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BEFORE THE
TEXAS RACING COMMISSION
AUSTIN, TEXAS

COMMISSION MEETING
OCTOBER 7, 2008

Reported by: SHERRI SANTMAN FISHER
Job #9-71947

1 BE IT REMEMBERED that the above entitled matter
 2 came on for hearing on the 7th day of October, 2008,
 3 beginning at 10:32 A.M. at 6100 Guadalupe, Building E,
 4 Austin, Travis County, Texas, and the following
 5 proceedings were reported by SHERRI SANTMAN FISHER,
 6 Certified Shorthand Reporter for the State of Texas.

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APPEARANCES

- Commissioners: JESSE R. ADAMS
- G. KENT CARTER
- CHARLES L. "SONNY" SOWELL
- RONALD F. EDERER
- ROLANDO PABLOS
- ROBERT SCHMIDT
- GLORIA HICKS
- C. TOM CLOWE, JR.
- JIMMY ARCHER

1 CHAIRMAN ADAMS: It's now past 10:30 and
2 I'd like to call this meeting of the Texas Racing
3 Commission to order.

4 The first order of business here will be
5 the roll call. Ms. Cook, will you please accomplish
6 that for us?

7 MS. COOK: Jimmy Archer?

8 MR. ARCHER: Here.

9 MS. COOK: Ron Ederer?

10 COMMISSIONER EDERER: Here.

11 MS. COOK: Gloria Hicks?

12 COMMISSIONER HICKS: Here.

13 MS. COOK: Rolando Pablos?

14 COMMISSIONER PABLOS: Here.

15 MS. COOK: Robert Schmidt?

16 COMMISSIONER SCHMIDT: Here.

17 MS. COOK: Sonny Sowell? Tom Clowe?

18 MR. CLOWE: Here.

19 MS. COOK: Dr. Kent Carter?

20 VICE-CHAIRMAN CARTER: Here.

21 MS. COOK: And Jesse Adams?

22 CHAIRMAN ADAMS: Here.

23 That just reminded me to ask all of you
24 all to turn your cell phones off, or at least put them
25 on vibrate.

1 Before we go into the public comment
2 portion, I'd like to -- I have the distinct privilege
3 of announcing and introducing to you Mr. Tom Clowe who
4 is joining us now as our newest Commissioner, Racing
5 Commissioner. Mr. Clowe is a member of the DPS --
6 exactly what is it called?

7 MR. CLOWE: Board.

8 CHAIRMAN ADAMS: Board. Okay. Board.

9 MR. CLOWE: It's called other things, but
10 we prefer to have it called the board.

11 CHAIRMAN ADAMS: And without any further
12 ado, I'm going to allow Mr. Clowe to address the
13 meeting, please.

14 MR. CLOWE: Thank you, Mr. Chairman and
15 Commissioners. My name is Tom Clowe. And I'm very
16 happy to be here and a brand-new member of this board.
17 I have served in public capacities in the past. The
18 longest term was 10 years at the Lottery Commission and
19 I asked the Governor for a pardon and he gave it to
20 me. And then he appointed me to the board of the DPS.
21 And I'm very honored to have that responsibility, along
22 with Chairman Polunsky and Commissioner Barth.

23 I've only been a Commissioner at the DPS
24 since March of this year, so I am learning there as I
25 will be learning here. I was honored when Chairman

1 Polunsky asked me to fill this position. I am very,
2 very interested in this industry. I'm looking forward
3 to learning and to making a contribution. And I'm
4 honored to serve with this board and with this
5 chairman. Thank you, sir.

6 CHAIRMAN ADAMS: Thank you, Commissioner
7 Clowe.

8 With that, I'll go on to the public
9 comment portion. I do -- I normally ask staff if they
10 have anyone signed, but I've already been furnished
11 sign-in sheets. We'll have four individuals addressing
12 us under the public comment portion of the agenda.

