER: Commissioners, at the time
2 we put this on the agenda, we believed that we had a
3 contract that was ready for approval. However, in the
4 last couple of days we've had a couple of issues come
5 up and staff would request that this item be deferred
6 until the next Commission meeting.

7 Totalisator contracts are confidential by
8 law; and if you all would like to have more detail, we
9 can go into executive session to discuss it. But our
10 request right now is just to defer this until the next
11 Commission meeting and we'll bring it back at that
12 time.

13 CHAIRMAN ADAMS: Do we have a motion to
14 that effect?

15 COMMISSIONER EDERER: Motion to defer.

16 COMMISSIONER SOWELL: Second.

17 CHAIRMAN ADAMS: Yes. Question,
18 Mr. Pablos?

19 COMMISSIONER PABLOS: Does this affect
20 operations in any way? Does it impact gaming?

21 MR. FENNER: No, sir, not at all. They
22 will continue to operate.

23 CHAIRMAN ADAMS: Okay. I have a motion
24 by Commissioner Ederer and a second by Commissioner
25 Sowell for setting this off until the next month's

1 agenda.

2 Any discussion on that?

3 All those in favor please indicate by
4 saying aye.

5 COMMISSIONERS: Aye.

6 CHAIRMAN ADAMS: Any opposed?

7 The motion carries.

8 Thank you, sir.

9 The next item is a request by Valle de
10 los Tesoros, Limited, for approval of change in
11 ownership. Director of investigations, Mike -- how is
12 it pronounced?

13 MR. GOUGLER: Gougler.

14 CHAIRMAN ADAMS: Gougler. Okay, Mike.

15 MR. GOUGLER: Good afternoon,
16 Commissioners.

17 CHAIRMAN ADAMS: Good afternoon, sir.

18 MR. GOUGLER: The Commission received a
19 written request from Valle de los Tesoros to approve
20 the following changes in ownership: The first change
21 related to a transfer of four percent from Hidalgo Muy
22 Buena Suerte, Limited, to Phillip Adams. The second
23 related to a transfer of all of Douglas Vair's
24 interest, 0.0477, to Tyler Graham.

25 Neither individual had previous ownership

1 in this group. Background information was sent off to
2 the Department of Public Safety. Nothing found to
3 disqualify them. And it's recommended that the request
4 for approval of ownership transfers be approved.

5 MS. ANDERSON: So move.

6 CHAIRMAN ADAMS: Any questions?

7 It's been moved. Do I have a second?

8 VICE-CHAIRMAN CARTER: Second.

9 CHAIRMAN ADAMS: It's been moved and
10 seconded that we approve the change in ownership.

11 All those in favor please say aye.

12 COMMISSIONERS: Aye.

13 CHAIRMAN ADAMS: Any opposed?

14 The motion carries.

15 MR. GOUGLER: Second will be IV-6 on the
16 tab. It's a request from LRP Group, Limited. The
17 first change, a transfer of four percent ownership from
18 Hidalgo Muy Buena Suerte, Limited, to Phillip Adams.
19 Phillip Adams had no prior ownership. Background was
20 submitted to the Department of Public Safety again.
21 Nothing found in the background that was
22 disqualifying.

23 The second change related to a transfer
24 of all ownership interests from Douglas Vair, Larry
25 Craft, Larry Christopher, and Steven Ross to Tyler

1 Graham. Tyler Graham already had an ownership
2 interest.

3 And the third change related to a
4 transfer of all of James E. Helzer's interests to Tyler
5 Graham, Silver Creek, Nick Serafy, Jr., and Muy Buena
6 Suerte, Limited, all of which had ownership interests
7 prior.

8 It's recommended that the request for
9 approval of ownership transfers be approved.

10 CHAIRMAN ADAMS: The Chair will entertain
11 a motion.

12 COMMISSIONER SOWELL: So move.

13 CHAIRMAN ADAMS: Can I have a second,
14 please?

15 COMMISSIONER SCHMIDT: Second.

16 CHAIRMAN ADAMS: It's been moved and
17 second that we approve the ownership change for LRP
18 Group, Limited.

19 All those in favor please indicate by
20 saying aye.

21 COMMISSIONERS: Aye.

22 CHAIRMAN ADAMS: Any opposed?

23 The motion carries.

24 Thank you.

25 MR. GOUGLER: Thank you very much.

1 CHAIRMAN ADAMS: Allocation of live race
2 dates for greyhound racetracks under Commission Rule
3 303.41. I'd like to begin by recognizing Commissioner
4 Pablos and Commissioner Hicks who were on the greyhound
5 working -- race date working group and ask them to give
6 their report.

7 COMMISSIONER PABLOS: Mr. Chair, we met
8 back in June with all of the greyhound folks and we
9 began by analyzing performance data for the Texas
10 tracks. And in doing so, we focused on looking at the
11 handle, attendance, and purse money for the Texas
12 tracks.

13 I want to thank Commissioner Hicks for
14 participating. Particularly, I want to thank staff. I
15 think staff has done a great job in providing us the
16 information.

17 The information does point out to us that
18 the industry is in a decline. And so in looking at
19 those numbers, we also asked to look at other states.
20 Sammy focused on analyzing Florida, Iowa, and West
21 Virginia. And the picture there was quite the
22 opposite. I guess the alternative forms of gaming is
23 really the point there that is making that stark
24 comparison stand out.

25 We saw, in those states, an increase in

1 attendance and purse money. And, you know, we had a
2 full analysis and, you know, it did confirm what we had
3 thought all along; and that is that because we don't
4 have those alternative forms of gaming, we are seeing
5 that decline in Texas.

6 We also focused on the race dates and
7 Sammy can speak to that, if you would, please.

8 MR. JACKSON: Yes, sir, Commissioner
9 Pablos. The racetracks -- sorry. Our greyhound
10 racetracks indicated they were going to request similar
11 race date calendars in 2009 as they had for 2008 for
12 our two active greyhound racetracks.

13 Corpus Christi indicated they probably
14 would not be requesting race dates in 2009 but they
15 would be doing so for 2010. They followed through on
16 those discussions at our greyhound race date working
17 group and that is what you will see in your packet
18 today. And we normally have them come up and do their
19 requests individually and they can talk in more detail
20 about their specific requests. But they did follow
21 through after our working group and came forward with
22 what they discussed and laid out to us through the
23 meetings.

24 COMMISSIONER PABLOS: Thank you, Sammy.

25 I was very happy to see a spirit of

1 cooperation, Mr. Chair. I felt that we had a good
2 discussion amongst the tracks and the TGA. The TGA did
3 express concerns about, you know, greyhound supply.
4 And so we're off to a good start with respect to
5 figuring things out.

6 CHAIRMAN ADAMS: Do you -- does the
7 working group have a recommendation as to the race
8 dates that are being presented to us?

9 COMMISSIONER PABLOS: The recommendation
10 is to accept the race dates that are being
11 recommended.

12 CHAIRMAN ADAMS: Very good.

13 I want to commend Commissioner Pablos and
14 Commissioner Hicks for their dedication here and the
15 time they spent doing this. And we really do
16 appreciate it. It should make this process a lot
17 smoother.

18 And now I'd like to begin by having those
19 signed in to speak come forward and address each of
20 their individual tracks. First I have signed Mr. Milt
21 Roth with Valley Race Park. Is Mr. Roth here? He was
22 earlier.

23 Okay. Is Sally Briggs here?

24 MS. KING: Due to the hurricane, she is
25 not.

1 CHAIRMAN ADAMS: How about Rick Pimentel
2 with Corpus Christi Greyhound Racetrack?

3 MR. PIMENTEL: Yes, sir. Rick Pimentel,
4 Corpus Christi Greyhound Racetrack, general manager.
5 I'd just like to offer up myself for any questions or
6 comments or anything needed for those race dates that
7 we are requesting.

8 CHAIRMAN ADAMS: Okay, sir.
9 He's available for any questions.

10 We have none at this time, so thank you
11 very much for signing in. The other gentleman from
12 your track that signed in, Juan Fra -- is that
13 correct? Is that the same situation there?

14 MR. FRA: Yes. Yes.

15 CHAIRMAN ADAMS: Okay, sir.

16 Nick James, same?

17 MR. JAMES: Yes.

18 CHAIRMAN ADAMS: Okay, sir. Thank you
19 very much.

20 Then I'll move on down to Diane
21 Whiteley. She signed in.

22 MS. WHITELEY: Good afternoon,
23 Mr. Chairman and Commissioners. I'm Diane Whiteley,
24 executive director of the Texas Greyhound Association.
25 We had a working group meeting and we really appreciate

1 the participation by the Commissioners on this. It was
2 really helpful for us to move things forward.

3 The dates that we've received that were
4 in the packet, Gulf Greyhound Park is consistent with
5 prior years. I know they have booked a new kennel
6 recently and have made an effort to book one or two
7 additional kennels, so I think they will have no
8 problem meeting their dates and so we have no objection
9 to that. It's consistent with prior years.

10 Valley Race Park, also consistent with
11 prior years. We're a little disappointed that Valley
12 and Corpus could not reach an agreement to put together
13 a viable circuit together to allow year-round racing
14 for Texas greyhounds. But Valley Race Park has
15 consistent dates and they've done a good job of
16 managing the greyhounds that they do have and we have
17 no problem with their dates.

18 Corpus Christi, their dates are
19 projected -- this is about two years from now -- to run
20 for a very abbreviated meet. It's our opinion,
21 considered opinion, that it will create a great
22 difficulty for them to get adequate greyhounds to run
23 in that time frame.

24 Typically, kennels are contracted in
25 November or December of each year to run at the various

1 tracks throughout the country. And this is a
2 nationwide system, not a Texas system. So typically,
3 kennels have contracted with tracks in November or
4 December.

5 So I think that there will be some
6 difficulty with them getting enough kennels to run
7 their dates because that would require either a track
8 releasing a contract kennel for a 60-day period and
9 allowing them to come back, which would disrupt their
10 racing schedule, or else be able to pull together
11 enough kennels that are not in business now to put
12 together. So we think it's very optimistic and
13 somewhat improbable, but we are not going to contest
14 their dates with that.

15 Our greater concern really lies in their
16 simulcasting. It's been the history that I'm aware of
17 within the Racing Commission is that simulcast
18 privileges and rights are granted with live racing.
19 And in 2009 there is no live racing at Corpus Christi.
20 However, they have requested a simulcast schedule.

21 We would rather that it be related to a
22 calendar year situation to where it does not give
23 incentives to racetracks to drop live racing if they
24 know they can simulcast without live racing. So we
25 feel this is a disincentive to be able to allow

1 simulcasting without live racing within the same
2 calendar year.

3 I know there have been exceptions made
4 and the Commissioners -- the Commission staff can speak
5 to this better than I can. A new facility building at
6 Lone Star Park, I think there was an exception granted
7 there because they were building a facility to offer
8 live racing opportunities. And then I believe Manor
9 Downs was granted some advance on this while they were
10 either improving or significantly altering their track
11 and those things require it because of contractors,
12 weather situations, those types of things.

13 But Corpus Christi has a racetrack now
14 and I know that they've been doing some repairs and
15 maintenance down there, but to allow them to simulcast
16 for an extended period prior to offering live racing
17 seems to us to be contrary to past positions from the
18 Commission.

19 So in summary, we want live racing. As
20 you heard earlier with match racing, we, too, have
21 match racing of greyhounds and illegal racing of
22 greyhounds in Texas, not near to the extent of horse
23 racing. But we believe this is somewhat related to the
24 opportunity to live race. And with a lower level
25 quality greyhounds, they are the ones that compete on

1 the match racing circuits because they don't have
2 another opportunity to run in a pari-mutuel facility.

3 So those are our comments and I'm open
4 for questions.

5 CHAIRMAN ADAMS: Any questions for
6 Ms. Whiteley?

7 Thank you, ma'am. We appreciate your
8 comments.

9 Sammy has offered himself for any
10 questions that we may have from the Commission. If
11 there are any, please indicate to me. Otherwise, I'd
12 like to break -- I'd like to consider these votes in
13 two separate motions. One would be for the '09 race
14 schedule and then the second motion for the '10 race
15 schedule since we do have a concern about the situation
16 in Corpus.

17 So the Chair would entertain a motion at
18 this time to approve the '09 race date schedules
19 requested by Gulf Greyhound and Valley Race Park. And
20 any discussion on that? Or is there a motion?

21 COMMISSIONER SCHMIDT: So move.

22 CHAIRMAN ADAMS: I have a motion by
23 Commissioner Schmidt.

24 COMMISSIONER SOWELL: Second.

25 CHAIRMAN ADAMS: Seconded by Commissioner

1 Sowell.

2 Any discussion, questions of Sammy,
3 questions of Rolando?

4 All those in favor please indicate aye.

5 COMMISSIONERS: Aye.

6 CHAIRMAN ADAMS: Any opposed?

7 The motion carries.

8 Okay. The second part of the request
9 would be to entertain a motion to either approve or
10 disapprove the 2010 race date schedule requested by
11 Corpus Christi Greyhound Racetrack. And I hope that we
12 do have some discussion there.

13 I do have a question. I do have a
14 question of staff since Ms. Whiteley did bring that
15 up. What do the statutes -- how do the statutes speak
16 to simulcasting in a year -- in a separate calendar
17 year to actual live date schedule?

18 MR. FENNER: The statute provides that
19 simulcasting is available to racetracks that have live
20 race dates granted. And this was considered by the
21 Attorney General's office some years ago in an opinion
22 letter where there was a dispute of whether they could
23 be granted to a facility that didn't even have -- to an
24 association that didn't have a facility and, in the
25 case of Gillespie, whether simulcast dates could be

1 granted to an association when it was not even eligible
2 to conduct live racing. Gillespie can only conduct
3 racing when it has the fair going on.

4 The Attorney General has clearly
5 expressed that as long as live race dates are granted,
6 they can simulcast, subject to the Commission's
7 approval, regardless of how far out it is. There's no
8 limitation about how far out a live granted date had to
9 be.

10 Now, Commission rules that talk about
11 approval of wagering on simulcast import races provides
12 that the executive secretary approves the simulcast
13 dates, subject to rescision of that approval by the
14 Commission at its next regular Commission meeting. So
15 if the Commission wanted to put some -- suggest some
16 boundaries or some guidelines to the executive
17 director, I'm sure that she would take that under
18 advisement.

19 CHAIRMAN ADAMS: Okay. And what my --
20 the second part of that question would be: What
21 guarantee does the Commission have that the race dates
22 will actually -- the live race dates will actually
23 occur? And is there any -- is there any penalty in the
24 statute if, in fact, they simulcast for some period of
25 time and then just don't -- just don't perform on their

1 race dates?

2 MR. FENNER: The rules provide that the
3 executive secretary can impose administrative penalties
4 if an association is not preparing its facility in
5 preparation for the conduct of live racing. So if we
6 reach a stage where Charla Ann determines that you
7 people are supposed to be getting that place ready and
8 you're not doing it, she has the authority to impose an
9 administrative penalty up to \$10,000 a day for failure
10 to take action. That would, of course, be subject to a
11 contested case and it would come to you for a final
12 determination.

13 CHAIRMAN ADAMS: Any other questions?

14 VICE-CHAIRMAN CARTER: I have one along
15 those same lines. So if I understand this, they're
16 proposing to start simulcasting in '09 and racing in
17 '10.

18 MR. FENNER: Yes, sir.

19 VICE-CHAIRMAN CARTER: And I assume that
20 it would be very similar to what happened at Lone
21 Star. During that simulcast period there will be money
22 accumulated for the purses, so it can very
23 substantially help the purses in '10 if they run. But
24 what happens to that money if they don't run?

25 MR. FENNER: Let me ask Sammy to address

1 that because he's more familiar with the intricacies of
2 that.

3 MR. JACKSON: Not having my rule book in
4 front of me, I can tell you it's quite common practice,
5 in the event that that happens, in the case for horse
6 racing, the Horsemen's Partnership or the recognized
7 horsemen's organization has the authority to move their
8 purse money to another track who is running live.

9 We would need to review our rules to make
10 sure that that authority is given to the TGA. They are
11 the recognized representative, the Texas Greyhound
12 Association, for all greyhound racing. If our rules
13 don't have that, we will need to look at that and get
14 that in there so that in the event, when that time
15 occurs, that if they're not going to run their races or
16 can't, then they would have the authority to move that
17 money to an existing track who is running live racing.

18 And all tracks who do simulcast right now
19 and who do not run year-round live are required to
20 deposit all the purse monies into a purse account that
21 we review and monitor monthly.

22 MS. ANDERSON: Mr. Chairman, I have two
23 follow-ups to that. One is if there were a change in
24 control of the racetrack, is that just something that
25 needs to be contemplated in the rules as well or would

1 that color -- I mean, would the purse in escrow be part
2 of an asset transferred in a sale or is it -- could the
3 rule be written so that in the case of a change of
4 control, then the what I'm calling escrow account would
5 automatically go to an association? Would we have the
6 latitude to do that the way we -- the wisdom of the
7 Commission saw?

8 MR. FENNER: The association, in this
9 case Corpus Christi Greyhound Racing Associates -- is
10 it an LLP or is it a corporation? Regardless, the
11 legal entity that holds the license, that can be -- the
12 ownership in that legal entity can be transferred,
13 subject to your approval, but the purse money remains
14 part of the legal entity. So it will not go with the
15 old owners when the new owners come in. It remains
16 with Corpus Christi Greyhound Racing Associates.

17 MS. ANDERSON: That doesn't anymore have
18 a track in the case of a change of control.

19 MR. FENNER: No. The legal entity would
20 still be the one that owns the track.

21 MS. ANDERSON: Okay.

22 COMMISSIONER SCHMIDT: I have a question
23 of Sammy, Mr. Jackson. I was just curious. I think
24 some members of the Commission, including myself, have
25 concerns whether or not dogs can be running in 2010 or

1 not at Corpus Christi. And they're requesting
2 simulcast beginning on April 1st, 2009, so we're giving
3 like a nine-month lag time. I understand when you're
4 planning a racing schedule that with horses stabling
5 and so forth, you need that much time.

6 Does it take nine months to ramp up? I
7 mean, is this a decision with more information that we
8 could make in January of next year? Does it take nine
9 months to plan a simulcast operation or does it take
10 two months?

11 MR. JACKSON: No. No. A simulcast
12 operation is pretty -- you could do that quickly.

13 COMMISSIONER SCHMIDT: Thank you.

14 MR. JACKSON: I was going to make one
15 other point if I had an opportunity. They actually put
16 the rule book in front of me so I could do it. In
17 fact, we have written rules on that very subject matter
18 that I was discussing that says they must put the purse
19 money in the purse accounts. They're held in custodial
20 responsibility for the greyhound people. It says if
21 they do not use the purse money within 12 months, the
22 Texas Greyhound Association has the ability to move
23 that purse money to another racetrack. It also goes on
24 to say if they fail to run their meet that the Texas
25 Greyhound Association has the authority to move that

1 purse money to another racetrack.

2 So the Texas Greyhound Association is
3 given a great deal of authority in moving those purse
4 monies if not used.

5 COMMISSIONER EDERER: What purse money?

6 MR. JACKSON: Purse money earned from
7 simulcasting.

8 COMMISSIONER EDERER: It's derived from
9 the simulcasts.

10 MR. JACKSON: That's correct.

11 COMMISSIONER EDERER: That would be the
12 only place, of course, there would be any money derived
13 from.

14 MR. JACKSON: That's correct.

15 CHAIRMAN ADAMS: I have one final
16 question of the staff. And that would be: Is Corpus
17 Christi not already under a mandate to upgrade the
18 facility and didn't we have a whole list of things that
19 had to be done?

20 MS. KING: Yes, sir.

21 CHAIRMAN ADAMS: And what is happening
22 with that?

23 MS. KING: They are under a mandate.
24 We've been working with them and we've had a number of
25 inspections and, in fact, we've had some Commissioners

1 at the track as well. And I visited with the general
2 manager today. They are making progress. There's a --
3 there's some items that are still outstanding, however,
4 so you might want to ask for that report directly from
5 them to give you an update. I do not believe that we
6 went down and visited, that we just took a -- we just
7 visited with them by telephone.

8 CHAIRMAN ADAMS: When were we there
9 last?

10 MR. JACKSON: Early May.

11 CHAIRMAN ADAMS: Early May. Okay. Could
12 we have -- could we have a report, a short report, on
13 the progress of the repairs and -- and I realize this
14 may be catching you off guard a little bit, but
15 hopefully you're good on your feet.

16 MR. PIMENTEL: I prepared a little
17 something. We have made really good progress. I
18 myself have seen it on a daily basis throughout the
19 years. I myself have been there going on 17 years now,
20 so I've seen it on a regular basis. And I can honestly
21 tell you that there's a tremendous difference in what I
22 see now, what we've done, things we've changed.

23 We've replaced many items, and I've got a
24 list of them. If I need to, I can present it to staff
25 and they can see what I've actually completed on the

1 track, kennel buildings we've completed, painted and
2 fixed woodwork. Up to date we've completed and we've
3 actually -- to my best estimation, of just over
4 \$150,000 worth of just, you know, items that we've
5 either replaced, purchased, equipment, supplies, and so
6 forth.

7 So we're definitely trying to make a big
8 progress to try to make a big change and I hope that
9 the staff will see it. I always invite them to come
10 out and visit and Commissioners have come by and they
11 know I'm readily available for any inspections or
12 anything they want to come by and visit.

13 CHAIRMAN ADAMS: Any questions for
14 Mr. Pimentel?

15 COMMISSIONER EDERER: Yes. As I
16 understand it, what you're asking for is you're asking
17 for race dates for July of 2010.

18 MR. PIMENTEL: Yes, sir.

19 COMMISSIONER EDERER: You're asking for
20 simulcasts April 1st, 2009, over a year prior to actual
21 race dates.

22 MR. PIMENTEL: Yes, sir.

23 COMMISSIONER EDERER: Why the delay? If
24 you're going to race, why don't you race?

25 MR. PIMENTEL: Very good question. Just

1 the fact of the facility being in the state it was. It
2 was almost -- it's almost 20 years old. It's in a
3 little bit of disarray. It's got some problems. We'd
4 just like to make it a little nicer. We'd like to
5 improve it. And as I believe Charla Ann or -- I'm
6 sorry. I don't remember who actually said it. But
7 we'd just like to actually fix it up as we go along.
8 So the needed purse money accumulative over the year
9 would go into, of course, a purse account so we could
10 build a supply and hopefully get the race dates. That
11 would also go into --

12 COMMISSIONER EDERER: What I'm having a
13 hard time with is that's two years from now --

14 MR. PIMENTEL: Yes, sir.

15 COMMISSIONER EDERER: -- that you're
16 asking for racing. I mean, it's going to take you two
17 years just to improve the facility?

18 MR. PIMENTEL: No, sir. I mean, we'd
19 like to open up for simulcasting before the two years.
20 Of course you would want to do that prior to that. But
21 some sort of income of purse -- of simulcasting monies
22 would be very helpful in trying to actually get the
23 place up and running and get it to a place where we
24 think it needs to be.

25 COMMISSIONER EDERER: So what you're

1 asking for, you need the simulcast money to do the
2 repairs. Is that what you're saying?

3 MR. PIMENTEL: That would definitely
4 help.

5 COMMISSIONER EDERER: The owners are not
6 going to put the money in?

7 MR. PIMENTEL: No, they definitely are;
8 but that doesn't hurt.

9 COMMISSIONER EDERER: How much money are
10 we talking about? Go ahead.

11 MR. FRA: If I may. I'm Juan Fra. One
12 of the main reasons is to accumulate purse money. So
13 as it's been stated already, it's not going to be real
14 easy to come up with kennels to reopen back live; but
15 we believe by accumulating that money, in about four or
16 five months we'll have a good idea of how much money is
17 accumulated and that would be incentive enough for us
18 to lure some -- and we're -- our plan is probably going
19 to be to find some local people that are willing to --
20 if there's enough money accumulated, it will be a good
21 incentive for them to run.

22 COMMISSIONER EDERER: As I understand the
23 testimony earlier of Diane, I understood that dogs are
24 ready to run, that they could relocate. Did I
25 misunderstand what she was saying? I was under the

1 impression that the dogs are actually looking for a
2 facility to run in.

3 Did I misunderstand you, Diane?

4 MS. WHITELEY: No, sir. No, sir. We
5 have quite a few Texas greyhounds that are running in
6 other states that have left Texas. So we want racing
7 opportunities and the sooner the better. We're willing
8 to wait if there's facilities issues involved. But it
9 is two years out. I mean, that's a whole new entire
10 litter being born.

11 COMMISSIONER EDERER: I understand.

12 Mr. Chairman, I have -- I would like to
13 propose that this matter of race days be tabled at this
14 point in time and request staff and at the same time
15 I'd request the greyhound people and the Corpus people
16 get together and kind of outline for us just what the
17 plan is and how it's going to work.

18 I mean, of course we want to see the dogs
19 run whenever we can; but we also know that a facility
20 can't sit there and continue to run and lose money over
21 and over and over. But, you know, two years from now
22 is an awful long time and you're going to be running
23 for well over a year getting simulcast money into the
24 facility. It just seems to me that it's an awful long
25 time and I'd just like to have some clarification.

1 Plus I'd like for Sammy to give us a
2 little clarity as far as the law is concerned, take a
3 look at it and let us have the opportunity to take a
4 look at it also.

5 MS. ANDERSON: I really agree with
6 Commissioner Ederer and I would like to have this not
7 just verbally done in the Commission meeting but
8 provided in the Commission packet on the record and of
9 sufficient detail for review with our other board
10 materials a week in advance so that we could also, you
11 know, not just be relying on verbal testimony.

12 COMMISSIONER PABLOS: Mr. Chairman?

13 CHAIRMAN ADAMS: Yes, Mr. Pablos.

14 COMMISSIONER PABLOS: If I may. I would
15 just ask the Commissioners to look back at what
16 happened last time; and that is, we basically got into
17 a situation where it was a lose-lose situation for both
18 sides. And so what I walked away with from our meeting
19 in June was that Corpus Christi was, in fact, making a
20 good faith effort in trying to gear up, get everything
21 back up and running and, as part of that, was to beef
22 up the purse money so that they can then encourage dog
23 owners to come in. And I was okay with that. I was
24 okay with them doing that.

25 Now, of course, there's no guarantee on

1 the table; but then if we're going to sit around and
2 wait for a guarantee, we're going to fall right back
3 into the same situation where Corpus Christi is going
4 to, you know, continue in its current situation and
5 dogs aren't going to have a place to run.

6 And so I felt that with the proposal that
7 Corpus Christi brought to the table, I felt comfortable
8 with it in that they're trying to reach their ultimate
9 objective, which is to open up for live racing. And it
10 doesn't seem unreasonable to me to have simulcast be
11 part of a tool that they use to get there to their
12 final objective. And so I just wanted to share with
13 you my reasoning behind that.

14 VICE-CHAIRMAN CARTER: If I could,
15 Mr. Chairman, I'd like to support the comments just
16 made by Commissioner Pablos in that, you know, we might
17 not have up here what we want, but we might be okay if
18 we're just a little bit lower than that. And what
19 they're trying to do is generate some money so that
20 they can offer racing that they might fill, which, if
21 they don't fill it, we've still got the money that we
22 can use somewhere else. And I believe Mark told us
23 that if they weren't progressing to the director's
24 satisfaction, she has the capability of fining them up
25 to \$10,000 a day, which --

1 COMMISSIONER EDERER: But that's not
2 going to happen. You know that's not going to happen.
3 What I'm asking for -- excuse me, Doc. But what I'm
4 asking for is just a little clarity. I'm not saying
5 no. But if I were to vote today, I would say no. I
6 would just like to have a little clarity.

7 I'm asking for a postpone -- to table
8 this until the next meeting so that we can have the
9 answers to the questions why the delay, are the
10 greyhounds ready to run, are the greyhounds satisfied
11 with this, and what is the actual law or our rules and
12 regulations. I'm not clear on that. And so if you ask
13 me to vote today, I'd vote no.

14 MR. FRA: If I may. The difference, if
15 we want -- if we said okay, we want to start live
16 racing July of '09, that difference in purse money, we
17 strongly believe we wouldn't get greyhounds. It's just
18 that much bigger incentive. It would give us a good
19 chance. You know, we're trying to come up with new
20 ideas of something that would work. And we believe
21 that gives us a very strong possibility. And I know,
22 you know, the TGA has their issues. I understand
23 them.

24 COMMISSIONER EDERER: We meet in 60
25 days. That's plenty of time still to give you what you

1 want. I'm not saying not to give it to you. I like
2 the whole idea. I just want some clarification.

3 CHAIRMAN ADAMS: Other questions? Jimmy,
4 did you have something you'd like to add?

5 MR. ARCHER: No, sir.

6 CHAIRMAN ADAMS: Okay. I just wanted
7 to -- I had heard something from our counselor
8 regarding the length of time that that money could be
9 escrowed before the TGA had access to it. And I want
10 to make sure they understand that and the fact that 12
11 months from April of 2009, in my opinion, Mrs. Whiteley
12 owns you. Okay? She has your purse money. She can
13 take it at any time. So you may want to rethink the
14 time that you want to start simulcasting and cut it
15 down to the point where you have a chance to open your
16 live race meet before she takes your purse money. So
17 that's just -- in my opinion, that's just good business
18 sense.

19 But in that respect and for that one
20 reason alone, I can support Mr. Ederer's position that
21 we probably ought to talk about this for another 60
22 days before we make a decision. I, too, have no
23 problem with your request; but I think that there needs
24 to be a little more thought put into it so that we
25 don't have a problem here and we don't create a problem

1 by taking a vote too quickly here.

2 So I will -- I appreciate your all's
3 comments. I don't think there are any further
4 questions.

5 COMMISSIONER SOWELL: One more.

6 CHAIRMAN ADAMS: Okay, Mr. Sowell.
7 Commissioner Sowell.

8 COMMISSIONER SOWELL: Yes. I'm with
9 Mr. Ederer in trying to learn a little bit more about
10 what's going on. My question is: Do you have a plan?
11 Do you have a budget? Do you know what the costs are
12 going to be? Do you know exactly how much you've spent
13 so far? Do you know what projects need to be
14 undertaken and completed before you can run?

15 In other words, have you got an analysis
16 of the whole thing that would satisfy this Commission a
17 little bit more than you've done today by letting us
18 know that you really do have a plan and not
19 something -- you know, a moment ago you said something
20 that was a little disturbing, that you all are trying
21 to find something that will work.

22 Well, I can understand that; but you
23 better know that something is going to work or you're
24 just throwing money down the drain. You're not going
25 to have any money from the good old TV screen. You

1 won't get that far unless you have something to put in
2 there and we know that money is going to be put in.
3 Where is it going to come from? Have you got a loan?
4 Do you have an owner with the deep pockets to enable
5 this to happen?

6 In other words, it sounds too much
7 willy-nilly. You haven't expressed to us a workable
8 plan that would give us some confidence that you're
9 going to have a shot at really making it.

10 MS. ANDERSON: Being transparent with
11 this Commission about those budgets, cash flow --

12 COMMISSIONER SOWELL: Exactly.

13 MS. ANDERSON: -- pro formas, et cetera,
14 as part of the packet that we've directed staff to
15 prepare for the next meeting would be in your
16 interest.

17 MR. PIMENTEL: Yes, ma'am. I did. I
18 definitely came prepared for all that. I've got --

19 MS. ANDERSON: I just said a few minutes
20 ago, getting things real time in a meeting is not
21 allowing the Commissioners a fair amount of time to
22 prepare.

23 COMMISSIONER SOWELL: I would further
24 suggest that if you can give this Commission something
25 starting like tomorrow and give us that 60 days that

1 Mr. Ederer referred to, by the time we meet again, you
2 ought to have a full and complete plan that either
3 you're going to know it won't work or you've got
4 something that will persuade us that it will.

5 CHAIRMAN ADAMS: Thank you, gentlemen.

6 COMMISSIONER EDERER: Thank you.

7 MS. WHITELEY: If I could just make a
8 comment, is that we'll work with Corpus and we'll put
9 together our plan of available greyhounds and when
10 they'll be ready so that it will assist them. We want
11 Corpus to run live. You know, please don't
12 misunderstand us. We very much want the opportunity to
13 run the greyhounds. So we'll continue to work with
14 Corpus and see if we can come up with a better plan.

15 CHAIRMAN ADAMS: Thank you, ma'am.

16 COMMISSIONER EDERER: So, Mr. Chairman, I
17 guess the motion, if you need a motion, is to table
18 this matter until the next meeting.

19 MS. ANDERSON: Second.

20 CHAIRMAN ADAMS: Do I have a second to
21 that?

22 Any discussion before we have a vote on
23 that?

24 All those in favor please indicate aye.

25 COMMISSIONERS: Aye.

1 CHAIRMAN ADAMS: Any opposed?

2 VICE-CHAIRMAN CARTER: No.

3 CHAIRMAN ADAMS: We've got one in
4 opposition. Please make a record of that.

5 And we'll proceed then with the next item
6 on the agenda: The allocation of live race dates for
7 horse racetracks under Commission Rule 303.41. I'd
8 like to use the same type approach we did on -- in the
9 greyhounds, with having the Commissioners Ederer and
10 Schmidt, who were our designees to the horse race date
11 working group, give us a report, please.

12 COMMISSIONER EDERER: Mr. Chairman, I
13 discussed this matter with Commissioner Schmidt and we
14 decided that the people best to set their own agenda as
15 far as race dates are concerned would be the horsemen
16 themselves and the tracks. And so working with staff,
17 we recommended that they meet and they decide what
18 would be best for them. And I believe that they have
19 done so and come back to us with that.

20 And it's my understanding -- and anyone
21 here correct me if I'm wrong -- that these dates that
22 have been submitted are acceptable to all of the
23 horsemen and all of the tracks.

24 And what we did do is we told -- through
25 staff, we told them that if they had any problems and

1 they needed the input from the Commissioners, of
2 course, we would certainly be there; but we felt they
3 would certainly be best qualified to make their own
4 decision. It's their business. It's their
5 livelihood. And so we left it at that.

6 And now I understand that they have put a
7 report to us. And everything looks very good to me as
8 far as the race dates are concerned. However, as far
9 as the two Laredo tracks are concerned, I would like to
10 hear from the individuals representing those tracks.

11 CHAIRMAN ADAMS: Okay, sir. I want to
12 commend you all and thank you for your time you spent
13 on this working group.

14 The first we have signed in to speak is
15 Drew Shubeck with Lone Star Park.

16 MR. SHUBECK: Good afternoon,
17 Commissioners, Chairman. I'm Drew Shubeck and I'm
18 president of Lone Star Park racetrack. Since you've
19 already stated that everyone that's on the Thoroughbred
20 and Quarter Horse side has submitted dates and it's
21 pretty much a consensus in this state that the dates
22 that were submitted, in 2009, we've put in for 65 live
23 Thoroughbred days, from April 9th to July 26th, and 31
24 Quarter Horse days, from September 25th to November
25 28th.

1 The schedule that we are currently
2 running is acceptable to us and the horsemen. It's a
3 good mix of Thursday and Friday evenings and Saturday
4 and Sunday during the day. It gives a great balance.
5 Our group sales department does a good job with like
6 corporate outings on the Thursday and Friday evenings.
7 The Saturday and Sunday during the day helps Lone Star
8 get its signal out to the premier racetracks in North
9 America and blend our races in with them, so that helps
10 showcase the Texas sport in a very good way.

11 We did also put in for 2010 dates. I
12 know that was a bit of a problem for the other Texas
13 tracks. But seeing as that our traditional spring
14 Thoroughbred meet of 65 days works out really well, in
15 2010, from April 10th to July 25th, we didn't have any
16 trouble of submitting those days right now.

17 Of course, as things go on and possible
18 legislative changes next year, we may choose to amend
19 those dates; but for right now we feel really
20 comfortable with them. And we did work hard with the
21 breeds and the Texas Horsemen's Partnership and the
22 other racetracks in the state to make sure there were
23 no conflicts and nobody was really left out.

24 I'm here to answer any questions that you
25 have at this time.

1 CHAIRMAN ADAMS: Any questions for
2 Mr. Shubeck?

3 Thank you, sir.

4 MR. SHUBECK: Thank you.

5 CHAIRMAN ADAMS: Mr. Eric Johnston with
6 Sam Houston Park?

7 MR. JOHNSTON: Good afternoon,
8 Commissioners. I'm Eric Johnston, vice-president of
9 racing for Sam Houston Race Park. And I am here to
10 report that we are happy to tell you we have agreements
11 with both the Thoroughbred and Quarter Horse folks with
12 one exception.

13 We would like to make an amendment to our
14 application for Thoroughbred date -- excuse me, for
15 Quarter Horse dates for next year. We'd like to add
16 two additional days, the last weekend in August,
17 Friday, August 28th, and Saturday, August 29th. This
18 would give us an opportunity to run a couple of extra
19 races and help the horsemen have a place to race during
20 the summer.

21 As you know, we have requested dates for
22 the Quarter Horse meet beginning on May 1st and amended
23 to run through August 29th. We are in agreement with
24 Retama Park that we will conduct their meet at Sam
25 Houston Race Park and Retama Park has agreed to supply

1 us with purse money -- all purse monies earned for
2 Quarter Horse racing through guest simulcasting from
3 the dates of June 23rd, 2008, through June 23rd of
4 2009. This agreement includes all cross-species and
5 all ATB monies to be paid to Quarter Horses for that
6 calendar year.

7 In addition, we will work with Retama
8 Park to transfer any minor breed funds due to Paints
9 and Apps that will be raced at Sam Houston in
10 consistency with the breed agreement or the species
11 agreement later this year.

12 For the Thoroughbred side, we are going
13 to request -- we have requested to start on January 1st
14 and race through April 4th of 2009 for 47 days and
15 begin again in November, November 27th through December
16 31st, for 18 days, for a total of 65 Thoroughbred race
17 dates. We've worked with the TTA and the Texas
18 Horsemen's Partnership, the Thoroughbred side of the
19 Horsemen's Partnership, and come to an agreement.

20 We had a little bit of a hiccup earlier
21 this week, which turned out to be nothing more than a
22 miscommunication, and we are all in agreement with
23 those dates.

24 If you have any questions, I'd be more
25 than happy to answer them.

1 CHAIRMAN ADAMS: Mr. Johnston, the two
2 added dates that you added, has that been circulated
3 and the horsemen's groups are aware of that and --

4 MR. JOHNSTON: They are. That came at
5 the request of each party. We had a lot of
6 negotiations through the months of June and July; and
7 we came to that consensus, fortunately, about 10 days
8 ago. We sent a letter to Mr. Ferrara in the middle of
9 last week once we finally came to a final agreement on
10 it.

11 CHAIRMAN ADAMS: We do have a copy of
12 that letter in our packet. So I don't know if all of
13 the Commissioners have seen it, but we do have a copy
14 of that letter.

15 Any questions for Mr. Johnston?

16 COMMISSIONER EDERER: That's through
17 April 4th?

18 MR. JOHNSTON: The Thoroughbred meet,
19 yes.

20 COMMISSIONER EDERER: Right. Through
21 April 4th. There was a misprint on here. It says
22 April 1st.

23 CHAIRMAN ADAMS: Thank you, sir.

24 MR. JOHNSTON: Thank you.

25 CHAIRMAN ADAMS: There are no other

1 questions.

2 Next signed in is Mr. Bryan Brown with
3 Retama Park.

4 MR. BROWN: Good afternoon, Mr. Chairman,
5 Commissioners. I'm Bryan Brown with Retama Park. I'll
6 first take our Quarter Horse dates, which, following on
7 what Mr. Johnston just said, we have agreed to transfer
8 our days in 2009 only to Sam Houston Race Park. I
9 promised Tooter Jordan I would tell you that that does
10 not set a precedent. That's doesn't mean that's what
11 will happen in 2010. This is a 2009 only transfer.

12 In addition to the agreement that Retama
13 has to transfer the purse funds from June 23rd of this
14 year -- that accrue from June 23rd of this year to June
15 22nd of 2009, Retama will also work with Sam Houston to
16 transfer appropriate Paint purse funds so that they can
17 run a similar schedule to what we did last year and
18 what we would have planned on doing in 2009.

19 We have also applied for a Thoroughbred
20 meet starting August 28th and concluding November 7th.
21 That would be 32 days. That's a schedule that allows
22 us to maintain about a hundred thousand dollars a day
23 in Thoroughbred purse funds, which has always been our
24 goal and something we would like to maintain.

25 We have not applied for 2010 race dates.

1 That doesn't mean we don't want to race in 2010. We
2 just think we'll be in a better position down the road
3 to apply for those dates once we see how the schedule
4 works in 2009.

5 I'd be happy to answer any questions that
6 you have.

7 CHAIRMAN ADAMS: Any questions for
8 Mr. Brown?

9 COMMISSIONER EDERER: Your total race
10 days that you're requesting are --

11 MR. BROWN: 32.

12 COMMISSIONER EDERER: Okay.

13 CHAIRMAN ADAMS: Questions for
14 Mr. Brown?

15 I think not, sir. Thank you very much.

16 MR. BROWN: Thank you.

17 CHAIRMAN ADAMS: Next on the agenda is a
18 presentation by Manor; but, Mr. Phillips, you did not
19 fill out a sheet. Is that -- do you wish to address
20 the Commission?

21 MR. PHILLIPS: Commissioners, on our
22 original -- I'm Howard Phillips representing Manor
23 Downs. On our original race date applications, we had
24 requested February 28th as a starting date, ending
25 April 26th. At the request of the horsemen and working

1 with the director of racing, John Ferrara, we have
2 moved up that request one week earlier, which would
3 start February 21st and end April 19th.

4 This is to accommodate a greater time
5 period between the end of our meet and the extended
6 meet at Sam Houston. We did this at the request of
7 horsemen and I think everybody is happy with it.

8 Any questions?

9 MS. ANDERSON: What's the end date?

10 MR. PHILLIPS: The end date would be
11 April 19th instead of April 26th.

12 CHAIRMAN ADAMS: So you have the same
13 number of race dates.

14 MR. PHILLIPS: The same number of race
15 dates. We just start a weekend earlier and end a
16 weekend earlier.

17 CHAIRMAN ADAMS: And that change has been
18 published amongst the participants?

19 MR. PHILLIPS: That change is in response
20 to the participants.

21 CHAIRMAN ADAMS: Very good. That's what
22 I was trying to get here.

23 Any questions for Mr. Phillips?

24 Thank you, sir.

25 MR. PHILLIPS: Thank you.

1 CHAIRMAN ADAMS: The next item on the
2 agenda is Gillespie County, but I don't have anyone
3 signed in from Gillespie.

4 UNIDENTIFIED SPEAKER: Unless you have
5 any questions.

6 CHAIRMAN ADAMS: Laredo Race Park?
7 Mr. Bork, are you going to speak on behalf of Laredo?

8 MR. BORK: My name is Bob Bork. I'm
9 president of Laredo Race Park. Today I submitted a
10 letter to the Commission from the County Attorney for
11 Webb County where he points out that the Webb County
12 Commissioners unanimously have agreed to enter into
13 negotiations with us for a piece of property in Webb
14 County that's also under the control of a fair
15 association in the county.

16 This would -- this would mean we would
17 have a change of venue for that particular license; but
18 the opportunities there make it sound like it's very
19 worthwhile to do, number one, because the
20 infrastructure is already in place. There's all the
21 plumbing, all the electrical. Parking is available
22 already. And it looks like it's a place that could
23 become much more rapidly built into a racetrack.

24 Some of those things are not available at
25 our current location. So if our negotiations with the

1 County and the fair association are successful -- and I
2 firmly believe they will. We've had many conversations
3 with them already. I've spent a lot of time in the
4 last month and a half down there working through the
5 details with it. But it does take negotiations with
6 not just one organization. It takes negotiations with
7 two. And they have to agree amongst themselves to make
8 this happen. But so far I can report to you that it
9 appears that things are going along quite well.

10 Another advantage to this is there's
11 already currently on this piece of property a building
12 that would be just about the perfect size for
13 simulcasting. It needs a lot of modifications. It's
14 run down. But the investment in bringing that up to
15 par would be well worthwhile of an effort to make. And
16 so because of that, we're hoping that we get all of our
17 negotiations done successfully. I'm fairly confident
18 that that will, in fact, take place.