13 I'd just like to remind the Commissioners
14 that this is not an agenda line item; so there will be
15 no discussion of it; but we are allowed to ask
16 questions of each of the individuals, should you choose
17 to, about the comments that they do bring forward.

18 So I'll begin -- I believe I have Brian
19 Norman signed first. Or, Ron, do you wish to start?

20 MR. RON WILSON: Yes, sir.

21 CHAIRMAN ADAMS: Okay. That will be
22 fine. Ron Wilson then. Thank you, sir.

23 MR. RON WILSON: Would you mind if we all
24 came up at one time?

25 CHAIRMAN ADAMS: Certainly. This will be

1 Ron Wilson, Brian Norman, Yvonne Davis, and David
2 Alameel, Dr. David Alameel.

3 MR. RON WILSON: Thank you very much,
4 Mr. Chairman and members of the Commission and
5 Commission staff and those of us who are subject to
6 your purview.

7 We're here basically today, gentlemen and
8 lady, to ask you for your help and your assistance.
9 Dr. Alameel and Representative Davis have acquired an
10 interest in a Class 2 track that was previously owned
11 by Mr. Joe Archer in Houston and it went by the name of
12 the Austin Jockey Club. Through a number of
13 permutations over, as Mark Fenner tells me, I think,
14 maybe even 20 years, Dr. Alameel has acquired all
15 interest in it. However, what is lacking is that he
16 and Ms. Davis need the Commission's acknowledgment of
17 the transfer of the license.

18 It's been in limbo for a bit and there
19 have been a lot of -- you know, there's been a lot of
20 talk here and there about all kinds of things and we
21 decided it would be best for us to come before you and
22 ask you for your assistance in this regard because you
23 all know best how to handle this.

24 Dr. Alameel has already gone through a
25 DPS background check once before. I think it was about

1 three years ago, Doctor. And he is now subject to
2 another one. That's fine. And Lord knows that
3 Representative Davis has been vetted every time she
4 runs for election, which is quite an event.

5 So they now have to go through that
6 process again and the staff at the Commission have been
7 very helpful in guiding us through that process. So
8 their application is in and they also have an
9 application in to transfer the interest. We'd ask that
10 you bifurcate that process, though, because if you
11 would consider first the transfer of the interest from
12 Archer to Dr. Alameel and Representative Davis and then
13 we'll consider -- we'd ask you to consider the track
14 relocation as an adjunct to that.

15 The staff has been wrestling with it and
16 we decided we'd rather come before you and kind of give
17 you an update as to where we were. We know we aren't
18 exactly on the agenda, but we appreciate the
19 opportunity just to come before you and just basically
20 ask you for assistance.

21 So I'm going to ask Ms. Davis to come
22 next, if she would -- I'm sorry. Dr. Alameel next,
23 just to give you kind of an overview if that's all
24 right.

25 CHAIRMAN ADAMS: Thank you, Mr. Wilson.

1 MR. ALAMEEL: Gentlemen, my name is David
2 Alameel. I have been a resident of Texas for more than
3 33 years and a U.S. citizen for more than 37 years. I
4 was honorably discharged from the U.S. Army in 1977.
5 I'm married to Martha Alameel, a Hispanic lady, for the
6 last 36 years and we have two grown children, Mark and
7 Nadia Alameel. She has been a partner in life and
8 business for me all these years. My son, who is 33
9 years old, runs a media business located in Dallas that
10 our family owns; and my daughter, Nadia, is a student
11 at SMU.

12 We've lived and worked in the Dallas
13 community for over 24 years and we're living the
14 American dream and we're giving back to our community.
15 We consider our business a Hispanic business. We own
16 quite a bit of interests in Dallas, but mainly our
17 business is in the Hispanic community and we like to
18 give to the Hispanic community and we're very involved
19 in our Catholic church and we do a lot of scholarships
20 for Hispanic children.