19 Our dates application was for days in
20 August of 2010. Why did we pick those dates? It's
21 pretty clear. That's when Sam Houston ends their
22 Quarter Horse meet and then there's a gap of about a
23 month before Lone Star opens up. So it fits in
24 perfectly there, where we could have a mixed meet with
25 two or three Thoroughbred races, seven or eight Quarter

1 Horse races, and it fills the gap of opportunities --
2 racing opportunities for the Quarter Horses during that
3 period of time when they're basically out of business
4 in Texas. So we're hopeful that that will be a perfect
5 opportunity and time to do that.

6 CHAIRMAN ADAMS: Okay. Any questions for
7 Mr. Bork?

8 Thank you, sir.

9 COMMISSIONER EDERER: Are you requesting
10 any days in '09?

11 MR. BORK: No, sir.

12 COMMISSIONER EDERER: None at all.

13 MR. BORK: We're a little concerned about
14 doing that because whichever location we had, we
15 wouldn't be able to at this point have it ready. We
16 think we have a better opportunity at the new location
17 because actually there used to be a racetrack there, so
18 we think we can possibly get that up and going faster.
19 We know we can get simulcasting going a lot faster at
20 this new location also because of the infrastructure
21 that is currently there.

22 COMMISSIONER EDERER: And so the dates --
23 the race dates that you're requesting is in 2010,
24 August 28th through 29th, two days.

25 MR. BORK: And then continuing into

1 September, yes, sir. It's from the end of Sam
2 Houston's Quarter Horse meet to roughly the beginning
3 of Lone Star's Quarter Horse meet.

4 COMMISSIONER EDERER: And that's over two
5 years from now.

6 MR. BORK: That's over two years from
7 now.

8 COMMISSIONER EDERER: And you say there's
9 a track there now that could be turned into --

10 MR. BORK: There used to be a track
11 there. There's not much of it left now.

12 COMMISSIONER EDERER: Well, I
13 understand. But they just rebuilt Ruidoso in three
14 days after it washed out.

15 MR. BORK: You haven't seen this yet.
16 Currently it's a stockpile for gravel where they redid
17 the highway. And the grandstand is actually gone. The
18 track that was there was only a half-mile track. The
19 stables that are there I really wouldn't put a horse
20 in. So it's -- that portion of it has to be totally
21 redone.

22 The one building that we would use for
23 simulcasting, like I said, is pretty -- in pretty bad
24 disrepair, but it is -- at least it's a building that
25 has the infrastructure with all the utilities and

1 everything already there that we could reconstruct and
2 get going faster.

3 MS. ANDERSON: Do you have a pending
4 request or do you have an approved request from the
5 executive secretary for simulcast dates?

6 MR. BORK: Not yet.

7 MS. ANDERSON: Have you applied for one?

8 MR. BORK: Not yet. Until I -- I would
9 think it could be somewhere during the year 2009.

10 COMMISSIONER PABLOS: Do you plan to --
11 excuse me. Do you plan to ask for simulcast dates
12 prior to live racing?

13 MR. BORK: Yes, sir.

14 MS. ANDERSON: I'm sorry. I didn't hear
15 your question.

16 COMMISSIONER PABLOS: The question is if
17 they plan to ask for simulcast dates prior to live
18 racing.

19 MR. BORK: Yes, sir.

20 MR. FENNER: Commissioners, I'd like to
21 say something about this request. First of all, we
22 just received it this morning. Also, I would like to
23 remind everybody we're posted here about race dates.
24 To the extent this helps to inform about race dates,
25 that's, I think, permissible; but it's not a request

1 for transfer of location. So we've got to kind of keep
2 it within context.

3 MS. ANDERSON: Well, we just tabled --
4 clearly, on a different sport, we just tabled a
5 situation where we have -- there is uncertainty and the
6 Commission is asking for more certainty about the plans
7 of a track to be open before we grant dates and, you
8 know, grant -- the executive secretary grant simulcast
9 dates. And this seems to me to be at least a somewhat
10 parallel situation.

11 COMMISSIONER PABLOS: I agree.

12 COMMISSIONER SCHMIDT: I agree also.

13 COMMISSIONER EDERER: Is there a Laredo
14 Race Park and a Laredo Downs?

15 MR. BORK: Yes.

16 COMMISSIONER EDERER: So there's three
17 licenses in Laredo?

18 MR. BORK: Two.

19 COMMISSIONER EDERER: Valle de los --

20 MR. BORK: That's in McAllen.

21 CHAIRMAN ADAMS: Mr. LaMantia is going to
22 tell us about that in just a second.

23 COMMISSIONER EDERER: So there's three
24 licenses down there in the Laredo area?

25 CHAIRMAN ADAMS: Okay. At this point let

1 me just say we're hearing from those who have signed in
2 to speak on the issuance of race dates. We, again,
3 will talk about race dates in two different motions.
4 We'll talk about '09 race dates and 2010 race dates.
5 And at that time, if we need to bring someone back up
6 here to explain or to talk about it, then let's try to
7 do it that way.

8 But I think we have full concurrence on
9 the '09 dates and we have a little bit of a question
10 here about the 2010 dates. So let's let Mr. Bork
11 finish; and if you have any additional questions for
12 him, then we'll have the rest of the speakers come
13 forward and address the issues of '09 versus -- there
14 is some concern about the '09 transfer of Quarter Horse
15 dates that are signed in as well to speak, so I want to
16 touch on that as well.

17 So we've got several issues that will be
18 working here as we go through the rest of this
19 testimony.

20 MS. ANDERSON: It's better to hear all
21 the public comment and have them all sit down and then
22 have dialogue among ourselves.

23 CHAIRMAN ADAMS: We'll have dialogue here
24 and then we'll ask them to come back if we need to if
25 we have any additional questions.

1 MR. BORK: I didn't want to confuse the
2 issue with the change of venue, but I just wanted the
3 Commission to be aware that it's something that we're
4 looking into and the reason we're looking into it is
5 because we think we can act faster and that property
6 would be more suitable than the current location just
7 because of the infrastructure that's already currently
8 in place.

9 So if I confused the issue, I apologize
10 for that. I just wanted to let the Commission know
11 that it is something we're looking at.

12 CHAIRMAN ADAMS: Keep in mind, we're
13 easily confused, Mr. Bork.

14 MR. BORK: I didn't say that. If I said
15 that, I didn't mean that.

16 CHAIRMAN ADAMS: No, that's okay. I said
17 it for you.

18 COMMISSIONER SOWELL: But you didn't
19 argue.

20 COMMISSIONER EDERER: And you're
21 representing Laredo Race Park.

22 MR. BORK: Yes, sir.

23 COMMISSIONER EDERER: Thank you.

24 COMMISSIONER PABLOS: Mr. Chair, I just
25 want to make sure that we are talking about race dates

1 and not change of venue.

2 MR. BORK: That's correct.

3 CHAIRMAN ADAMS: There is no question.
4 We're talking about race dates. That is the issue
5 here.

6 MR. BORK: That is correct.

7 CHAIRMAN ADAMS: Thank you, Mr. Bork.

8 MR. BORK: Okay.

9 CHAIRMAN ADAMS: Next signed in for
10 Laredo Downs is Mr. Greg LaMantia.

11 MR. LaMANTIA: Good afternoon,
12 Commissioners, Chairman. I'm here for Laredo Race
13 Downs and to answer any questions about the race dates
14 we requested in '09.

15 No questions? Okay. I'll sit down.

16 COMMISSIONER PABLOS: I have a question.

17 CHAIRMAN ADAMS: Go ahead.

18 COMMISSIONER PABLOS: Mr. LaMantia, can
19 you explain to us the situation where --

20 MR. LaMANTIA: I'm sorry?

21 COMMISSIONER PABLOS: I'd like to know
22 more about the highway construction situation. Would
23 you mind talking a little bit about that?

24 MR. LaMANTIA: Well, the highway
25 construction situation you may be referring is in

1 McAllen versus the Laredo one. If you'd like me to
2 address that, I'll be happy to.

3 Currently there is a loop going in in
4 Hidalgo County and it's part of the rural
5 transportation authority which have the authority to
6 condemn, to tax, all those type things. And the
7 original guidelines or map had it going right through
8 the middle of the 200 acres that we had purchased to
9 put the racetrack in McAllen.

10 Since that time we've been working with
11 them to get that moved so it won't be an issue. We do
12 not have a final determination on that, but it looks
13 like we've made some progress and it looks like we have
14 a chance to get that moved so it won't be going right
15 through the middle of the property, which would
16 obviously cause a great deal of concern with the 200
17 acres and where you put the track and would it still
18 fit and all those other things.

19 CHAIRMAN ADAMS: Do I need to remind you
20 that we're talking about race dates here?

21 VICE-CHAIRMAN CARTER: Could I ask a
22 question?

23 MR. LaMANTIA: Yes, sir.

24 VICE-CHAIRMAN CARTER: You've got --
25 you're requesting December 4 to December 13th, '09 race

1 dates in Laredo.

2 MR. LaMANTIA: Yes, sir.

3 VICE-CHAIRMAN CARTER: And you'll have a
4 facility to race at by then?

5 MR. LaMANTIA: I think -- I don't think
6 that we will, but we applied for race dates pursuant to
7 the order when we got the license which I think
8 requested that we must apply for race dates in '09.
9 And so that's why we did it even though we don't think
10 we will be ready to have that racing, but we wanted to
11 comply with the order.

12 CHAIRMAN ADAMS: That is correct, staff?
13 The order calls for them to do that.

14 MR. FENNER: Yes, sir. It requires --

15 CHAIRMAN ADAMS: They are meeting their
16 requirement.

17 MR. FENNER: They are meeting their
18 requirement of requesting race dates.

19 CHAIRMAN ADAMS: Any other questions for
20 Mr. LaMantia?

21 COMMISSIONER EDERER: You have no request
22 for '10, 2010.

23 MR. LaMANTIA: That is correct.

24 COMMISSIONER EDERER: Will there be a
25 racing facility in 2010 at Laredo Downs?

1 MR. LaMANTIA: I'm not sure. I mean, it
2 depends on how this thing goes. But we would hope by
3 then we could have that ready.

4 COMMISSIONER EDERER: And where would it
5 be located?

6 MR. LaMANTIA: Currently it's located in
7 Laredo. However, there may be some other options; and
8 I'm not prepared to request anything from the
9 Commission at this point where other -- the other
10 options would be. I mean, if you want me to go into
11 that --

12 CHAIRMAN ADAMS: I don't think that's
13 necessary at this time since we're considering the '09
14 dates. Remember, Commissioners, that the 2010 dates
15 were optional. Am I correct, staff? Just to give us
16 better feel for where we were going.

17 MS. ANDERSON: I have a question of
18 Mr. LaMantia.

19 MR. LaMANTIA: Yes, ma'am.

20 MS. ANDERSON: When these two licenses in
21 Laredo were granted by this Commission, I wasn't a
22 party or I wasn't on the Commission at that point. Was
23 there discussion by the Commission and by the -- when
24 you were then an applicant, about the ability of Laredo
25 to absorb the -- you know, have enough discretionary

1 entertainment dollar or whatever to support two
2 racetracks?

3 MR. LaMANTIA: Yes, ma'am, there was.

4 MS. ANDERSON: And what was your answer
5 at that time?

6 MR. LaMANTIA: That we thought at that
7 time -- and it was absolutely truthful. We thought at
8 that time that there was enough population, disposable
9 income, all those things, for that to happen.

10 MS. ANDERSON: Thank you.

11 MR. LaMANTIA: Yes, ma'am.

12 CHAIRMAN ADAMS: Any other questions?

13 Do you have anything else to tell us
14 about the Valle de los Tesoros? Because it's next.

15 MR. LaMANTIA: No other than the same.

16 We have an application in for '09 pursuant to the order
17 that we wanted to follow that we got them in.

18 COMMISSIONER EDERER: Where is Hidalgo
19 County?

20 MR. LaMANTIA: Hidalgo County is --

21 COMMISSIONER EDERER: In relation to Webb
22 County.

23 MR. LaMANTIA: It's about two counties
24 down, downriver. It's the second to the last county
25 before you hit the Gulf of Mexico.

1 COMMISSIONER EDERER: It's in McAllen.

2 MR. LaMANTIA: Yes, sir.

3 COMMISSIONER EDERER: I thought it was.

4 I wasn't sure. So Valle de los Tesoros, that's in

5 McAllen.

6 MR. LaMANTIA: Yes, sir.

7 COMMISSIONER EDERER: And that's the one

8 that you're having problems with the road on. And

9 we'll discuss that at another time.

10 MR. LaMANTIA: Yes, sir.

11 COMMISSIONER EDERER: As far as Laredo

12 Downs is concerned, you're asking for six race days as

13 you would have to do to comply with the directives from

14 the Racing Commission. Is this correct?

15 MR. LaMANTIA: That is correct, yes,

16 sir.

17 COMMISSIONER EDERER: But you don't have

18 a facility to run in and you won't have by then, of

19 course, but you're hoping that you can have one in '10,

20 2010.

21 MR. LaMANTIA: We're working towards

22 that, yes, sir.

23 MS. ANDERSON: I have one more question.

24 I'm sorry.

25 MR. LaMANTIA: Sure.

1 MS. ANDERSON: When was your license
2 granted by the Commission?

3 MS. KING: March of last year.

4 MR. FENNER: March of '07.

5 MS. ANDERSON: Thank you.

6 CHAIRMAN ADAMS: Any further questions?

7 MR. LaMANTIA: Yes, sir.

8 CHAIRMAN ADAMS: Yes, Dr. Schmidt.

9 COMMISSIONER SCHMIDT: I guess we're
10 going over this again. I just want to make sure I'm
11 clear. Let's move down to the second track, the Valle
12 de los Tesoros.

13 MR. LaMANTIA: Yes, sir.

14 COMMISSIONER SCHMIDT: Again, you have --
15 I appreciate the fact that you've submitted date
16 requests based on our requirements; but as of this
17 date, you really don't think you'll be able to meet
18 those.

19 MR. LaMANTIA: That is correct.

20 COMMISSIONER SCHMIDT: Thanks.

21 MR. LaMANTIA: You bet.

22 CHAIRMAN ADAMS: Thank you, sir.
23 Appreciate your time.

24 MR. LaMANTIA: Thank you all.

25 CHAIRMAN ADAMS: Next we'd like to hear

1 from Mr. Terry Blanton from the Thoroughbred -- on
2 Thoroughbred race dates from the Texas Horsemen's
3 Partnership Thoroughbred division.

4 MR. BLANTON: Good afternoon,
5 Mr. Chairman and Commissioners. I'm Terry Blanton with
6 the Texas Horsemen's Partnership -- let me think who
7 I'm with -- the Thoroughbred side of it. I've had a
8 lot of discussions with both staff and the racetracks
9 involved for the 2009 dates and also with what --
10 whatever they've submitted for 2010 dates.

11 My board has reviewed it and we're in
12 agreement with what staff has recommended and we would
13 ask that you would approve that from staff
14 recommendation. We're in full agreement with that.

15 CHAIRMAN ADAMS: Thank you, sir.

16 Any questions for Mr. Blanton?

17 Thank you, sir.

18 Mr. Jordan?

19 Tooter Jordan has signed in to speak for
20 the Texas Horsemen's Partnership, Quarter Horse
21 division.

22 MR. JORDAN: Good afternoon,
23 Mr. Commissioner -- Mr. Chairman, Commissioners. My
24 name is Tooter Jordan with the Texas Horsemen's
25 Partnership. And like my counterpart, Terry, we have

1 had several meetings with both the associations and the
2 directors and many horsemen involved in this particular
3 change that we're talking about and we are in complete
4 agreement with what the dates that have been asked
5 for.

6 If there's any questions, I'd be more
7 than happy to answer them.

8 CHAIRMAN ADAMS: Thank you, Mr. Jordan.
9 I don't think there are any at this time. Appreciate
10 it, sir.

11 For the Texas Thoroughbred Association,
12 Mr. Dave Hooper?

13 MR. HOOPER: Mr. Chairman, members of the
14 Commission, I'm David Hooper, executive director of the
15 Texas Thoroughbred Association. And our organization
16 is in agreement with the Thoroughbred dates that have
17 been requested for all tracks, Class 1 as well as Class
18 2 and Class 3.

19 CHAIRMAN ADAMS: Thank you, Mr. Hooper.
20 I don't think there are any questions at this time.

21 Next signed is Mr. Rob Werstler with the
22 Texas Quarter Horse Association.

23 MR. WERSTLER: Good afternoon,
24 Commissioners. Again, Rob Werstler with the Texas
25 Quarter Horse Association. We are in agreement with

1 the final Quarter Horse race dates applications. The
2 process went the way it was supposed to.

3 Like Commissioner Ederer alluded to
4 earlier, when Sam Houston first approached us about
5 this, you know, we had our reservations; but through a
6 good negotiation -- negotiating process, which included
7 Howard moving his meet up, agreeing to do that, Drew
8 Shubeck agreeing to make sure that our horsemen have
9 someplace to go because there's a considerable gap
10 between the closing of Houston and the opening of Lone
11 Star Park, it worked out well. So we are in
12 agreement.

13 CHAIRMAN ADAMS: Thank you,
14 Mr. Werstler.

15 Any questions?

16 I think not, sir. Thank you.

17 Next signed for the American Paint Horse
18 Association, Mr. Francisco Villarreal.

19 MR. VILLARREAL: Good afternoon. Pancho
20 Villarreal. I'm here for the Texas Paint Horse
21 Breeders Association. I'm here along with Bruce Grider
22 and Debbie Wilkinson. Our concern is when they were
23 transferring their Quarter Horse dates from Retama to
24 Sam Houston that the purse money that is allocated to
25 the minor breeds, specifically for the Paint horses,

1 that it follows the race dates to Sam Houston.

2 I think both Sam Houston and Retama has
3 addressed that before this meeting and we're satisfied
4 as long as the purse money follows the Quarter Horse
5 dates from the minor breed to Sam Houston Race Park.

6 CHAIRMAN ADAMS: Yes, sir. And I
7 understand that is the case and so we'll make sure that
8 that does take place, sir. Thank you, sir.

9 MR. VILLARREAL: Thank you very much.

10 CHAIRMAN ADAMS: Any questions?

11 Thank you, sir.

12 Mr. Wilson, would you like to address the
13 Commission? It's not necessary, but you certainly can,
14 sir.

15 MR. WILSON: No.

16 CHAIRMAN ADAMS: Mr. Wilson represents
17 the Texas Arabian Horse Association.

18 Next signed to speak, Mr. David Colbath,
19 C-o-l-b-a-t-h. Is that correct?

20 MR. COLBATH: Thank you, Mr. Commissioner
21 and Commissioners. It does sound like a decision has
22 already been made and I got in on this a little bit
23 late, but I was here to represent a number of horsemen
24 that are not in agreeance with moving those dates.
25 They are South Texas horsemen that are fairly far away

1 from Houston, myself, 165, 170 miles, the
2 inconvenience, the fuel, the time, and, of course,
3 having racing taken out of our back -- right in our
4 backyard, having it taken away.

5 There is plenty of racing in South
6 Texas. Gillespie fills up and overflows. Manor fills
7 up and overflows. We're short race dates and short
8 racing. Now a venue that we've had is now leaving and
9 going to 180 miles away from San Antonio. That was
10 just my primary concern there.

11 CHAIRMAN ADAMS: You're speaking to the
12 Quarter Horse meet that's being transferred from --
13 that was previously at Retama that's being moved to Sam
14 Houston. Okay, sir.

15 MR. COLBATH: That's correct.

16 CHAIRMAN ADAMS: Okay, sir.

17 Any questions?

18 COMMISSIONER EDERER: Did you discuss
19 this with the Quarter Horse?

20 MR. COLBATH: I have.

21 COMMISSIONER EDERER: Okay. Thank you.

22 CHAIRMAN ADAMS: Thank you, sir.

23 Appreciate it.

24 Mr. Sammy Jackson is now available for
25 any questions or comments that you may have. I'd

1 like -- as I had said earlier, I'd like to break the
2 motions down and talk about 2009 first and then go to
3 2010. We do have -- as I can best tell, everyone who's
4 required to submit for 2009 dates are in the package
5 and those who have chosen to submit for 2010 are in the
6 second portion of the agenda.

7 So, Sammy, do you have anything at this
8 time that you need to pass on to us? Do we have any
9 questions?

10 MR. JACKSON: No, sir.

11 CHAIRMAN ADAMS: Yes, Rolando.

12 COMMISSIONER PABLOS: Just going back to
13 Mr. LaMantia's request. And please bear with me, but
14 I'm not understanding. We have a requirement where he
15 has to submit a request and yet he's telling us that
16 chances are that he's not going to make those dates.
17 And so why can't we just issue him a waiver on that
18 requirement rather than creating a situation where now
19 he's, in essence, submitting a request that is a
20 non-request, in other words?

21 Is there any way where we -- I don't want
22 to create a precedent here where we're approving
23 requests that we know aren't going to get approved or
24 aren't going to be met. And so it just seems a little
25 sloppy to me. I don't know. But I just would like to

1 open up that discussion.

2 CHAIRMAN ADAMS: Did the working group
3 have any comments on that portion of it, Commissioner
4 Ederer or Commissioner Schmidt? Did you all delve into
5 that? I do want to get a legal opinion before we --

6 COMMISSIONER SCHMIDT: The working group
7 was waiting to have an explanation of whether or not
8 these tracks would be operational at that time. So
9 we're waiting for public testimony.

10 I have a motion when you're ready.

11 CHAIRMAN ADAMS: Okay, sir. Would you
12 like to speak to this?

13 MR. FENNER: Yes, sir, I think I would.
14 I would like to be sure everybody kind of knows what
15 the orders say. In the case of Laredo Downs, the order
16 requires them, by July 1 of 2008, to request live race
17 dates for calendar year 2009. The order requires them
18 to begin simulcasting by January 1 of 2009. It says
19 that the estimated date that the facility should be
20 ready for live racing is no later than July 1, 2009.

21 If they fail to conduct simulcasting by
22 January 1, 2009, they forfeit \$1237 a day for each day
23 that they fail to conduct simulcasting. That's for
24 Laredo Downs. The amount for VLDT is actually \$1812
25 per day for failure to begin simulcasting.

1 Now, once the live dates are granted,
2 that begins the first day of their live meet. If they
3 fail to conduct their live racing when they have that
4 day granted, they forfeit \$967 per day for Laredo
5 Downs, \$951 a day for Valle de los Tesoros.

6 Laredo Race Park has a similar security
7 order in place. Theirs has later time periods because
8 they were actually given their license at a later
9 Commission meeting, in July I believe it was.

10 MS. ANDERSON: Did I just -- I'm sorry.
11 Did I just hear you say that in the order they're
12 supposed to start live racing by July of 2009?

13 MR. FENNER: That's not exactly what it
14 says. It says the estimated date that the facility
15 should be ready for live racing is no later than July
16 1, 2009. It creates an expectation that, in one case,
17 we can't expect them to begin live racing in June of
18 '09.

19 MS. ANDERSON: Right.

20 MR. FENNER: But on the other hand, the
21 Commission had a pretty fair expectation that July 1,
22 or sometime soon after, that the facility should be
23 ready to start.

24 MS. ANDERSON: And a similar -- and then
25 you said Laredo Race Park, the license was granted

1 later so their dates in both cases, instead of being
2 July 2009, it might be September or October or
3 whatever.

4 MR. FENNER: That's correct. It's
5 December -- the date that Laredo Race Park must begin
6 simulcasting is July 15 of '09. The date that they
7 should be ready for live racing is no later than
8 December 1, '09.

9 MS. ANDERSON: And failing to comply with
10 the terms of this order triggers this administrative
11 penalty.

12 MR. FENNER: Could very well do so, yes.

13 MS. ANDERSON: Triggers it or could very
14 well do so?

15 MR. FENNER: It would -- it's the bond.
16 It's the forfeiture once they fail to start
17 conducting.

18 MS. ANDERSON: Is that a may or shall
19 situation?

20 MR. FENNER: That's a shall. The big one
21 here is the simulcasting more so than the live racing
22 because, of course, there's many more days of
23 simulcasting than there are of live racing.

24 Yes, sir?

25 MS. ANDERSON: It's easier to build a

1 building for simulcasting than it is to build a
2 racetrack, too.

3 MR. FENNER: If I may address
4 Commissioner Pablos' point. It's not really easy to
5 just grant a waiver. I think that it would be
6 appropriate that if the Commission decides that this is
7 not what we want to do anymore, we would need to come
8 back with an amended order at the next Commission
9 meeting or a subsequent one for your approval.

10 VICE-CHAIRMAN CARTER: Can I ask you a
11 question from the staff's -- from the staff's
12 perspective? Is this a big deal? I'm assuming it's
13 not a big deal to give race dates that we don't intend
14 to meet, with the understanding that fines are imposed
15 when that's not done.

16 MR. FENNER: That's a pretty significant
17 policy issue that I would look to the Commission for
18 guidance on. I can tell you that in this -- back in
19 1996, Lone Star Park was granted live race dates. They
20 were granted 11 live racing dates beginning on December
21 14th of 1996 and they conducted simulcasting before
22 that in preparation for conducting live racing. They
23 did not have the facility ready and they did not
24 conduct the live race dates. The final end of that was
25 a 25,000-dollar settlement of an administrative

1 penalty.

2 MS. ANDERSON: When did they initiate
3 live race dates?

4 MR. FENNER: I believe they initiated
5 live racing in 1997.

6 MS. ANDERSON: So they missed it by six
7 months?

8 MR. FENNER: About a year.

9 MS. ANDERSON: A year?

10 MR. FENNER: About a year. No? Let me
11 get some -- I'm sorry. April. I stand corrected.

12 COMMISSIONER SOWELL: Say that again.

13 MR. FENNER: I stand corrected. April of
14 '97.

15 CHAIRMAN ADAMS: They were building a
16 55-million-dollar facility that was three quarters
17 done.

18 VICE-CHAIRMAN CARTER: And as a
19 consequence of those simulcast dates, they had
20 tremendous purses when they opened.

21 MS. KING: Yes, they did, yes,
22 definitely.

23 MR. FENNER: Yes.

24 MS. KING: Yes. It gave them a head
25 start. And that was an advantage, a distinct

1 advantage.

2 COMMISSIONER EDERER: The simulcasts gave
3 them a head start.

4 MS. KING: Yes, sir.

5 COMMISSIONER EDERER: They had people
6 going to the track and they got --

7 MS. KING: Yes, sir.

8 CHAIRMAN ADAMS: I would tend to agree
9 with Commissioner Carter, that I would not consider it
10 a major item to issue dates and then, for whatever
11 reason, during the construction process they didn't
12 meet those and couldn't run those, to amend that at
13 that time.

14 MS. ANDERSON: And I think that's
15 different. I agree with you that things -- you know,
16 things can happen, you know, in a construction process
17 or something. That, to me, is different than granting
18 live race dates where we don't have any idea where a
19 track is going to be built, where we don't have any
20 idea when we're going to get a road and where the road
21 is going to go. That is a different situation.

22 And I know we're supposed to be limited
23 here today to just talking about race dates.
24 Unfortunately, as with most things in business,
25 everything is connected to everything else. And so you

1 can't, in my -- I can't, in good faith, with the
2 responsibilities I have as a member of this Commission,
3 separate the dates from everything else.

4 And I think I have grave concern about
5 voting race dates for tracks that are in the gleam in
6 somebody's eye. And we don't even know what county a
7 couple of them -- one of them is going to be in.

8 COMMISSIONER SOWELL: A question, Mark.
9 Is this the policy issue you were concerned about?

10 MR. FENNER: Yes, sir.

11 COMMISSIONER SOWELL: And you're looking
12 to us for guidance?

13 COMMISSIONER EDERER: Can we take them
14 one at a time? Laredo Downs is asking for race dates
15 for December 4th through the 13th. Six days is what
16 they're asking for. But Laredo Downs does not have a
17 track, nor do they have actually -- well, they have a
18 location. Is that correct?

19 MR. LaMANTIA: Yes, sir.

20 COMMISSIONER EDERER: You have a
21 location. And as far as the track itself is concerned,
22 now, we're talking about '09, December '09, which is a
23 year and a half from now. Is there any plan to build a
24 track between now and then or start one?

25 MR. LaMANTIA: If the question is do we

1 plan on building a track, the answer to that is yes.

2 COMMISSIONER SOWELL: The question is:
3 Where do you plan on building it?

4 MR. LaMANTIA: Well, I'm not prepared --

5 COMMISSIONER SOWELL: You're not ready to
6 say so yet, but what you're saying is the present
7 location is a shaky one.

8 MR. LaMANTIA: You can say that.

9 COMMISSIONER EDERER: But you're asking
10 for -- you would be able to put in simulcast -- when
11 would they be able to put in the simulcast if we
12 granted the race dates for December of '09, a year and
13 a half from now?

14 MR. FENNER: They are required to begin
15 simulcasting by January 1 of '09.

16 COMMISSIONER EDERER: They are required
17 to.

18 MR. FENNER: By the security order.

19 MS. ANDERSON: Does the security order
20 reference a location for the track?

21 MR. FENNER: No, but the license itself
22 does, the license that was granted at the same time.

23 COMMISSIONER SOWELL: Mr. Fenner, if that
24 were to occur, the fund -- the revenue generated by
25 simulcast would be, in effect, held in escrow; and in

1 the event that Mr. LaMantia were to find a different
2 location, that money would go there with him and still
3 serve the purpose of having a nice cushion of revenue
4 to provide for purses when they open the track.

5 MR. FENNER: That's correct, sir. It
6 travels with the association, yes, sir.

7 COMMISSIONER SOWELL: Now, that's a
8 policy that is sort of incidentally or maybe
9 accidentally carried forward by the Commission. Is
10 that a fair statement?

11 MR. FENNER: Well, maybe I should --

12 COMMISSIONER SOWELL: It's never directly
13 been addressed, has it?

14 MR. FENNER: Maybe I expressed that
15 inexpertly, in that the money is actually held by the
16 Texas Horsemen's Partnership for the benefit of the
17 horsemen who run at that track. And it's similar to
18 the TGA discussion we had a few minutes ago. After a
19 year, the Texas Horsemen's Partnership could move that
20 purse money for use at another track.

21 CHAIRMAN ADAMS: Reallocate it.

22 MR. FENNER: Yes, sir.

23 COMMISSIONER PABLOS: Mark, I have a
24 question. What is the purpose of asking us to approve
25 race dates? I mean, what is the purpose behind that?

1 MR. FENNER: The statute says that the
2 Commission allocates race dates.

3 COMMISSIONER PABLOS: I understand that.
4 I mean the practical reason. Why is it that --

5 MR. FENNER: I'm sorry. It's really to
6 make sure that, you know, the Commission is applying
7 strict regulation, making sure that the number of days
8 and the purse amounts are appropriate, that the tracks
9 are not stepping on each other.

10 COMMISSIONER PABLOS: That's where I'm
11 headed. So if we don't know where this track is going
12 and you're asking us to approve race dates, how do we
13 know that that isn't going to impact another track
14 somewhere else?

15 MR. FENNER: Let me be clear. We're not
16 asking you to approve race dates.

17 VICE-CHAIRMAN CARTER: Can I ask one more
18 question that might get us off top dead-center here?

19 MR. FENNER: Yes, sir.

20 VICE-CHAIRMAN CARTER: They have
21 fulfilled their requirements by requesting race dates.

22 MR. FENNER: They have fulfilled the
23 requirement of the short-term requirement.

24 VICE-CHAIRMAN CARTER: And it's entirely
25 up to us to decline those race dates.

1 MR. FENNER: Yes.

2 VICE-CHAIRMAN CARTER: If we have the
3 assumption that they're not going to have a track, why
4 would we grant them the dates? They requested them.

5 MR. FENNER: Right.

6 VICE-CHAIRMAN CARTER: They've fulfilled
7 their requirement.

8 MR. FENNER: My reservation about just
9 denying the race dates is that we lose much of the
10 effect of the security order. I think it would be
11 difficult on January 1 to start forfeiting the bond for
12 lack of simulcasting when they cannot conduct
13 simulcasting without live race dates.

14 Therefore, I do think it's appropriate
15 that if you do not want to grant them live race dates
16 that we consider amending the order.

17 CHAIRMAN ADAMS: May I?

18 MS. ANDERSON: Sure.

19 CHAIRMAN ADAMS: Their commitment to this
20 Commission and to the State of Texas included the
21 generation of income to further the --

22 MR. FENNER: The public interest of
23 racing and the tax funds.

24 CHAIRMAN ADAMS: And the tax fund and the
25 general fund of the State of Texas and everything. So

1 they committed to that. They're under contract to
2 perform in that respect. So I feel we have the
3 obligation to grant them the race dates that they have
4 requested and then allow them the opportunity to
5 proceed forward and accomplish the rest if, in fact,
6 they choose to. If not, and they choose to forfeit
7 their bond, then they choose to do that. That's their
8 option under their contract.

9 We have a contract to do certain things.
10 They have a contract to do certain things. And part of
11 their contract is to start providing revenue to the
12 State of Texas. And that bond is there to -- is to
13 supplement or to replace that revenue that they choose
14 not to provide by not starting their simulcasting. Did
15 I make sense? I mean, I --

16 MS. ANDERSON: And that bond forfeiture,
17 that revenue stream flows to GR just like --

18 CHAIRMAN ADAMS: Just like our --

19 MR. FENNER: It goes to general revenue.
20 And a portion of it goes to the Texas-bred fund, right,
21 Sammy?

22 MR. JACKSON: It should come to Account
23 597, which is our fund.

24 MS. ANDERSON: So it's dedicated GR.

25 MR. JACKSON: That's correct.

1 MS. ANDERSON: For what purpose?

2 MR. JACKSON: The bond was calculated on
3 the Texas-bred incentive program funds as well as the
4 money that goes to the General Revenue Fund for taxes,
5 which I'm sure we would have to transfer that back to
6 GR, as well as some small percentage of simulcast race
7 day fee on the simulcast side. And on the live side,
8 it was a small percentage of a live race day fee.

9 COMMISSIONER EDERER: And that's a
10 shall.

11 MR. FENNER: Yes, sir.

12 COMMISSIONER EDERER: Not a may.

13 MR. FENNER: That's a shall.

14 COMMISSIONER EDERER: Mr. LaMantia, do
15 you intend to have simulcast come January 1?

16 MR. LaMANTIA: I'm not here today or
17 prepared to say that we're requesting simulcasts on
18 January 1 or whatever the dates are. I hope to come
19 back and visit that.

20 COMMISSIONER EDERER: Okay. So you don't
21 have to request that at this time? You're trying to
22 follow the contract right now is what you're telling
23 us.

24 MR. LaMANTIA: That is correct. I'm
25 trying to follow what was set out in March or May.

1 starting to forfeit that money and it doesn't look like
2 this thing is going to start racing, we're going to
3 come back to the Commission and ask them to require
4 additional security.

5 COMMISSIONER EDERER: Or forfeit the
6 license?

7 MS. ANDERSON: You don't look at him.
8 That won't be his decision.

9 COMMISSIONER EDERER: He would either
10 then come forward with more security or he would have
11 to forfeit the license.

12 MR. FENNER: Yes.

13 COMMISSIONER EDERER: If that was what he
14 chose to do, if he chose not to do the simulcast or
15 anything. Is that correct? Now, is that on both
16 tracks, both tracks that Mr. LaMantia is talking
17 about?

18 MR. FENNER: Yes.

19 COMMISSIONER EDERER: So --

20 MS. ANDERSON: And similarly, not just
21 Mr. LaMantia's tracks, but Laredo Race Park. Everybody
22 has got a security bond?

23 MR. LAMANTIA: You've got two tracks out
24 there that don't have any bond. I just wanted to throw
25 that in. They haven't done anything.

1 MR. FENNER: Austin Jockey Club and
2 Saddle Brook are the old inactive licenses and there's
3 no security bonds there.

4 MS. ANDERSON: There's no security bond
5 there; but there is for these two tracks, for LRP Group
6 and for Laredo --

7 MR. FENNER: Race -- yes. The Laredo
8 Downs, Laredo Race Park, and Valle de los Tesoros.

9 VICE-CHAIRMAN CARTER: Mr. Chairman?

10 CHAIRMAN ADAMS: Any other questions for
11 Mr. Fenner? Commissioner Carter would like to state
12 this.

13 VICE-CHAIRMAN CARTER: We've come at this
14 about three different directions and we have about six
15 different questions four different ways. And it
16 doesn't look like it's good if we decline it and we
17 have methods in place to collect money if we grant it,
18 so I move that we accept the '09 race dates and move
19 on.

20 COMMISSIONER SCHMIDT: I second that.

21 CHAIRMAN ADAMS: It's been moved and
22 second that the '09 race calendar as presented and
23 amended be approved.

24 Any discussion?

25 All those in favor --

1 MS. ANDERSON: Excuse me. I offer an
2 amendment, please, because, mindful of what we just did
3 on the greyhound side where we tabled, you know, I
4 would move to strike the Laredo Race Park race --
5 approval of their '10 dates because they, in my view,
6 are similarly -- is that a different motion?

7 CHAIRMAN ADAMS: That's a different
8 motion.

9 MS. ANDERSON: I apologize.

10 CHAIRMAN ADAMS: We're talking about
11 '09.

12 VICE-CHAIRMAN CARTER: I just said '09.

13 MS. ANDERSON: I apologize.

14 CHAIRMAN ADAMS: Okay. Strike the
15 amendment. And let's vote on the motion --

16 MR. LaMANTIA: Mr. Chairman?

17 CHAIRMAN ADAMS: We've got it closed,
18 Mr. LaMantia. We're going to vote on this and try to
19 move along here.

20 All those in favor please say aye.

21 COMMISSIONERS: Aye.

22 CHAIRMAN ADAMS: Any opposed?

23 MS. ANDERSON: No.

24 CHAIRMAN ADAMS: One in opposition.

25 We'll now move on to the approval of

1 consideration of 2010 race dates requested by Lone
2 Star, Gillespie, and Laredo Race Park.

3 Yes. We have a new card here.

4 Mr. Azopardi?

5 MR. AZOPARDI: My apologies for the
6 last-minute submission; but before you went on to
7 Laredo Race Downs, I just wanted to point out one
8 significant difference between the dates that you're
9 considering for Laredo with Mr. Bork's application
10 versus the Texas Greyhound Association.

11 As Dr. Carter pointed out previously, the
12 horsemen have history on the generation of purse money
13 prior to the opening of a racetrack. And as
14 Mr. Jackson will tell you, those purse funds are
15 legally titled to the Texas Horsemen's Partnership. We
16 actually have 15 bank accounts that represent three
17 breed accounts at each one of our five racetracks that
18 we shepherd basically for the racing industry.

19 And that money that's generated from
20 weekly simulcasting is deposited into our accounts by
21 Wednesday after the last day of simulcasting. So we
22 have a real-time basis to monitor and make sure that
23 that money is being generated and deposited properly.

24 As Dr. Carter pointed out earlier, the
25 best opening of a racetrack we've had in the history of

1 Texas was when we had preopening simulcasting. So to
2 the extent that you grant those dates and Laredo starts
3 simulcasting earlier, it just generates money for the
4 horsemen that if they don't provide those opportunities
5 there, the Horsemen's Partnership can move that money
6 and supplement races around the state and it generates
7 money for the State of Texas for the comptroller's
8 office. So it is beneficial to allow those preopening
9 simulcasting days and I would just offer you that. The
10 horsemen are in favor of that.

11 CHAIRMAN ADAMS: Any questions for
12 Mr. Azopardi?

13 MS. ANDERSON: I have a question for
14 Mr. Jackson.

15 CHAIRMAN ADAMS: Okay. Thank you,
16 Tommy.

17 MS. ANDERSON: Is the same 12-month
18 window around after which the Horsemen's Partnership,
19 like the TGA, would have -- is that same kind of thing
20 in place?

21 MR. JACKSON: Yes, ma'am.

22 MS. ANDERSON: Okay. And for Laredo Race
23 Park, can somebody walk me through their planned
24 calendar? Is it a longer than -- is it a longer than
25 12-month period proposed for simulcasting without

1 having a track, like we had on the greyhound thing
2 where they were going to simulcast in April of '09 and
3 not race until June of '10?

4 MR. JACKSON: I don't think they have
5 indicated when they would initiate simulcasting, so at
6 this point they haven't told us.

7 CHAIRMAN ADAMS: Mr. Bork?

8 MR. BORK: We're required to start in
9 July. So it will be, at most, 13 months, but that's
10 all.

11 MS. ANDERSON: Is that per the order?

12 MR. BORK: Yes. And hopefully I'll get
13 started before July if we had the new facility.

14 MS. ANDERSON: But then you're beyond the
15 12-month window. That's why I'm asking this question.

16 MR. BORK: But that's something that I'm
17 sure that we can work out with the horsemen.

18 VICE-CHAIRMAN CARTER: So July of '09.

19 MR. FENNER: July 15th.

20 MR. BORK: July 15th.

21 CHAIRMAN ADAMS: Thank you, Mr. Bork.

22 MR. BORK: And I think if you didn't -- I
23 might need Mark's help with this. If you didn't give
24 us our days in 2010, would we be able to start
25 simulcasting in 2009?

1 CHAIRMAN ADAMS: No.

2 MR. BORK: So then we can't be in
3 compliance with the order.

4 CHAIRMAN ADAMS: That's right.

5 MS. ANDERSON: Right.

6 MR. BORK: So it sort of helps that we do
7 get those dates in 2010 for everybody's benefit.

8 CHAIRMAN ADAMS: The difference being
9 between the greyhound situation and these new --

10 MS. ANDERSON: If you're saying that for
11 my benefit, you don't need to, Mr. Chairman.

12 CHAIRMAN ADAMS: Okay. I won't then.

13 VICE-CHAIRMAN CARTER: I have a question
14 of, I guess, the Horsemen's Partnership and/or the
15 staff. How can we vote on partial 2010 race dates when
16 we don't have submission by all the parties involved?
17 Without seeing the whole schedule, I don't know how we
18 can do that, grant part of it.

19 MR. FENNER: When the Commission opened
20 up the race date period for all of calendar year 2009
21 and then the first eight months of 2010, the intent was
22 to allow both the tracks and us to be able to do a
23 longer-term plan.

24 In the case of Lone Star Park and
25 Gillespie County, these race dates are essentially the

1 same as what they've done in the past, so there's not
2 really any surprise there. As to Laredo Race Park,
3 they've never requested race dates before. They've
4 never run race dates before. They don't have a track.
5 So --

6 VICE-CHAIRMAN CARTER: So Sam Houston and
7 Retama just have to work with this? If we accept this,
8 they'll just have to work with it next year?

9 MR. FENNER: That's correct.

10 VICE-CHAIRMAN CARTER: And we're okay
11 with that?

12 MR. JACKSON: Yes, sir.

13 VICE-CHAIRMAN CARTER: Okay.

14 MR. FENNER: The question is whether you
15 all are okay with it.

16 COMMISSIONER SCHMIDT: Question. Just
17 for clarification, you opened the offer for 2010 race
18 dates to all the tracks.

19 MR. FENNER: Yes, sir.

20 COMMISSIONER SCHMIDT: So Lone Star came
21 forth with a good faith effort and requested the same
22 dates. Retama and Sam Houston didn't.

23 MR. FENNER: Right. You don't have to
24 grant anybody race dates.

25 COMMISSIONER SCHMIDT: And these dates

1 don't represent any real conflict with the dates we've
2 had for the past five years.

3 MR. FENNER: Not Gillespie and Lone
4 Star. And you are not required to grant any of these.
5 If you decide that, "You know what? Next year, in July
6 of 2009, we would like to open up another application
7 period and consider all of 2010," you know, you could
8 do that. It does put Laredo Race Park in an awkward
9 position with respect to their complying with their
10 order.

11 MR. AZOPARDI: Dr. Carter, from the Texas
12 Horsemen's Partnership standpoint, the dates that I
13 believe Mr. Bork are requesting dovetail very nicely
14 with the end of the Sam Houston Race Park Quarter Horse
15 meet and the beginning of the Lone Star Park Quarter
16 Horse meet, so it gives an opportunity for Quarter
17 Horses to run in South Texas, which is predominantly
18 what those opportunities are going to be filled by, at
19 a time of the year when they don't have a place to
20 run.

21 So actually those dates will fit nicely
22 with the schedule that has been observed pretty much
23 for the last four years without fail in the Quarter
24 Horse industry, so it would actually help the Quarter
25 Horse people.

1 VICE-CHAIRMAN CARTER: That's what I
2 wanted to know.

3 MR. AZOPARDI: Thank you, sir.

4 CHAIRMAN ADAMS: Okay. If there's no
5 further questions, we're going to close this public
6 input portion and try to come to some decision on the
7 disposition of the 2010 race dates that have been
8 presented for our consideration.

9 What are the wishes of the Commission?

10 VICE-CHAIRMAN CARTER: I move we accept
11 them.

12 CHAIRMAN ADAMS: Do I have a second?

13 COMMISSIONER SCHMIDT: I second.

14 COMMISSIONER SOWELL: Second.

15 CHAIRMAN ADAMS: I have a motion and a
16 second to accept the 2010 race dates as submitted.

17 Any discussion?

18 All those in favor please say aye.

19 COMMISSIONERS: Aye.

20 CHAIRMAN ADAMS: Any opposed?

21 The motion carries. Thank you very
22 much.

23 The next item, a proceeding on
24 rulemaking, discussion, consideration, and possible
25 actions on the following rules. Now, these are rule

1 proposals. And the proposals are to amend 309.3,
2 racetrack license application procedure. And I'd like
3 to begin by recognizing our general counsel, Mark
4 Fenner.

5 MR. FENNER: Commissioners, this is a
6 replacement approach to the problem of the interim
7 license. You may remember the interim license has been
8 recently repealed. As part of that process, we did
9 hear some observations by the tracks about the
10 interests of bondholders and was there some method of
11 protecting those bondholders or at least allowing them
12 some option to resume racing at a racetrack that had
13 been shut down for whatever reason.

14 I did work with the racetracks on this.
15 I was directed to do so by the Commission. I
16 appreciate the input I've received from Commissioner
17 Sowell, Commissioner Pablos.

18 What this rule change would do, it would
19 say that if a racetrack -- well, the fundamental
20 problem with the way the rule is set up right now is
21 that you need to open -- to grant the license, you have
22 to open an application period and you open an
23 application period for a whole geographic region.
24 There's no ability in the current rule to open up a
25 license application period for a specific facility.

1 That's what this rule does. It allows
2 you additional flexibility to not only target racetrack
3 license applications to a specific facility. It also
4 would give you the ability to impose conditions on the
5 types of applications you would receive, the types of
6 obligations you would require them to incur.

7 Any questions about that?

8 CHAIRMAN ADAMS: Any questions?

9 MS. ANDERSON: I have a question.

10 MR. FENNER: Yes, ma'am.

11 MS. ANDERSON: Do we have -- are there
12 any tracks in Texas today that are -- if this rule --
13 this is going -- is this for final approval or for
14 public comment?

15 MR. FENNER: Public comment.

16 CHAIRMAN ADAMS: It's for posting.

17 MS. ANDERSON: Are there any racetracks
18 today that are -- that are not open today that would
19 fall -- that have had racing in the last two years that
20 would for some reason fall under what's contemplated by
21 this rule?

22 MR. FENNER: The only track that would
23 meet this requirement right now is Corpus Christi.

24 MS. ANDERSON: And this is dealing with
25 tracks, not associations? Or are they one and the same

1 thing?

2 MR. FENNER: This is different.

3 MS. ANDERSON: This is a physical
4 facility.

5 MR. FENNER: Not the license.

6 MS. ANDERSON: Not the association.

7 MR. FENNER: That's correct.

8 CHAIRMAN ADAMS: Any other questions for
9 Mark?

10 Okay. The Chair would entertain a motion
11 to post the proposed amendment to 309.3 to the Texas
12 Register for public comment.

13 COMMISSIONER SOWELL: So move.

14 COMMISSIONER EDERER: Second.

15 CHAIRMAN ADAMS: It's been moved and
16 seconded.

17 All those in favor?

18 COMMISSIONERS: Aye.

19 CHAIRMAN ADAMS: Any opposed?

20 The motion carries.

21 A proposal to amend 311.3, information
22 for background investigation. Mr. Fenner?

23 MR. FENNER: Commissioners, Charla Ann
24 mentioned earlier today as part of her executive
25 director briefing that we are endeavoring to start

1 processing fingerprints electronically. This will
2 allow us to do it much more quickly, but the service is
3 not free. It does require us to pay a fee to the
4 vendor of \$9.95. With that, of course, we'd be
5 accepting credit cards. That costs about an additional
6 50 cents, plus a few miscellaneous extra costs.

7 So we would like to be able to charge a
8 12-dollar fee to process -- any time a fingerprint is
9 required to process a license. That's what this change
10 does. This is also for publishing, not adoption.

11 MS. ANDERSON: So move.

12 MR. ARCHER: Second.

13 MS. ANDERSON: Move that we publish.

14 MR. ARCHER: Second.

15 CHAIRMAN ADAMS: Moved and seconded.

16 All those in favor?

17 COMMISSIONERS: Aye.

18 CHAIRMAN ADAMS: Any opposed?

19 The motion carries.

20 Thank you, Mr. Fenner.

21 The next item is the Item No. 3, V-3.

22 And, Mr. Fenner, would you please describe this?

23 MR. FENNER: Yes, sir. This is a little
24 different process than is normal. As you may remember,
25 at the last Commission meeting we came forward with a

1 number of Chapter 309 proposals, some of which affected
2 the greyhounds in particular. The Texas Greyhound
3 Association came forward and had a number of comments
4 about this but also expressed interest in forming a
5 working group to make some additional proposals.

6 The greyhound race date working group did
7 meet. At a subsequent meeting, many of those
8 attendees -- I don't believe that Commissioner Pablos
9 was able to attend that or was even interested in
10 participating. I don't know. But those attendees did
11 come up with a number of proposals and they have sent
12 them in as part of the Chapter 309 rule review
13 process.

14 We've received one proposal from the
15 Valley Race Park. We've received a number of proposals
16 from the Texas Greyhound Association.

17 In addition, you'll find in the third
18 agenda item after those -- or after the Valley Race
19 Park and Texas Greyhound proposal, you'll see a request
20 by the Texas Quarter Horse Association for an amendment
21 to the furosemide rule or Lasix rule. This is a
22 request that they have submitted on numerous occasions
23 previously. They have now gotten onto the agenda at
24 this time.

25 So we could use your guidance as to how

1 to respond to these types of requests. I'd ask that
2 you allow them to come up and briefly lay out their
3 proposals. We have somebody available to address some
4 of these questions if you have them, but it may not be
5 necessary. We really just need some guidance.

6 Would you like to publish these? Would
7 you like to direct staff to go back and work on these
8 and see whether the staff would make a recommendation
9 like we would normally? Or do you want to take no
10 action at all on any of these requests?

11 COMMISSIONER EDERER: Has staff had the
12 opportunity to review and study these proposals --

13 MR. FENNER: We have --

14 COMMISSIONER EDERER: -- and make a
15 recommendation based on that?

16 MR. FENNER: No, we have not. We have
17 not made a recommendation. And some of these we would
18 not make a recommendation.

19 MS. ANDERSON: I welcome the
20 participation of the industry. And, you know, as far
21 as that goes, I'm concerned in the case of the Valley
22 Race Park one that it is not proposed for Commission
23 consideration really in what I would consider proper
24 form, so --

25 MR. FENNER: I would agree with you on

1 the Valley Race Park one.

2 MS. ANDERSON: And when it was brought to
3 us in proper form, then that would include some sort of
4 staff, you know, laying out the why you felt that we
5 should or should not -- why you would recommend or not
6 recommend that we propose it -- that we publish it for
7 public comment as part of the rulemaking process. That
8 would be my preference on that one.

9 The greyhound ones get a little closer to
10 being in proper form because they're at least
11 black-lined, but I don't know if staff has developed a
12 firm point of view to be able to advise the Commission
13 on those yet or not.

14 CHAIRMAN ADAMS: Well, I have spent some
15 time with staff regarding these issues; and as
16 chairman, I'd like to see us -- of course, we've got
17 three options here; but in light of the time here and
18 where we are in this agenda and the way these came to
19 us, I would like staff -- I'd like to defer action on
20 these until staff does have a chance to review all the
21 items, that everything does come to us in a normal
22 format that it would from a staff-prepared
23 recommendation, and that we have it in -- that
24 information in the packet in advance to review and
25 then, if we choose at that time, to decide what we want

1 to post for public comment and what we don't want to
2 post for public comment.

3 It borders on -- and we're a regulatory
4 agency. We've got to -- we certainly want to take the
5 input from the industry and we certainly want to review
6 the input from the industry, but I don't want it to
7 appear -- have the appearance of giving the keys over
8 to the fox for the henhouse, you know. I really
9 don't -- I want it to be done properly. And in this
10 particular case, I agree with Commissioner Anderson.

11 I know that there are people here
12 prepared to speak and we have people signed in. If I
13 can -- and I do want to allow them to do that. But I
14 want them to keep their comments brief and just give us
15 a brief overview of what we're going to be doing. And
16 hopefully then the Commission can come to a concurrence
17 that we'll set this aside until the next Commission
18 meeting and decide if and which portions of this we
19 want to post.

20 Thank you, Mr. Fenner.

21 COMMISSIONER EDERER: I agree with what
22 the chairman said, but I have a question for you.

23 MR. FENNER: Yes, sir.

24 COMMISSIONER EDERER: Are there any
25 rules, Commission rules, as to time, as to when this

1 type of submission must be given or who it must be
2 given to?

3 MR. FENNER: The standard process is that
4 an individual or an organization can make a request to
5 have an item placed on the agenda two weeks in advance
6 of the Commission meeting and that the Chair has the
7 authority to make the decision as to whether something
8 goes on the agenda or not. The Chair and the
9 Vice-chair together can make that decision. So it's a
10 pretty short lead time, two weeks, for us to be able to
11 do any sort of real analysis of a proposal.

12 COMMISSIONER EDERER: So you'd want more
13 time.

14 MR. FENNER: That's correct.

15 COMMISSIONER EDERER: You'd like to see
16 the rule changed.

17 CHAIRMAN ADAMS: Well, there's really no
18 rule.

19 MS. ANDERSON: Agenda items can be
20 anything from something that needs a lot of review to
21 simply somebody wants to speak.

22 MR. FENNER: That's true. Yeah.

23 MS. ANDERSON: That's what it is.

24 MR. FENNER: Rules are different.

25 COMMISSIONER EDERER: It is what it is.

1 CHAIRMAN ADAMS: Okay. Thank you,
2 Mr. Fenner.

3 First signed to speak, I believe, is
4 Diane Whiteley.

5 MS. WHITELEY: Thank you, Commissioners.
6 And I will make this very brief. We had requested, as
7 part of the 309 rule review, that also 309-D get
8 covered because there were some greyhound rules related
9 to facilities in there and these were our proposals.
10 And I can work with the Commission staff and make sure
11 I'm on the proper format on all these.

12 All of these are fairly minor in nature
13 on the 309 rules. In fact, I think we will probably
14 withdraw the recommendation of one with the Commission,
15 which is the emergency care facility, 309.316. I did
16 some investigation on the cost to the racetracks for
17 this and I think there is other ways that we can work
18 this out. So 309.316, which is the addition of an
19 X ray machine, we'll withdraw that one.

20 The rest of these -- all of these relate
21 really to the welfare of the greyhound. They're safety
22 issues or humane issues. One which is very important
23 to us is the 315.43 which is the addition of a track
24 superintendent to become a racing official.

25 Right now there is no direct

1 accountability for an individual who takes care of the
2 racetrack surface, which is probably the most important
3 part of the racing facility; and by elevating this
4 position to a racetrack official, I think it gives more
5 responsibility and accountability to ensure that the
6 individuals that are taking responsibility are
7 qualified and follow up on their jobs. And this is
8 probably the most critical issue to us is a racetrack
9 superintendent.

10 CHAIRMAN ADAMS: Thank you,
11 Ms. Whiteley.

12 MS. WHITELEY: Uh-huh.

13 CHAIRMAN ADAMS: Next signed to speak is
14 Mr. Roth, Milt Roth.

15 MR. ROTH: Hi. I don't want to belabor
16 the point, but we agree with everything. We defer to
17 everything that the Texas Greyhound Association has
18 said.

19 I want to apologize for the format with
20 which we submitted our recommended rule change, which
21 is the prior one. My racing secretary, I guess,
22 improperly thought that this was just a recommendation
23 that we were sending to the Commission, this is what we
24 discussed at the workshop, and we didn't really think
25 it was going to be part of it. But this rule is also

1 part of the Texas Greyhound Association's rules, so we
2 defer to them. We could just eliminate that.

3 CHAIRMAN ADAMS: Very good.

4 MR. ROTH: Thank you.

5 CHAIRMAN ADAMS: Thank you, Mr. Roth.

6 Exactly what we were talking about earlier and the fact
7 that this can be a lot smoother and a lot better.

8 Next -- let's see. Next -- I think we're
9 going to jump over now to the horse side and this would
10 be on V-12. Mr. Werstler, do you want to take the lead
11 there?

12 MR. WERSTLER: Actually I believe I'm
13 just signed up to talk about the furosemide.

14 CHAIRMAN ADAMS: Hopefully we're going to
15 take all three of these together because they're all in
16 that same scenario that they were presented to us for
17 consideration, unless the Commission chooses to do
18 something else.

19 Yes. Charla Ann?

20 MS. KING: All right. We're going down
21 some new paths here and trying to get this to be an
22 efficient process. This one differs a little bit from
23 the other ones because this topic has been discussed at
24 length in the medication and drug testing working
25 group. It's a much more familiar issue to people and

1 so I don't see it as quite the same as the other two.

2 However, it is an issue that's being
3 brought directly from the industry to the Commission,
4 which we have a provision in the rule, which I need to
5 look at it more closely as we're going down this path,
6 that I believe uses the word "petition," that the
7 industry is authorized to petition for rulemaking.

8 And so when the industry wants to bring
9 something forward, the Commission and the staff, we're
10 going to need to clarify this process and what it looks
11 like so people know "I'm petitioning for rulemaking,"
12 what kinds of information would need to be included,
13 that you would be able then to take a shot at it as
14 Commissioners and give us direction about what you want
15 to do.

16 So this petition has been made multiple
17 times and the time -- it was thought that this was the
18 time to bring this one forward. And so Mr. Werstler
19 can explain it to you if that helps the context a
20 little bit.

21 MS. ANDERSON: Wouldn't we -- would it
22 not be our preference that people -- rather than
23 petitioning the Commission, that they do that as a last
24 resort and that they -- that they, you know, submit
25 requests to staff that go through a normal due process

1 and that they petition the Commission directly only in
2 extraordinary circumstances?

3 MS. KING: That would be this.

4 MS. ANDERSON: Because staff has refused
5 to bring this item to us?

6 CHAIRMAN ADAMS: Yes.

7 MS. KING: This issue did not come out of
8 a recommendation through the medication and drug
9 testing working group and so we encouraged the Quarter
10 Horse Association to bring it directly to the
11 Commission.

12 CHAIRMAN ADAMS: And in that light, I'd
13 like to back up a second and ask Mr. Werstler to hold a
14 second and let's deal with the other two. Okay? I
15 think that I'd like to see a motion regarding
16 proposals -- let me get on the right page here --
17 proposals V-3 and V-4 -- V-5, excuse me, that we set
18 those aside, that we take no action at this time, and
19 we allow staff to work with the greyhound association
20 and with Mr. Roth and his group and bring those back to
21 us at a later Commission meeting with recommendations,
22 et cetera.

23 MS. ANDERSON: So move.

24 COMMISSIONER SCHMIDT: So move.

25 MS. ANDERSON: Second.

1 CHAIRMAN ADAMS: It's been moved and
2 seconded.

3 Any discussion?

4 Those in favor?

5 COMMISSIONERS: Aye.

6 CHAIRMAN ADAMS: Any opposed?

7 The motion carries.

8 Okay. Now let's go on to the next item,
9 which is Mr. Werstler's situation.

10 MR. WERSTLER: Good afternoon again. Rob
11 Werstler of the Texas Quarter Horse Association.
12 Basically I'm proposing this Lasix rule change. I'd
13 like to get it into the Texas Register. And the reason
14 is this: There's a situation going on in Texas -- for
15 example, if you race your horses in Oklahoma, you can
16 place your horse on Lasix as a therapeutic medication
17 and it does not count against you as your first
18 bleeding incident. Okay?

19 For those of you that don't know, horses
20 sometimes with exercise-induced pulmonary hemorrhaging,
21 they'll bleed through the nostrils. Sometimes it's a
22 little bit. Sometimes it's a lot. Sometimes they have
23 to scope them to even find it. But in Oklahoma you can
24 place your horses on Lasix and it does not count
25 against you.

1 So let's say you're in Oklahoma. You
2 place your horse, your two-year-old, on Lasix. And he
3 never bleeds. And you're still using it as
4 therapeutic. And you put him on in February -- well,
5 not -- March, April, May, something like that. And he
6 goes all year long and never bleeds. He runs in the
7 Texas Classic Futurity trials, which are in November,
8 and he qualifies for this million-dollar race and
9 bleeds. He can't run back in the finals. There is one
10 race at Lone Star Park where you can qualify and, if
11 you bleed, you're not allowed to even get last place
12 money in the futurity.

13 So it's a hardship on breeds of horses
14 that use trial races. Trials usually run 14 days prior
15 to the final. In Texas you are allowed to place your
16 horse on Lasix, but it counts against him as his first
17 bleeding incident whether he bled or not.

18 It's a minor rule change and it brings
19 Texas -- it aligns Texas with the Lasix rule that was
20 recommended by the RMTC. And like I said, I'm just
21 asking -- I'm just proposing this. I do have a
22 statement from Dr. Lewis, who is a practicing vet here
23 in Texas in Elgin, who is chairman of the RMTC, one of
24 their committees. And he stated that the AAEP, which
25 is the American Association of Equine Practitioners, on

1 request of the RMTC, established a task force of 10
2 veterinarians to give them advice on constructing a
3 model Lasix rule. He also went on to say that he was
4 not aware of any state besides Texas that did not adopt
5 the rule verbatim. That's what I'm asking to do.

6 VICE-CHAIRMAN CARTER: That did not adopt
7 what?

8 MR. WERSTLER: Adopt the rule verbatim.
9 So basically we kind of cherrypicked the rule and it's
10 tougher on horses -- on breeds of horses that run
11 trials, Paints, Quarter Horses.

12 I'm sorry. Go ahead. Did you have a
13 question?

14 MS. ANDERSON: I have a question about
15 the acronym you used.

16 MR. WERSTLER: RMTC. It's the Racing
17 Medication and Testing Consortium. It's an
18 industry-wide group.

19 MS. ANDERSON: And they have a different
20 model rule language than ACRI?

21 MS. KING: No. When he's referring to
22 model rule language, he is referring to RCI model
23 rules. The RMTC makes recommendations to RCI in the
24 area of medication and drug testing.

25 COMMISSIONER SCHMIDT: I'm not an

1 attorney, so I had a question here about your
2 language. You said this aligns you with the model
3 rules. Why don't we simply adopt the model rule?

4 MR. WERSTLER: Basically this language
5 does in (3). It does adopt it.

6 COMMISSIONER SCHMIDT: It adopts the
7 entire model rule then.

8 MR. WERSTLER: Yes, on bleeders. It
9 basically does the same thing. Right? It allows you
10 to place your -- the whole part of it for me is to
11 allow your horse to be placed on Lasix and not have it
12 count against him to use it as a therapeutic drug
13 because it's a hardship on Texas horsemen, Texas
14 Quarter Horsemen. If you're racing in Oklahoma, you
15 can put your horse on Lasix; but if you bring him to
16 Texas and if he bleeds, that's his second offense and
17 he gets 30 days. He can't race for 30 days.

18 CHAIRMAN ADAMS: Any questions at this
19 time for Mr. Werstler? I'm sure we may have some as we
20 go along.

21 COMMISSIONER EDERER: Tell me something.
22 What is this f-u-r-o-s-e-m-i-d-e?

23 MR. WERSTLER: Furosemide is a word for
24 Lasix.

25 COMMISSIONER EDERER: I was always under

1 the impression that you put a horse on Lasix for two
2 reasons. You put it on the -- theoretically, you put
3 the horse on Lasix only if he's a bleeder. But I've
4 also heard -- and I may be wrong -- that you can put --
5 that Lasix stimulates some horses and assists them in
6 running and makes them run faster such as like a
7 steroid would or something else would. It's a drug for
8 a horse. And it causes them to run better than if they
9 weren't on Lasix. Am I making myself clear?

10 MR. WERSTLER: I understand what you're
11 saying. I don't agree with you. I mean, it is a --
12 it's probably like my son playing softball. He has
13 asthma. Or playing baseball. Does his Albuterol help
14 him play baseball? Yeah, it does, because he has
15 asthma. It doesn't make him play baseball any better.
16 It just allows him to play. The same thing with
17 Lasix. I mean, Lasix is not an outlawed medication in
18 Texas, so --

19 COMMISSIONER EDERER: I understand.

20 MR. WERSTLER: I'm just trying to get the
21 rule to conform to RCI, our surrounding states. In New
22 Mexico where you're from, Commissioner, it's pretty
23 much wide open there.

24 So it's difficult on our Thoroughbred --
25 I mean, our Texas Quarter Horse trainers to -- the

1 surrounding states are so much easier how they have --
2 they have this rule and we don't. We have a tougher
3 rule. So it's one more reason for guys to say, "You
4 know, this horse gets 30 days. I may as well go to
5 Louisiana, Oklahoma, or New Mexico."

6 COMMISSIONER EDERER: I have to correct
7 you. I'm from Texas, not from New Mexico. I just had
8 some horses that ran in New Mexico. I lived in El Paso
9 at the time.

10 CHAIRMAN ADAMS: Okay. Any further
11 questions for Mr. Werstler? We do have some other
12 folks signed to speak.

13 Thank you, sir.

14 MR. WERSTLER: Okay. Thank you.

15 CHAIRMAN ADAMS: Mr. Jordan, are you
16 signed up on this item?

17 MR. JORDAN: Yes, sir.

18 CHAIRMAN ADAMS: Okay, sir.

19 MR. JORDAN: Good afternoon again.
20 Tooter Jordan with the Texas Horsemen's Partnership.
21 I'd probably like to address this in a couple of
22 different angles: Once as a representative for the
23 horsemen and, secondly, as a trainer myself and
24 training Quarter Horses.

25 It's been very difficult on the part of

1 the Quarter Horse trainers to be able to consider Lasix
2 as a therapeutical medication and what we're trying to
3 do with it and then be denied the opportunity to run
4 back, like Rob said, 14 days later when we're put on it
5 as a -- when we are penalized for a 30-day period of
6 time for one bleeding incident.

7 Just like was said while ago, you know,
8 you sign up for it and that's considered your first
9 incident. Well, if that was the case, they ought to
10 give us 14 days when we sign up for it then, you know,
11 I mean, if you're looking at it logically.

12 It's been a problem for the guys running
13 in Oklahoma coming to Texas. For the guys in New
14 Mexico, you can go over there and race. Lasix is not a
15 problem.

16 To answer your question Commissioner,
17 it's not a drug -- you know, let's face it. I think 99
18 percent of the horses that runs bleeds to some extent.
19 So Lasix is a therapeutical medication. We use it in
20 that respect, not to cover up something, not to give
21 them a boost of medications or anything.

22 So I just would really like to see this
23 became -- become a regional rule that we can live with
24 within the three or four states that most of us are
25 running in because we're put at a very big disadvantage

1 racing in Texas with the way the Lasix rule is now in
2 comparison to New Mexico, Louisiana, and Oklahoma.

3 The model rule is such that -- the same,
4 I think, that Oklahoma has, I believe, is the model
5 rule. Texas, like Rob said, has kind of cherrypicked
6 their Lasix rule to more or less conform with the way
7 they want it to look like. It's been a very tough
8 situation for the Quarter Horse people in Texas to
9 follow this rule.

10 CHAIRMAN ADAMS: Mr. Jordan, does Lasix
11 prevent -- if you put a horse on Lasix when he never
12 has bled, is the intent then to prevent him from
13 bleeding?

14 MR. JORDAN: The intent is
15 therapeutical. That would be just like -- in my
16 opinion, it would be like -- not being a veterinarian,
17 I don't know if I could answer that 100 percent. But I
18 use it myself on horses that don't bleed just as a
19 therapeutic medication to keep them from bleeding.

20 Like I said before, 99 percent of all
21 horses -- if I'm not correct, please tell me, Doc. But
22 99 percent of all horses that race have a certain
23 degree of bleeding. I personally don't want to see my
24 horse bleed. I don't want him to choke down from
25 bleeding. So that's the reason I use Lasix.

1 preventative to stop the horse from bleeding and
2 there's enough stuff in the literature to kind of
3 support it as a therapy for a horse that has bled to
4 prevent it from bleeding again. So you put it on a
5 horse to stop him from bleeding. If he bleeds, what
6 does that mean to you?

7 MR. JORDAN: Well, if he bleeds, it
8 probably means -- to me personally, it means that he
9 has an upper respiratory problem of some sort. I think
10 that probably it would be -- there's room for someone
11 making a decision at that point in time. If he comes
12 out and he gushes blood out of his nose and his mouth,
13 this horse doesn't need to race in 14 days, I'm sure.
14 But if he's got a little trickle of blood coming out of
15 his nose an hour after he races while in the test barn,
16 that's a different situation.

17 VICE-CHAIRMAN CARTER: So I guess that's
18 the reason that the rule is the way it is, is because
19 if you have the horse on Lasix and it's supposed to
20 prevent bleeding and he has a nasal bleed, which is
21 much more severe than a lower airway bleed, that he
22 needs a period of rest; and how long that rest is
23 depends a lot from jurisdiction to jurisdiction. And
24 you quoted Louisiana a little while ago. It's my
25 understanding you still have to scope a horse in

1 Louisiana to get on the list.

2 MR. JORDAN: You may have to.

3 VICE-CHAIRMAN CARTER: Okay. So we're
4 more lenient than Louisiana. It's my understanding
5 that if you get a second bleed in Louisiana, it's 90
6 days. We're 30 days. So we're more lenient than
7 Louisiana.

8 The only difference from our rule and the
9 model rule -- the only difference between our rule and
10 the model rule is the designation of the first bleed
11 from voluntary administration of Lasix. So when you
12 put the horse on Lasix, you know that and you accept
13 that or you wouldn't do it. That's our only difference
14 in our rule than the model rule. And another thing is
15 ours, the first bleed, we have a 12-day rest period.
16 Theirs, the model rule is 14 days.

17 So are you guys proposing that we accept
18 the model rule? Because just crossing out the lines
19 you crossed out on here, Rob, is not the model rule.
20 It's just crossing out some lines that's on our rule.

21 MR. WERSTLER: I'm proposing it as is, as
22 what I submitted, the fact being that the model rule
23 does allow you to put your horse on Lasix and not count
24 against him.

25 VICE-CHAIRMAN CARTER: But the first

1 bleed is 14 days, not 12.

2 MR. WERSTLER: 14 -- well --

3 VICE-CHAIRMAN CARTER: So it's different
4 than ours a little bit.

5 MR. WERSTLER: Right.

6 MR. JORDAN: We'd like to see it 12
7 days.

8 VICE-CHAIRMAN CARTER: You can't have
9 everything.

10 MR. WERSTLER: And I don't know if it
11 helps. I mean, I brought past performances from the
12 Kentucky Derby, the world's most famous race arguably.
13 Everybody knows about it. Every horse in here ran on
14 Lasix. Every horse in here -- they're all
15 Thoroughbreds. Every horse ran every race their entire
16 life except, I think, two horses, Big Brown being one
17 of them, on Lasix. Of course, he had only run three
18 times.

19 I guarantee you, if they had this race --
20 if these races ran in Texas, these horses wouldn't be
21 running on Lasix because if they bled in the Kentucky
22 Derby, they wouldn't be able to run back in the
23 Preakness in two weeks.

24 VICE-CHAIRMAN CARTER: And a fair number
25 of those horses, it's my understanding, are first-time

1 starters on Lasix.

2 MR. WERSTLER: They've started every race
3 of their lives on Lasix.

4 MR. JORDAN: It would be a whole lot
5 bigger issue than just us two standing here if the
6 Thoroughbreds ran two weeks -- ran a set of trials or
7 as many trials as we do and had to come back in two
8 weeks and run the finals.

9 VICE-CHAIRMAN CARTER: Thank you.

10 CHAIRMAN ADAMS: Okay. I have a card
11 from Mr. Shubeck. I don't think he's here.

12 Were you wanting to speak on this issue?

13 MR. SHUBECK: Not on this issue, sir.

14 CHAIRMAN ADAMS: I'm sorry.

15 Mr. Brown, that's not on this issue,
16 correct?

17 Mr. Young? Andrew Young?

18 MS. YOUNG: Not on this issue.

19 CHAIRMAN ADAMS: Excuse me. That's
20 Andrea. I'm sorry. I'm sorry.

21 Is there any other input on this
22 particular issue? Yes, sir. Mr. Hooper?

23 MR. HOOPER: Mr. Chairman, members of the
24 Commission, I'm David Hooper, executive director of the
25 Texas Thoroughbred Association. And I can see where

1 the Thoroughbreds would be in support of this change as
2 proposed by the Texas Quarter Horse Association. And
3 once again, we're getting much more amenable.

4 We do have trials here in Texas. We're
5 one of the unusual states as far as racing
6 Thoroughbreds are concerned where we do have a couple
7 of trials for finals. The Manor Downs Futurity is the
8 first one and they run back two weeks later. And also
9 we have our Texas Thoroughbred Sales Futurity which is
10 one of our biggest sponsored races of the year and they
11 run on a -- one division runs on a Thursday. One runs
12 on a Friday night at Lone Star. And they come back
13 just over two weeks later.

14 But from a really practical standpoint,
15 with Mr. Werstler suggesting that you adopt an amended
16 rule and incorporate the Racing Medication Testing
17 Consortium recommendations that have been adopted into
18 the ARCI model rules, you know, there's a big movement
19 these days in becoming more and more -- all the states
20 moving towards adopting the model rules. And I think
21 you're moving in the right direction if you did move
22 forward with this amendment as it has been proposed.

23 From a practical standpoint, you know, if
24 a trainer chooses to put his horse on Lasix, as has
25 been testified here, as a preventative to help keep the

1 horse from bleeding, the horse hasn't bled yet. So the
2 first time it does bleed is the first time, not the
3 second time. And our rule today treats it as a second
4 time. And I don't think that's fair.

5 CHAIRMAN ADAMS: We don't know,
6 Mr. Hooper, that the horse hasn't bled before. We
7 just -- he hasn't bled in a race. That doesn't mean
8 that a week before he didn't bleed in training.

9 MR. HOOPER: I understand that.

10 CHAIRMAN ADAMS: Or when they were --
11 okay. Any other questions?

12 Thank you, Mr. Hooper.

13 I'm going to close this portion of the
14 hearing then to public comment and open the discussion
15 portion to see what we want to do. Keep in mind, now,
16 we're considering posting of this for future public
17 comment. Okay? This is not -- we're not considering
18 adoption of this rule. So we're going to need action
19 on this at this time as to whether we want to proceed
20 with the posting.

21 COMMISSIONER SOWELL: Move it be posted.

22 CHAIRMAN ADAMS: I have a motion that it
23 be posted.

24 VICE-CHAIRMAN CARTER: Can I amend that?

25 CHAIRMAN ADAMS: Certainly.

1 VICE-CHAIRMAN CARTER: I would --

2 CHAIRMAN ADAMS: Let's see if we're going
3 to get a second first.

4 MS. ANDERSON: I don't understand the
5 motion because I don't know what rule form it is we are
6 planning to post.

7 CHAIRMAN ADAMS: Okay.

8 MS. ANDERSON: What the trade association
9 proposed and what I read in the model rule are two
10 different things. I have a point of view on what we
11 ought to post for public comment. I'd post the model
12 rule as -- if we're going to post something, I would
13 propose posting the model rule.

14 VICE-CHAIRMAN CARTER: So make that
15 motion.

16 MS. ANDERSON: You want me to make that
17 motion? I do. I so do.

18 CHAIRMAN ADAMS: The first motion failed
19 for lack of a second. We did not get a second on the
20 first motion.

21 MS. ANDERSON: I move we post it and use
22 the model rule language in the posting.

23 COMMISSIONER SCHMIDT: I second that.

24 CHAIRMAN ADAMS: Okay. It's been moved
25 and seconded that we post based on the model rule.

1 Is there any discussion on that? Does
2 everybody understand what's going on?

3 MR. FENNER: I do have a problem with
4 that.

5 CHAIRMAN ADAMS: We don't have it
6 advertised -- we don't have it on the agenda that way?

7 MR. FENNER: No, that's okay. But the
8 model rule addresses both -- hang on. Are we talking
9 about an entire repeal of the current 319.111 and
10 replacing it with the model rule?

11 MS. ANDERSON: That's part of the problem
12 in trying to take action on this today is we don't have
13 our whole 319-blah-blah-blah here. But what I intended
14 by my motion was that you would take the portion of it
15 that deals with whether it's a first or second time --
16 the relevant portions, not the entire rule.

17 MR. FENNER: Not the entire rule.

18 MS. ANDERSON: Just the portions that
19 deal with these questions on this table.

20 MR. FENNER: I have a problem with
21 posting that. I'm sorry.

22 MS. ANDERSON: Okay. I withdraw my
23 motion.

24 VICE-CHAIRMAN CARTER: Explain.

25 MR. FENNER: Well, generally speaking,

1 when we're publishing something, it is in a form where
2 I know exactly what I'm putting into the Texas
3 Register.

4 MS. ANDERSON: I have another motion,
5 Mr. Chairman. I move that we table this to the October
6 meeting to give staff an opportunity to prepare a rule
7 amendment for us of our -- with a black-line of our
8 existing rule with the proposed language that conforms
9 to the model rule to the best of their ability and then
10 we would discuss that for publication.

11 COMMISSIONER PABLOS: Second.

12 CHAIRMAN ADAMS: Moved and seconded.

13 Any discussion? I think -- under
14 discussion, I think that's probably the wisest thing to
15 do at this point.

16 All those in favor?

17 COMMISSIONERS: Aye.

18 CHAIRMAN ADAMS: Any opposed?

19 The motion carries.

20 Thank you all very much.

21 MR. WERSTLER: Mr. Chairman, may I say
22 one thing on that? I know it's already voted.

23 CHAIRMAN ADAMS: Certainly.

24 MR. WERSTLER: I just wanted to state,
25 the reason we were trying to get it earlier -- and it

1 was on the agenda at the last Commission meeting and
2 staff asked me to pull it and so I did. I was trying
3 to get it done before the trials for the Texas Classic
4 which are in November. So I just wanted you to know
5 that. We won't be able to get that done now since we
6 have to wait 60 days.

7 CHAIRMAN ADAMS: I'm sorry for that,
8 Mr. Werstler.

9 MR. WERSTLER: We'll end up in the same
10 predicament that we have the last couple of years.

11 CHAIRMAN ADAMS: Okay. The next item on
12 the agenda is rule adoptions. And just to clear the
13 air here, we're not talking about now posting. We're
14 talking about rules that have already been posted that
15 we have discussed at a previous meeting and that have
16 had a period of time for public input, 60 days of
17 public input.

18 And we're going to probably break this
19 group down into a couple of groups, so I'll --
20 Mr. Fenner, do you want to begin by telling us where we
21 did receive public comment and where we found agreement
22 and where we had difficulties?

23 MR. FENNER: Yes, sir, I certainly will.
24 The following rule proposals received no negative
25 comments. We did receive a few comments either voicing

1 no objection or some comments in support. These are
2 309.1, racetrack licenses; 309.9, denial, suspension,
3 and revocation of licenses; 309.113, accessibility by
4 disabled persons; 309.17 -- excuse me, 117, first aid;
5 309.123, internal communication system; 309.251,
6 isolation area; 309.252, treatment area; 309.253,
7 post-mortem; 309.254, equine ambulance; 309.255, chase
8 vehicle; 309.305, starting boxes; 309.317, facilities
9 and equipment maintenance personnel.

10 CHAIRMAN ADAMS: Okay. Thank you, sir.

11 Is there any -- I do have three folks
12 addressed as signed in to speak. Are you -- are any of
13 those interested in addressing these first group of
14 uncontested revisions?

15 Okay. I would -- the Chair would
16 entertain a motion, unless there's further discussion,
17 to adopt the proposed rule amendments for 309.1, 309.9,
18 309.113, 309.117, 309.123, 309.251, 309.252, 309.253,
19 309.254, 309.255, 309.305, and 309.317 as published in
20 the Texas Register.

21 COMMISSIONER SCHMIDT: So move.

22 CHAIRMAN ADAMS: Do I have a second for
23 that?

24 MS. ANDERSON: Second.

25 CHAIRMAN ADAMS: It's been moved and

1 seconded that we adopt the aforementioned rule
2 changes.

3 All those in favor please say aye.

4 COMMISSIONERS: Aye.

5 CHAIRMAN ADAMS: The motion carried --
6 any opposed?

7 The motion carries. Thank you very
8 much.

9 Now we'll address the remaining rules and
10 those comments that were received and we'll take public
11 comment from those signed in. Mr. Fenner?

12 MR. FENNER: Okay. The first one that we
13 need to talk about is 309.7, horse racetrack
14 application fees. We heard from -- this was increasing
15 the initial processing charge for handling racetrack
16 applications. It also provided that if the application
17 charge we assessed as part of the application was too
18 high that we would reimburse them for the difference
19 and, if it was too low, we would send them a bill for
20 the undercharge.

21 We received a comment from Retama Park
22 that they were generally agreeable to the change, but
23 they suggested setting a lower fee. They suggested
24 \$25,000 for an uncontested case. We heard objections
25 from Trinity Meadows on the basis that the proposed

1 increases were excessive and were proposed to deter
2 Trinity Meadows from submitting a license application.

3 Staff believes that the increases are
4 reasonable based on our experience with the last three
5 new racetrack license applications.

6 COMMISSIONER SOWELL: Move the adoption.

7 MS. ANDERSON: Second.

8 CHAIRMAN ADAMS: It's been moved and
9 seconded that Rule 309.7 be adopted. And under
10 comment, we do have some -- Bryan, do you want to
11 address this particular one? Do you want to address
12 each one individually or what is your all's --

13 MR. BROWN: Each one individually would
14 make more sense or by subchapter, whatever is the
15 Commission --

16 CHAIRMAN ADAMS: I think we're going to
17 have to go through them individually because we're
18 going to have some different comment. So, Andrea and
19 Drew, do you want to each address each one or do you --
20 are there particulars? Or how do you want to handle
21 this? We're here to do what you need to do.

22 MR. BROWN: I'm happy to do them all.
23 I'm happy to do subchapters. I'm happy to do one by
24 one. It doesn't matter to me.

25 MR. FENNER: You know, I think -- Drew,

1 didn't I hear you say why don't we just do kind of a
2 summary of your listings and then we could work through
3 them?

4 MR. SHUBECK: That's correct. We were
5 just given some information and --

6 MR. FENNER: That's true. Okay. Let's
7 just handle them one by one.

8 CHAIRMAN ADAMS: Okay. Okay. So let me
9 just ask --

10 MR. FENNER: None of the materials you
11 have address that particular rule. Okay.

12 CHAIRMAN ADAMS: Would anyone like to
13 address this particular Rule 309.7 in light of the
14 motion that's been made?

15 MR. BROWN: No, sir.

16 CHAIRMAN ADAMS: In that case, we'll
17 proceed then under -- I was going to make a statement
18 under discussion, but I've completely lost it.

19 So all those in favor please say aye.

20 COMMISSIONERS: Aye.

21 CHAIRMAN ADAMS: Any opposed?

22 Okay. 309.7 will be approved.

23 309.103, construction and renovation of
24 racetrack facilities. Mr. Fenner?

25 MR. FENNER: Commissioners, this change

1 would increase from 30 days to 60 days the amount of
2 advance notice associations must give the agency before
3 commencing a construction project.

4 Retama Park objected that the 30 days is
5 sufficient time. Sam Houston objects that 30 days is
6 sufficient time but offered that a 60-day requirement
7 would be acceptable if limited to new racetracks.

8 Staff is agreeable to the Sam Houston
9 proposal to limit the 60 days to new racetracks.
10 However, I would like to go back and work on revised
11 language to that because it is not as simple as it
12 looks on its face to incorporate that change to that
13 rule.

14 So I would ask that we defer
15 consideration of this particular one until the next
16 Commission meeting. Is that okay?

17 MS. ANDERSON: So move.

18 COMMISSIONER SCHMIDT: Second.

19 CHAIRMAN ADAMS: Moved and seconded that
20 we defer 309.103 to -- will it need to be reposted?

21 MR. FENNER: We will post it on the
22 agenda. It will not need to be posted into the Texas
23 Register. If it is, I'll have to bring it to you
24 first.

25 MS. ANDERSON: I just said if it's a

1 substantive change, there's some legal standards for
2 that that it would need to be reposted.

3 MR. FENNER: I was originally talking
4 about posting on the Commission agenda. So, yes,
5 ma'am.

6 MS. ANDERSON: But if there's a
7 substantive change -- I mean, if you think that it's
8 substantive, it has to be republished.

9 CHAIRMAN ADAMS: And the thought being
10 there that -- the reasoning being there that an
11 existing track requesting remodeling or updating or
12 whatever would not take as -- would not need as much
13 lead time on the staff's part as the request by a
14 brand-new track, say -- we would need more than 30 days
15 for when they announce that they're going to start
16 their construction. There's a whole set of plans we're
17 supposed to look at and everything else. Okay.

18 MR. FENNER: Yes, sir.

19 CHAIRMAN ADAMS: Okay. The next item
20 would be 309.111, comfort and safety.

21 MR. FENNER: This change will clarify
22 that public areas should be designed and maintained for
23 the comfort of both the patrons and the licensees.

24 Retama Park asked for the reasoning
25 behind the proposal. Sam Houston also does not

1 understand the need for the proposal.

2 Staff's greatest concern is that the
3 licensees have basic amenities. We could address this
4 through the adoption of 309.114 and 115 below. But we
5 support the change.

6 CHAIRMAN ADAMS: I didn't follow.

7 MR. FENNER: We still support the change;
8 but the Commission could also address the provision of
9 basic amenities through the adoption of 309.114, which
10 is the restrooms, and 115, which is the refreshments
11 rules, which are coming up next.

12 CHAIRMAN ADAMS: Okay. We had Sam
13 Houston and Retama commenting on that, correct?

14 Bryan, would you like to speak on this
15 issue?

16 MR. BROWN: Commissioners, I'm Bryan
17 Brown with Retama Park. If I could, I'd just like to
18 make an overall comment on the rules and clarify some
19 potential misunderstanding from the last meeting.

20 I think Commissioners could have left the
21 last meeting thinking that we were a little derelict in
22 our duty to give comments back to staff given the
23 timing involved and some of the testimony could have
24 been interpreted as us having the rules, particularly
25 Subchapter B, since September of 2007 and not making

1 comments until the last minute right before the
2 meeting.

3 We did not receive any comments on
4 Subchapter B until May 22nd and then we had to, as an
5 industry, get together and go through not only with our
6 own staffs but track to track and derive our own
7 comments and then try to make it a little bit easier on
8 staff and on the Commission and submit, as we did, the
9 comments in one group.

10 But we did not -- and I wanted to make
11 sure it was understood. We did not receive the
12 Subchapter B changes, most of which is what we're going
13 to be talking about, and a little bit of Subchapter C,
14 until May 22nd, which is a part of the process. I
15 mean, that's all part of what rulemaking is about.

16 But it just seemed to me, in reviewing
17 the transcript from the last meeting, that some of the
18 Commissioners could have left thinking, well, they come
19 here at the 11th hour with comments and it makes it
20 hard on you to react when you just get those. So I
21 just wanted to clarify the timing of that.

22 With regard to 309.111, again, we're not
23 sure why the word "and licensees" is added. And this
24 change and some others, we feel also it would have been
25 very helpful to meet with staff in between the last

1 meeting on June 3rd and now to talk about issues like
2 that. We requested the opportunity to do that and I
3 think staff felt it was better to handle the process as
4 we are now, coming before the Commission.

5 But we still don't understand quite why
6 the word is added. It may be completely harmless. We
7 just don't know. And that's my only comment on
8 309.111.

9 CHAIRMAN ADAMS: Okay, sir. Thank you.
10 Any questions for Mr. Brown?

11 MS. ANDERSON: I have a question for
12 staff --

13 MR. FENNER: Yes, ma'am.

14 MS. ANDERSON: -- on 309.111 and more
15 generally on Mr. Brown's overall comment. After the
16 June meeting, the Commissioners received a memo from
17 the executive secretary laying out a timetable,
18 including September 21st, 2007, when supposedly a
19 packet was sent to all the major stakeholders,
20 including these -- at least in the main, these rule
21 changes. Is that accurate, Mr. Fenner?

22 MR. FENNER: Yes, ma'am.

23 MS. ANDERSON: And so did Mr. Brown not
24 receive that packet that was sent on September 21st,
25 2007?

1 MR. FENNER: I do not know why he feels
2 that he did not receive it, but we did send these
3 changes in substantially this form. They might not be
4 exactly these words, but the substance of it was
5 similar.

6 MS. ANDERSON: And then looking at this
7 rule and with Mr. Brown's comments in mind, what is the
8 staff recommendation on what should be done about this
9 rule?

10 MR. FENNER: Staff recommends that it be
11 adopted.

12 MS. ANDERSON: And what are we trying to
13 get after in this rule that's not covered under the
14 restroom or the refreshment rule? What's beneath the
15 need to add licensees to this rule? Are we finding
16 tracks where the conditions where licensees are
17 unsatisfactory in some tracks?

18 MR. FENNER: Maybe I should ask for some
19 assistance on that.

20 MS. ANDERSON: I mean, let's get it all
21 up on the table. Because I think it's fair, you know,
22 for the associations not to wonder what's in our
23 thinking behind these things.

24 MS. KING: The question was whether or
25 not we found the facilities lacking.

1 MS. ANDERSON: Why did we add this
2 language about licensees? There had to be some reason
3 that you all -- that the staff is proposing this
4 language change. What is the reason?

5 MS. KING: I believe that with this
6 language that because we're needing those changes in
7 the other ones that this was complementary to those
8 other two rules, that these are comfort and safety
9 issues throughout the track, whether it's in the
10 restricted area on the backside or if it's in the
11 public area, because the licensees circulate throughout
12 the track.

13 There's a difference in terms of the view
14 of the racetrack from the licensees to the patrons and
15 we wanted to make sure that the licensees were treated
16 with the same amount of respect and responsiveness to
17 the licensees as patrons; and if there was a
18 distinction made here by the lack of mentioning
19 licensees, then perhaps that would assist the
20 racetracks in understanding that we thought that it was
21 important to be as responsive to licensees as it is to
22 the patrons because we were detecting something when we
23 would see the level, in some cases, of care in terms of
24 restricted areas.

25 The licensees are on the front side a

1 lot -- just as much as the patrons are; and sometimes
2 we would detect, when a complaint would be made, was
3 there a difference in terms of how someone viewed the
4 complaint coming from the patron versus the licensees
5 even though the licensees are patrons also.

6 So this -- because of the existing
7 language being more general about patrons and public
8 and then we were much -- our priority was, on the
9 backside, the basic amenities of restrooms and water.
10 This was to complement that. But if we were being
11 required to prioritize -- that was what Mark's
12 statement was, was if we were required to prioritize,
13 we were prioritizing with the restroom and the water
14 rule.

15 Does that help?

16 COMMISSIONER PABLOS: So, Charla Ann,
17 just to be clear, did you identify racetracks that had
18 deficient facilities to the point where it now requires
19 this action?

20 MS. KING: To get the whole package,
21 yes. To get the level of responsiveness that we think
22 would be beneficial to the industry and to patrons, we
23 thought that it would work well as a package.

24 COMMISSIONER PABLOS: So I think every
25 meeting we get a racetrack inspection report.

1 MS. KING: Right.

2 COMMISSIONER PABLOS: Was that indicated
3 in those racetrack inspection reports?

4 MS. KING: They have been. And I think
5 you saw an increase in the number of items that are on
6 the inspection report because, remember, we have just
7 changed our whole inspection process to include
8 unannounced and more random inspections and some more
9 things are coming up the pike. So you'll see -- you've
10 seen more things on that inspection report.

11 And in recent times some things weren't
12 being reported on. Now they are. And so this brings
13 us into line with that as well. It's a way of
14 emphasizing to the regulated community what's important
15 to the Commission. And your previous Commissioners did
16 visit about these issues from the dais.

17 MS. ANDERSON: I understand the sentiment
18 of wanting to send a signal, but I'm still concerned
19 that we're not being very specific. So, you know, do
20 we have ill-equipped restrooms on the backside? Do we
21 have ill-maintained restrooms on the backside? Do we
22 have broken water fountains on the backside? Do we
23 have water fountains that produce hot water on the
24 backside?

25 MS. KING: You have all these kinds of

1 things. It depends on the track.

2 MS. ANDERSON: Okay.

3 CHAIRMAN ADAMS: If you had to be
4 specific, that particular rule would take 30 pages.
5 That's the problem.

6 MS. ANDERSON: I just think in a
7 rulemaking process, when you're trying to have a level
8 playing field and you have a rule that is this vague,
9 we are asking for the kind of reaction we're getting
10 from the industry and I think it's ill advised, you
11 know. I think that's why we got the public comment the
12 way we did.

13 CHAIRMAN ADAMS: Okay. Any other
14 questions for Mr. Fenner?

15 Okay. Andrea, would you like to address
16 the Commission? You're signed in. You certainly can.
17 I'm sorry for not having you up sooner, but --

18 MS. YOUNG: I think Mr. Brown did a
19 pretty good job of identifying our concerns. You guys
20 have a letter in your packet that identify our concerns
21 that we sent to Mr. Fenner on July 25th, so I'll keep
22 anything else brief.

23 You know, we think that, in general, some
24 of these rule proposals are a little bit too definitive
25 and it's unclear who's in compliance and who's not. We

1 have, you know, attempted to visit with staff on this
2 issue. They suggested, like Mr. Brown mentioned, that
3 we do that in writing. So it's been difficult for us
4 to get an understanding of if or if not we are in
5 compliance with these sorts of requested changes.

6 So I'm not going to add much more on that
7 and we can continue to go through the rest.

8 CHAIRMAN ADAMS: Thank you, ma'am.

9 Mr. Shubeck?

10 MR. SHUBECK: Thank you. I just wanted
11 to echo the concerns of Bryan Brown and Andrea Young.
12 I did submit some comments on these rule changes back
13 in December and I have a general mistrust of what is
14 going on here. I feel Lone Star Park is a first-class
15 racetrack. We want to maintain the best standards for
16 our customers and the licensees. And I consider the
17 licensees customers on the front side and the
18 backside.

19 We do try to keep up with cleaning. We
20 do provide amenities. But really we want to know where
21 we're going here. And we don't want to get undue
22 capital expenditures on the backside that are not
23 necessary and are not up to the standard of other major
24 racetracks in North America.

25 I have to be suspicious. This year I was

1 subject to extra inspections and I really found them
2 somewhat comical. I had the Racing Commission telling
3 me that we had to pick up the garbage before we mowed
4 the lawn and things like that. We know that. We
5 understand that. But we're trying to run a race meet
6 as best we can.

7 There are things that come up. There are
8 messy bathrooms on the backside. And it is caused by
9 the trainers' help, quite frankly. The restrooms that
10 the public uses on the front side and my direct
11 employees are fine. It's the destruction done on the
12 backside by the backside employees and the stable
13 hands. It's not caused by Lone Star Park. We do the
14 best we can to keep up with the filth. But it is
15 troublesome to me that we are being picked on for this
16 for no reason whatsoever.

17 COMMISSIONER PABLOS: Mr. Chairman?

18 CHAIRMAN ADAMS: Yes.

19 COMMISSIONER PABLOS: My question is to
20 Ms. Young. You mentioned that you had requested
21 meetings of staff and you were denied the meetings? I
22 didn't understand that.

23 MS. YOUNG: Yeah. After the last meeting
24 where we first did these first -- these rules were
25 first introduced in order to be published, you know,

1 I'm relatively new to the industry and so I left with
2 the sense that we would have the opportunity to visit
3 with staff during this public comment period.

4 I did request a meeting probably -- I
5 think it was during the month of July. Subsequently I
6 received a response from Mr. Fenner that I should just,
7 you know, provide those comments in writing.

8 COMMISSIONER PABLOS: Is that accurate?

9 MS. KING: We were directed to do that.

10 CHAIRMAN ADAMS: Rolando, I'll take the
11 brunt of that. I was -- I asked staff to handle this
12 particular set of rule adoptions a different way in an
13 attempt to fend off some criticism that we had been
14 getting as a Commission from all different directions
15 as to how we were allowing the industry to work out all
16 of their problems with the staff and never, as a
17 Commission, seeing the issue and making a decision.

18 So we chose this as a test to see how
19 that would work and whether the 14 years prior to this
20 had all been -- what had been learned in the 14 years
21 was, in fact, not the way to do it or whether this, in
22 fact, was the right way to do it.

23 COMMISSIONER PABLOS: So what do you
24 think?

25 CHAIRMAN ADAMS: I don't want to tell you

1 what I think. I don't want a whole lot more meetings
2 like this, if that's any indication.

3 And I have explained that to the tracks,
4 at least to part of the tracks, as to why we opted to
5 go that route in this particular set of rule
6 revisions. And hopefully, now maybe the word will get
7 back to our -- to those criticizing us for the way
8 we've done it is that sometimes that is the best way to
9 do it is to let the parties that know most about it try
10 to work it out.

11 But we are -- we are continuously
12 criticized for letting the industry drive the direction
13 of what's going on as opposed to the Commission making
14 more -- taking a more substantive position. And there
15 is going to be some -- there are going to be some
16 changes along the route that actually improve the
17 situation by that type of thought process.

18 But in the case of individual
19 little-bitty rule items, that may not be the place or
20 the right way to handle it, so we'll go forward and
21 we'll see how that works.

22 In an effort to get through this agenda,
23 let's move on then to some type of decision. On this
24 particular one, on this 309.111, I'm hearing that staff
25 is willing to give this one up if, in fact, we look

1 very seriously at 114 and 115 which was the actual
2 detailed intent of their wishes.

3 Now, I would -- before I do go on, I do
4 want to say that I'd like to comment concerning
5 Ms. Andrea's comments. I really, as individually, do
6 not -- it's not our concern, as a Commission, to worry
7 about whether, in fact, the existing tracks are in
8 compliance with a new rule that we adopt. That's not
9 our place to try to inform you whether you're in
10 compliance or not.

11 I can assure you we're not targeting you
12 and we're not trying to create a rule to put you out of
13 compliance. What we're trying to do is stay abreast of
14 changes in retail and business and stay up to date on
15 making sure that we have the capability of policing up
16 what needs to be done.

17 I don't think any of these rules were
18 directed at either three of your tracks. I can tell
19 you that. I mean, all three of you all are on the
20 leading edge of having the best facility. You're the
21 Class A tracks in Texas. You always have been. And
22 your facilities are well above what I think
23 expectations are. So I don't think that's the intent
24 at all. But I do appreciate your comments and I do
25 think that we need to take them into full

1 consideration.

2 So with that, I will entertain a motion
3 either way the Commission chooses to go on 309.111.

4 Yes, Commissioner Schmidt.

5 COMMISSIONER SCHMIDT: I make a motion we
6 reject the proposed amendment to 309.111 and we accept
7 the proposed amendments 309.114 and 309.115.

8 CHAIRMAN ADAMS: Okay. We have not --
9 we've not had discussion on those, but I will -- we can
10 certainly do it that way if you'd like to. If you'd
11 like to move on and talk about the other two and do it
12 all at the same time, we can do that.

13 COMMISSIONER SCHMIDT: Yes.

14 CHAIRMAN ADAMS: Okay. Let's do that.
15 Let's talk about the details of restrooms and
16 refreshments.

17 MR. FENNER: Okay. The change to
18 309.114 -- and I need to apologize to you. You'll see
19 in your chairs a packet that looks like this. What was
20 in your materials for 309.114 is not what was published
21 in the Texas Register. It's very similar. This is
22 what was in the Texas Register. It's not a substantive
23 change.

24 What happened was the Texas Register
25 folks called me and says we'd like to make this change

1 because it meets our typical standards for how we state
2 the Chapter 265 relating to general sanitation instead
3 of what I had before which was a specific reference to
4 the Department of Human Services. That's the only
5 change. It's not a substantive change.

6 CHAIRMAN ADAMS: Okay.

7 MR. FENNER: Retama objected to the
8 proposal and asked if any facilities were not in
9 compliance. They also objected to the reference to the
10 Department of State Health Services. What was in the
11 Texas Register did not refer specifically to the
12 Department of State Health Services.

13 We have found that the restroom
14 conditions are problematic. We believe that functional
15 and sanitary restrooms are essential for the
16 backgrounds -- the backside and also assists agency
17 staff who are responsible for conducting inspections
18 and securing compliance to have this rule change.

19 The proposal to amend 309.115, we believe
20 that a supply of clean and readily available drinking
21 water is essential to the backside, particularly during
22 the summer months.

23 Retama asked if all the tracks are in
24 compliance and whether the rule would require the
25 addition of water fountains.

1 Sam Houston also objected that the rule
2 was interpreted to require water fountains.

3 All it requires is the association to
4 provide an adequate supply of drinking water for both
5 patrons and licensees. That doesn't necessarily
6 require water fountains. If they want to have Igloo
7 chests with paper cups or some other alternative method
8 that they can design, that's fine.

9 CHAIRMAN ADAMS: Okay. Any questions for
10 Mr. Fenner?

11 Okay. Any additional comments other than
12 what you submitted on your -- okay. Mr. Shubeck, are
13 you okay?

14 Let's talk about 115 then.

15 MR. FENNER: Actually I covered both.

16 CHAIRMAN ADAMS: Did you cover them both
17 already?

18 MR. FENNER: Yes, sir.

19 CHAIRMAN ADAMS: I'm sorry.

20 Any questions before we entertain
21 Dr. Schmidt's motion?

22 Okay. Do we have a second for
23 Dr. Schmidt's motion?

24 VICE-CHAIRMAN CARTER: Second.

25 CHAIRMAN ADAMS: It's been moved and

1 seconded that we delete 309.111 and adopt 309.114 and
2 309.115.

3 All those in favor please say aye.

4 COMMISSIONERS: Aye.

5 CHAIRMAN ADAMS: All those -- any
6 opposed?

7 COMMISSIONER PABLOS: No.

8 CHAIRMAN ADAMS: Do we have a quorum? Do
9 we have enough?

10 MR. FENNER: Yes, we do have a quorum.

11 CHAIRMAN ADAMS: We do? Okay.

12 MR. FENNER: We still have a quorum.

13 CHAIRMAN ADAMS: And without Rolando's
14 vote, we have a --

15 MR. FENNER: Yes. You have a majority of
16 the quorum.

17 And let the record reflect that, if you
18 don't mind, Commissioner Anderson --

19 CHAIRMAN ADAMS: Commissioner Anderson
20 has stepped out as well as Commissioner Sowell -- I
21 mean, Commissioner Ederer.

22 So that motion passes.

23 We'll go on to Item No. 309.116 entitled
24 "Complaints".

25 MR. FENNER: This change clarifies an

1 association is responsible for responding to all
2 complaints, not just complaints that allege a rule
3 violation. In addition, an association's duty to
4 respond to complaints is in addition to and separate
5 from the responsibility to report certain complaints to
6 the executive director.

7 Retama Park objected to the changes to
8 (a), (b), and (c)(3), that they are overly broad, as
9 well as Sam Houston Race Park.

10 We observed that the association is
11 already required to provide an office to handle
12 complaints. The change merely strikes the limitation
13 that it's going to be complaints about regarding
14 association facilities or alleged violations of the act
15 or the rules. We believe that the current language is
16 too limiting regarding the types of complaints they
17 must respond to and that the associations should be
18 fully responsive to complaints filed.

19 We also observed that the associations
20 are already required to document all accidents and
21 injuries under existing Rule 309.156. Staff is
22 perfectly willing to work with the associations to work
23 out an efficient method for reporting accidents and
24 injuries.

25 CHAIRMAN ADAMS: Thank you, sir.

1 Comments? Ms. Young?

2 MS. YOUNG: I'll just make one comment on
3 this one and it's in the letter that I submitted. But
4 in general, you know, we're in a customer focus
5 business. It is our responsibility to make sure we
6 take care of our patrons because we all do better when
7 they come back.

8 That said, I find that now extending
9 every single complaint we get -- you know, generally
10 speaking, yes, we already respond to them; but making
11 sure that the Commission gets back, I think we're going
12 to now get into a situation where if somebody sends me
13 an e-mail and says, "Hey, you know, I didn't like the
14 color on the cover of your program," while that sounds
15 ridiculous, we get ridiculous comments like that all
16 the time because it's difficult to please everyone.
17 It's going to become incredibly burdensome on us as
18 operators and on the Commission itself.

19 CHAIRMAN ADAMS: Yes, Mr. Brown.

20 MR. BROWN: I'd like to echo that
21 comment. And the best example I have is we get
22 complaints all the time about cold hot dogs on 50-cent
23 nights and we throw them away and give them a brand-new
24 one.

25 But my major comment on 309.116 is on

1 (3), the reporting of accidents and injuries, which
2 Mr. Fenner is correct, in 309.156(c) we are required,
3 upon the request of the executive secretary, to provide
4 a report of an accident or injury. I think that ought
5 to cover what the Commission needs.

6 There are tons of little accidents and
7 injuries that happen. For us to report every one of
8 them to the executive secretary would seem to be
9 burdensome both for Commission staff and for us. And
10 it's already covered, we believe, in 309.156.

11 CHAIRMAN ADAMS: Okay, sir.

12 Mr. Shubeck, anything at this point?

13 MR. SHUBECK: Nothing there.

14 CHAIRMAN ADAMS: If there's no further
15 input, what are the wishes of the Commission?

16 COMMISSIONER SCHMIDT: One question.

17 CHAIRMAN ADAMS: Yes, sir.

18 COMMISSIONER SCHMIDT: Mr. Fenner, I just
19 had one question.

20 MR. FENNER: Yes, sir.

21 COMMISSIONER SCHMIDT: Is this a
22 problem? Are we responding to a big problem here? I'm
23 a physician and I have a physician's office; and if I
24 had to respond to complaints to the Texas Medical
25 Board, I'd spend a lot of time.

1 MS. KING: If it would be okay --

2 COMMISSIONER SCHMIDT: Right. I just
3 want to understand if we are -- if we are not, in fact,
4 being a little broad in verbiage here.

5 MS. KING: Okay. There's a couple of
6 ways, I think, to look at it. These are the elements
7 that would help the Commission most effectively monitor
8 and evaluate the complaints that are coming to the
9 tracks. I have personally been from track to track and
10 tried to check on the complaint activity and it's all
11 handled differently and it's at varying levels of
12 effectiveness. Okay?

13 So we have identified problems. And you
14 are getting some of the leaders in the industry coming
15 forward and going, "This seems burdensome." But when
16 you're trying to look at all of these tracks and we
17 have additional tracks coming forward, it would be --
18 these kinds of things would make the complaint
19 monitoring process more efficient.

20 I think the Commission's role in
21 complaints is, one, to identify violations and,
22 secondly, to monitor the racetracks' responsiveness to
23 complaints that are received. And these are the
24 elements that were identified by the staff as being --
25 helping us do that.

1 Now, the thing I will comment on that I'm
2 not quite sure what I make of it at this point is the
3 claim by the racetracks that somehow any of these
4 provisions would be applied in a burdensome or
5 inappropriate way.

6 If you look under Subsection (d) -- is
7 that where it says -- let's see. Where they're
8 required to notify us is at (c). Excuse me. We want
9 to work with the tracks, for example, to establish an
10 effective way to do that.

11 I would like to kind of make it standard
12 from track to track the way the information is kept and
13 then they could submit it, you know, on some basis that
14 made sense so that it could be reviewed instead of
15 someone trying to physically go through every single
16 complaint. We don't have the time for that. They
17 don't have the time for that. And that's a way we've
18 approached these kinds of things in the past.

19 So granted, we did not have the
20 opportunity to explain these things in more detail for
21 reasons the Chair explained; but we wouldn't -- we
22 wouldn't make it burdensome or onerous because we don't
23 have the time to spend doing that either. So I think
24 that they know that, but I think that they're cautious
25 about being burdened.

1 Does that address the question?

2 COMMISSIONER SCHMIDT: That clarified
3 it. Thank you very much.

4 MS. KING: You're welcome, sir.

5 CHAIRMAN ADAMS: Other questions?

6 COMMISSIONER SOWELL: My question would
7 be: Does this lend itself to another 60-day delay
8 while you all work with the associations to see what
9 you can come up with?

10 MS. KING: That would be fine,
11 Commissioner.

12 COMMISSIONER SOWELL: Then I would offer
13 that as a motion.

14 COMMISSIONER EDERER: Second.

15 CHAIRMAN ADAMS: It's been moved and
16 seconded that Item No. 309.116 be set aside until the
17 next agenda for working meetings between the industry
18 and staff.

19 All those in favor?

20 COMMISSIONERS: Aye.

21 CHAIRMAN ADAMS: Any opposed?

22 The motion carries.

23 The next item is 309.118.

24 MR. FENNER: All right. Regulatory
25 office space and equipment. This updates the

1 requirements for the offices and equipment that the
2 associations provide for the Commission's use.

3 Retama objected to the lack of
4 specificity in regards to the number of required desks,
5 chairs, and file cabinets. Retama also objected that
6 allowing phone calls without access codes prevents a
7 track from identifying costs. Retama objected to the
8 requirement that would provide a telephone listing for
9 the Commission.

10 Sam Houston asked for additional
11 explanation of the proposal and objected to the lack of
12 specificity in regards to the desks, chairs, and
13 cabinets. Sam Houston also objected to the telephone
14 calls without access calls -- access codes. Sam
15 Houston objected to the requirement that it provide a
16 telephone listing.

17 Regarding the number of chairs, desks,
18 and file cabinets, it's different for every track; so I
19 think it's very difficult for us to specify you will
20 have X number of desks, X number of chairs, for a Class
21 1 all the way down to a Class 3 track. That doesn't
22 fit into the rule like that.

23 We do think that the executive director
24 should be allowed some flexibility in determining on a
25 track-by-track basis and a staffing basis what kind of

1 requirements are needed for that track.

2 We do agree that tracks should be allowed
3 to require access codes for telephone calls. So you
4 will see in the supplemental material that I have
5 provided to you that I am proposing to strike -- this
6 would be regulatory office space and equipment. If
7 you'll turn to the third page, you'll see on line 21 we
8 are striking the requirement that the telephone number
9 be able to make both local and long distance calls
10 without the need to enter an access code. We offer
11 that as a change and then renumbering the remaining
12 ones.

13 Regarding the telephone listings, we do
14 think it's very important that the public be able to
15 find us in the telephone book. We are cognizant of the
16 fact that there are a million different telephone
17 directories out there. We want to be in the major
18 ones.

19 The telephone system is provided by the
20 tracks, not by the Commission. They pay for them.
21 They secure them. So we don't have a contractual
22 relationship with the telephone company to go and ask
23 for that posting. So we would like to be able to get
24 their assistance in getting the posting in the
25 telephone book.

1 CHAIRMAN ADAMS: Thank you, sir.

2 Mr. Shubeck?

3 MR. SHUBECK: I just wanted to inform the
4 Commission, in case they don't know it, that we just
5 built a brand-new administration building on the
6 backside. It's not only for the Commission's purpose,
7 but it's for the racing office, track kitchen,
8 everything. We spent about 1.7 million dollars and it
9 has every amenity imaginable. But we're still being
10 written up for this outside line thing, which I think
11 is crazy.

12 I mean, what is the burden on the
13 Commission to hit an access code or dial nine to get an
14 outside line? That I do not understand. I have to do
15 it. We have to be accountable to the corporate
16 office. And they want some controls in place.

17 And on the telephone listing, I mean, I
18 might be a new guy, but who uses the phone book
19 anymore? I mean, people call up and complain. They
20 set them on my front stoop and I throw them out as soon
21 as they come. I mean, what is the purpose? People
22 dial 411. They get Lone Star Park. That's the agency
23 that they're complaining to. I would imagine, if
24 somebody really wanted to complain to the Commission,
25 they would call Austin. They wouldn't call the field

1 office. And I mean, that's my comment on that.

2 We provide all the furniture that's
3 necessary, every desk, every chair, every lamp,
4 whatever is needed. I don't think a lot of
5 clarification needs to be done in this rule. We
6 provide what the Commission needs on a daily basis and
7 we do it every day already.

8 VICE-CHAIRMAN CARTER: Explain what you
9 mean, "We've been written up."

10 MR. SHUBECK: Well, I think it was in
11 here that there's a deficiency, even in this packet,
12 that we didn't have an outside line, the private line.
13 I mean, it's just a continual. It's kind of like
14 running over a coffee cup when you're mowing the
15 grass.

16 CHAIRMAN ADAMS: In --

17 MR. SHUBECK: I mean, we want to be in a
18 hundred percent compliance. Don't get me wrong.

19 CHAIRMAN ADAMS: Mr. Shubeck, I want to
20 applaud you for what you have done at your track
21 because it is second to none and I assure you that
22 we're not trying -- or that we shouldn't be trying to
23 challenge that or to downgrade what you've done. And I
24 agree with you. What can I say? I agree with you.

25 MR. SHUBECK: They do these inspections

1 and they've got to write down something. Otherwise
2 they think they're not doing their job.

3 MS. KING: Okay, Drew. That's going a
4 little bit too far. Drew, there's a requirement
5 already for the private telephone line. So are you
6 telling them that you shouldn't be required to provide
7 private telephone lines?

8 MR. SHUBECK: I'm saying that what we
9 have now should be adequate. It's what's been at Lone
10 Star Park, I imagine, since Day One. We do have
11 limitations on the amount of fiber that does go to the
12 backside, so I think it would be a little bit of a
13 burden to put more in. We're willing to work with the
14 Commission, but we don't think we need a special rule
15 for it.

16 CHAIRMAN ADAMS: Okay, sir.

17 Mr. Brown?

18 MR. BROWN: Ms. Cook said I couldn't
19 comment from back there.

20 I really don't have any further comments
21 from what I've submitted. I do think they're still
22 important comments. We still stand behind them.

23 CHAIRMAN ADAMS: Thank you, sir.

24 Any further comment on this rule?

25 What are the wishes of the Commission?

1 What do you think, Jimmy?

2 MR. ARCHER: Well, I'm going to be honest
3 with you. I'm pretty much in the compliance business
4 every day. That's what I do. I'm in the tax
5 compliance business. And there's always been -- and
6 I'm just making this as a general comment. There's
7 always -- there's always tension between the regulator
8 and the regulated. That's just the way it is. You
9 know? And the regulated thinks they're being wronged
10 and the regulator thinks they're right.

11 Now, as far as office chairs or cabinets,
12 you know if you have enough cabinets or chairs. If you
13 keep getting written up for the same thing over and
14 over, you're probably not in compliance. I'm making a
15 statement. I don't know about, you know, who uses the
16 phone book, who doesn't use the phone book. I just
17 know that we've been talking about this for about an
18 hour and a half now. Okay? That's the comment I'm
19 making.

20 I mean, and my experience with the Racing
21 Commission isn't much different than it's been with the
22 comptroller's office about regulation and regulatory
23 business. I mean, it's always a tension between the
24 regulated and the regulator. And there has to be some
25 accommodation at some point of rules to where everybody

1 gets along with them one way or the other. You know?

2 I mean, I tell you what. On my other job
3 that I do about 31 days a month usually, there's one
4 guy I have trouble with every day. He calls every week
5 and complains about the same thing. You know what I
6 tell him every time? "You're not in compliance." You
7 know why? Because he's not in compliance. That's
8 why. You know?

9 If the rules are onerous, then they're
10 onerous and they need to be changed. If they're not,
11 they're not. If you can't understand the rules, then
12 you need to make them where they can be understood.
13 And that's all I'll say.

14 I'm not enough of an expert about the
15 Racing Act. And I'll be honest with you about that.
16 I've been doing this for almost 20 years now and I'm
17 not an expert at the Racing Act. These people sitting
18 at this table up here are. You people that run the
19 racetracks are. I'm not. I come here once every 60
20 days and sit down and listen to race date issues, rule
21 issues, whatever it is. We're expected to cut the baby
22 in half every two months. And we can't do that like
23 this.

24 You know, it's not right for -- and I had
25 this conversation with Charla not two weeks ago. You

1 know, the regulated and the -- the regulators and the
2 regulated need to get along. And these people up here
3 that are appointed to these boards can't make these
4 decisions for the people that get paid to do it every
5 60 days. It can't happen that way.

6 That's my comment, Mr. Chair. That's the
7 only comment I really have.

8 CHAIRMAN ADAMS: Okay. In light of that,
9 I'd just like to say that I will take full
10 responsibility for the mistake that I made in not
11 allowing or not encouraging the industry and the staff
12 to work together and instructing the staff not to work
13 with the industry and to try a new system. Okay? I'll
14 take full responsibility for that.

15 COMMISSIONER SOWELL: That was going to
16 be my motion.

17 MR. ARCHER: Mr. Chair, I'm not casting
18 aspersions on you. I'm just making a statement.

19 CHAIRMAN ADAMS: I can do that now in
20 light of the fact that my number one --

21 COMMISSIONER SOWELL: Jimmy, your remarks
22 were well --

23 MR. ARCHER: This will probably be my
24 last trip, but here I am.

25 COMMISSIONER SOWELL: I just think,

1 Mr. Chairman, we ought to give them a chance to get
2 together and see if they can't work it out.

3 CHAIRMAN ADAMS: I can do all of that in
4 light of the fact that the person who was complaining
5 the most is no longer sitting up here at this table.

6 Sorry, Gloria. I didn't realize she'd
7 come back that quick.

8 But in any case, I would support taking
9 all of the remaining ones that we haven't decided on
10 today and allowing the staff and the industry to get
11 together and see if we can't come to some better
12 wording or better -- or some kind of compromise as to
13 how we're going to proceed on this. Okay? And then if
14 there are individual items that staff feels that
15 strongly about that they can't compromise with you,
16 we'll take them on at a one-by-one basis. Can I ask
17 you to do that?

18 COMMISSIONER SOWELL: I think that's an
19 excellent plan. Do we need a motion or just --

20 COMMISSIONER SCHMIDT: I'd make that
21 motion.

22 MR. ARCHER: I second.

23 CHAIRMAN ADAMS: Okay. It's been moved
24 and seconded that the remaining items of rule change be
25 set aside until the next meeting, at which time the

1 staff will work with the industry to try to come to
2 some compromise.

3 Thank you all very much and I apologize
4 for the length of the meeting today.

5 Excuse me. Commissioner Carter had a
6 comment.

7 VICE-CHAIRMAN CARTER: I just wanted to
8 bring up one more thing if we're done with all of
9 those.

10 CHAIRMAN ADAMS: Yes, we are.

11 VICE-CHAIRMAN CARTER: And before we
12 close the meeting. Are you all done?

13 CHAIRMAN ADAMS: Yes, we are.

14 VICE-CHAIRMAN CARTER: I think -- I don't
15 know if we can do this in Robert's Rules, but I think
16 we got off of that Lasix thing too fast and we were too
17 quick to table it. And I think we were all in
18 agreement of what we wanted to do, but we were trying
19 to work out the specifics of what we wanted to do and
20 we tabled it. And we didn't know at that time that
21 there's some consequences that are not desirable for
22 the TQHA and the racing. And I'm wondering if we could
23 reopen that.

24 CHAIRMAN ADAMS: I think Robert's Rules
25 do allow us to do that.

1 MR. FENNER: A motion to reconsider.

2 CHAIRMAN ADAMS: A motion to
3 reconsider --

4 COMMISSIONER SOWELL: Dr. Carter, you hit
5 the nose on the -- right on the -- that's good.

6 VICE-CHAIRMAN CARTER: I think what we
7 wanted to do was to -- as Mr. Hooper, the industry is
8 trying to move towards the model rule undertaken by all
9 of the racing jurisdictions so we're all on the same
10 page. And I don't have our Lasix program right in
11 front of me. I have a section of it. But I have the
12 model rule in front of me.

13 And the only difference between what
14 Dr. Werstler proposed that I can see, from what I can
15 see in the paperwork here, is the difference in 12 days
16 versus 14 days after the first bleed.

17 But I tend to favor following model rules
18 as proposed by the RCI. And I believe that's what
19 everybody else was proposing. But then we kind of got
20 in a little -- we got in a little stalemate as to how
21 we were going to do that and we just tabled it. And I
22 think we were too quick to do that. And I would like
23 for us to reconsider how we can get this done where we
24 can get it on the Register.

25 CHAIRMAN ADAMS: Okay. Before we do

1 that, I want to make sure that everyone has seen -- you
2 made comments that you didn't have our -- our rule in
3 front of you. But you should have in your packet a
4 letter from Dr. Marsh --

5 VICE-CHAIRMAN CARTER: I do have that.

6 CHAIRMAN ADAMS: -- explaining the
7 difference between our position and the model rule
8 position. And it is not merely the 12 days versus the
9 14 days. It's much more -- we're much further
10 separated than that. And it's that first warning being
11 an offense as opposed to the second one carrying the
12 major penalty.

13 VICE-CHAIRMAN CARTER: No, the main thing
14 with what he was trying to change was that if you
15 declare Lasix, in our deal we're calling that a first
16 bleed. The model rule does not call that a first
17 bleed. The model rule says you're using it
18 prophylactically; and when you see the blood at the
19 nostril, that's the first bleed and they get 14 days.
20 And the second bleed is the same sort of -- everything
21 else is pretty much the same as ours in the penalties.

22 And I think that irregardless of whether
23 they have trials or irregardless of whether the
24 Thoroughbreds have trials, there's a lot of smart
25 people sitting in that room trying to come up with

1 those model rules from all aspects of the industry and
2 this is kind of how they recommend we go. And I think
3 that we're kind of taking the upper road if we try to
4 follow the RCI model rules, not only in this but in
5 some of the other things we're going to encounter. We
6 can use them kind of as a guideline.

7 If you all don't agree with that and you
8 all are concerned about that, then let's have that out;
9 but let's not just table it and move on.

10 CHAIRMAN ADAMS: So the Chair will
11 entertain a motion to reconsider.

12 VICE-CHAIRMAN CARTER: I move that.

13 COMMISSIONER SOWELL: Second.

14 CHAIRMAN ADAMS: It's been moved and
15 seconded that we reconsider the item regarding the
16 Quarter Horses -- the Texas Quarter Horse Association
17 request for the change to model rule. And that was
18 item what on our agenda?

19 MR. FENNER: It's on page 5-12.

20 CHAIRMAN ADAMS: 5-12.

21 COMMISSIONER SOWELL: The number is
22 319.111.

23 VICE-CHAIRMAN CARTER: On page V-12.

24 CHAIRMAN ADAMS: It's been moved and
25 seconded that we reconsider.

1 All those in favor?

2 COMMISSIONERS: Aye.

3 CHAIRMAN ADAMS: The motion carries.

4 Any opposed?

5 The motion carries.

6 I would like to -- if we are going to
7 reconsider, I would like Dr. Marsh to have an attempt
8 to address the Commission because we heard from the
9 Quarter Horse Association but we have not heard from
10 his position personally. And I would like you to hear
11 that, please.

12 MR. MARSH: I think the rule we have now
13 is a good rule. I'm biased because I authored the
14 rule. I think a horse that bleeds through a medication
15 that's designed to treat EIPH probably needs more rest
16 than a horse that bleeds without it.

17 Our states around us have a variety of
18 rules and times for bleeding horses. Louisiana
19 requires them to bleed prior to being admitted on the
20 furosemide program. New Mexico doesn't care if they
21 bleed or not. They give them no days. Oklahoma lets
22 them run without, gives them 10 days, when, in
23 actuality, I understand, they normally give them 20 --
24 their Commission veterinarians give them 20, which they
25 have the authority to do under their rules.

1 I could stand here and debate this all
2 day and I'd prefer not to. But I think the rule we
3 have right now is a good rule for the horses.

4 CHAIRMAN ADAMS: Thank you, Dr. Marsh.
5 Any questions?

6 MR. MARSH: Any questions?

7 CHAIRMAN ADAMS: I don't think there
8 are. Thank you.

9 Do we need any additional information
10 from -- before we close the case and reconsider?

11 COMMISSIONER SOWELL: I think we ought to
12 hear from the Quarter Horse folks again just to make
13 sure we all understand it.

14 CHAIRMAN ADAMS: Okay.

15 MR. WERSTLER: I apologize. I didn't see
16 Dr. Marsh's letter, so I can't make comment on it. It
17 wasn't in our packet.

18 Again, it's just trying to bring us in
19 alignment with Oklahoma, where a lot of our horses come
20 from. A lot of horses this year didn't race at Retama,
21 raced at Remington Park in Oklahoma City, and then came
22 to Houston. If it's a -- if it's a Texas trainer, I
23 mean, it really does put a burden on him. However, he
24 should understand what the rules are in Texas. So when
25 he puts his horse on Lasix in Oklahoma, he understands

1 when he comes to Texas, if he bleeds, he's getting 30
2 days.

3 But imagine -- now, he's supposed to
4 know. It's just like if you study law in one state,
5 you're supposed to know that the laws are going to
6 change in another state. It's the same thing with
7 medication rules. But in Oklahoma, you test. You look
8 at the rule. You're allowed to put your horse on
9 Lasix. It doesn't count against him. You come to
10 Texas. You don't realize that. You run him in the
11 biggest race of his life. He qualifies for a
12 million-dollar race. And then someone sees him trickle
13 blood at the test barn and says you've got 30 days. So
14 they can't run back in a million-dollar race.

15 You see my point. They may put their
16 horse on Lasix in March or April. The horse never
17 bleeds. They are just using it as a preventative as
18 Dr. Carter stated. And 10 months later he does bleed
19 in his trials. I mean, he's run several races this
20 year. The campaign has been tough on him. Sometimes
21 they do tend to bleed like that.

22 I just don't think it should -- I think
23 it's burdensome to breeds of horses that race with
24 trials. It almost discriminates against horses that
25 run in trials.

1 But as Mr. Hooper stated and Dr. Carter
2 stated earlier also, we've been urged to adopt these
3 RCI rules. Are we going to adopt them? Are we going
4 to adopt them, not adopt them, or cherrypick them to
5 our liking? I think, also like Dr. Carter stated,
6 there are a lot of smarter men than myself that look at
7 these rules and they came up with -- and these are
8 veterinarians. They came up with a trainer should be
9 able to put their horse on Lasix as a preventative and
10 it not count against them.

11 CHAIRMAN ADAMS: Thank you, sir.

12 Any other questions?

13 Okay. We're going to close that portion
14 of public input and we're going to try to come to some
15 decision as to how to reconsider this issue.

16 VICE-CHAIRMAN CARTER: Can I ask one more
17 thing before we move on?

18 CHAIRMAN ADAMS: Sure.

19 VICE-CHAIRMAN CARTER: What heartburn did
20 you have? That was kind of where we tabled it was you
21 were concerned about how to proceed?

22 MR. FENNER: That was a motion by
23 Commissioner Anderson to post the model rules, which is
24 different than this, in the Texas Register for public
25 comment. And that's not really what we do. I need

1 to -- what was I going to be striking through? Was I
2 replacing the entire Section 319.111 with the model
3 rules? I didn't hear that. I'm not sure how that
4 would work or how that would relate to the other
5 sections.

6 What the TQA has suggested in their
7 proposal is a simple strike-through of the existing (3)
8 and replacing it with another Section (3) or Subsection
9 (3). So theirs is very clean. I can do that with no
10 problem. The other was not -- was something that I
11 wouldn't know how -- it would take a lot of creativity
12 and I would be basically authorized by the Commission
13 to come out and invent my own proposal. I'm not very
14 comfortable with that.

15 CHAIRMAN ADAMS: So the proposal that
16 TQHA has is not -- it, in theory, is in alignment with
17 the model rule, but it's not the model rule. Is that
18 what you're saying?

19 MR. FENNER: That's true. And we see
20 that quite a bit in a lot of our rules where we have --
21 well, I'm sorry. Did you --

22 MS. KING: No.

23 MR. FENNER: We have things in our rules
24 that kind of reflect the model rules. They don't
25 follow word for word, but they have the same result.

1 VICE-CHAIRMAN CARTER: Okay. So if I ask
2 you this question then, can we -- if you adopt or
3 you -- say you adopt what Mr. Werstler has proposed.
4 That's clean and easy for you to post.

5 MR. FENNER: It's clean and easy to post,
6 yes.

7 VICE-CHAIRMAN CARTER: And then if we
8 want to modify it later to be in more compliance with
9 the model rule, we can do that.

10 MR. FENNER: Yes. We can -- we can do
11 that. Either --

12 VICE-CHAIRMAN CARTER: I move we do
13 that.

14 COMMISSIONER SOWELL: Second.

15 CHAIRMAN ADAMS: It's been moved and
16 seconded that we post, as submitted by the TQHA,
17 changes to 311 -- 319.111.

18 MR. FENNER: It's 319.

19 CHAIRMAN ADAMS: This is for posting.
20 This is not for adoption. This is for posting.

21 COMMISSIONER SCHMIDT: For posting?

22 CHAIRMAN ADAMS: And I'd like -- just for
23 the record, I'd like to state that I will not be
24 supporting the motion. I cannot see, in today's
25 climate, going backwards in our protection of the

1 animals. I cannot see, in light of the hearings that
2 were held in Washington and all that's going on in this
3 industry, reversing the trend and lightening the
4 responsibility for health and safety of the animals.
5 So I cannot support posting of this motion. That's my
6 own personal opinion.

7 COMMISSIONER HICKS: I agree with you.
8 That's my opinion.

9 CHAIRMAN ADAMS: So in that light, we
10 probably ought to have a roll call on this particular.
11 Would you call the roll, please?

12 MS. ARMENDARIZ: Commissioner Archer?

13 MR. ARCHER: No.

14 MS. ARMENDARIZ: Commissioner Ederer?

15 COMMISSIONER EDERER: No.

16 MS. ARMENDARIZ: Commissioner Hicks?

17 COMMISSIONER HICKS: No.

18 MS. ARMENDARIZ: Commissioner Pablos?

19 COMMISSIONER PABLOS: No.

20 MS. ARMENDARIZ: Commissioner Schmidt?

21 COMMISSIONER SCHMIDT: No.

22 MS. ARMENDARIZ: Commissioner Sowell?

23 COMMISSIONER SOWELL: Yes.

24 MS. ARMENDARIZ: Commissioner Anderson?
25 Commissioner Carter?

1 VICE-CHAIRMAN CARTER: Yes.
2 MS. ARMENDARIZ: And Chairman Adams?
3 CHAIRMAN ADAMS: No.
4 Okay. The motion fails, so we will not
5 post.

6 And we will go on to the next item of
7 business, which is -- we have scheduled a Commission
8 meeting for Tuesday, October the 7th. Is that
9 correct?

10 MS. KING: Yes, sir, that's correct.

11 CHAIRMAN ADAMS: And that's all been
12 scheduled?

13 MS. KING: Yes, sir.

14 CHAIRMAN ADAMS: So we don't need any
15 action on that.

16 Okay. Thank you very much. The meeting
17 is adjourned.

18 (Proceedings concluded at 4:34 p.m.)
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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 13th day of August, 2008.

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SHERRI SANTMAN FISHER, Texas CSR 2336

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