21 As a licensed dentist, one of the
22 businesses I own is JDC Health Care Company. Jefferson
23 Dental Clinics has been open for over 40 years. I've
24 owned it for almost 25 years. It's a -- Jefferson
25 Dental Clinics is a business that was started with one

1 clinic. I have took it and run it to about 22 dental
2 centers with about 300 employees and we do about 45
3 million dollars a year revenue.

4 The reason I'm telling you this is so
5 that you know my background. We're able to take a
6 business and grow it, invest in it, employ it, and
7 maintain it for decades.

8 On this license we have assembled a
9 strong team of industry leaders to assist us in
10 management and to assist us in succeeding in the
11 business. Our goal is to provide the residents of
12 Texas the most exciting introduction to the horse
13 racing industry at the most captivating facility for
14 enjoyment and pleasure of our patrons.

15 There has been considerable discussions
16 about our license. While it's true that it started as
17 an investment project for me and after 16 million
18 dollars down the hatch, countless years of work, it
19 became a project of monumental significance for me. I
20 took over the project and did my hands-on approach and
21 today I've put a new team that represent my own
22 business philosophy, my own business approach, and I
23 want to make it successful.

24 We're here today to request that the
25 interests in Austin Jockey Club can be transferred to

1 Dallas City Limits property so we can proceed with the
2 overall business venture, including the construction of
3 a facility for Longhorn Downs. It's my belief that
4 this is a can-do state. We can do, with our team,
5 everything that it requires, and we will join the horse
6 racing industry to provide this kind of entertainment
7 for our Texas residents. We are supporting many
8 industries associated with the horse racing business,
9 including agriculture, tourism, breeders, et cetera.

10 We need your affirmative approval to move
11 forward. We are committed to this project. We're
12 committed to make it work and succeed. We don't come
13 from the horse racing industry, but we have a lot of
14 business experience and management experience and we've
15 proven it before and we can be a positive addition to
16 this industry. And I just thank you for listening to
17 me.

18 CHAIRMAN ADAMS: Thank you, Dr. Alameel.

19 MS. DAVIS: Good morning. Thank you,
20 Mr. Chairman and Commissioner. My name is Yvonne
21 Davis; and though I'm a State Representative, I am here
22 now today as an individual. As a business owner in the
23 State of Texas, having lived here all my life and
24 having been in Dallas for the last 35 years, I'm
25 delighted to be a part of this effort.

1 We come by way of explaining this because
2 there's been a lot of innuendos and conversations about
3 who, what, why; and so I wanted to make sure that you
4 all knew that this was not a legislative kind of
5 initiative. I think there's been some sentiment that
6 this was a thought that this was a conflict with my
7 role as a legislator.

8 I want to affirm that the Ethics
9 Commission has already written a letter saying there's
10 no prohibition for me to be a part of this application,
11 number one. Number two, it was not related to my being
12 a State Representative but rather a business
13 relationship with the Alameel family.

14 Over the last 10 years or so, I've known
15 and worked with Dr. Alameel and his family on many
16 business ventures; and in fact, many times my business,
17 which is a 21-year-old business in the State of Texas,
18 has been the administrative arm for many of his
19 endeavors, business endeavors. So this was just a
20 natural kind of model that would work because we've
21 provided the business -- the administrative support for
22 many of his business ventures in the past. And so we
23 wanted to make sure and clear that up, that no one
24 thought that this was something other than a natural
25 relationship that had been in place for many years

1 where we provided -- YD Associates is my company, where
2 we provided administrative support to his efforts and
3 his business dealings and they span the gamut.

4 The other thing I'd like to just make a
5 comment on is, though we move through this process, we
6 recognize that there is a procedure and process and
7 we're very willing to answer any questions and
8 concerns. We didn't want the Commission to feel as
9 though we were uncomfortable or unwilling to answer any
10 questions and work with you because, in fact, we are --
11 we are a team of transparency. Having been in the
12 Legislature 16 years, if nothing else, I know there's
13 nothing you can hide.

14 So I want to be clear that our team is
15 open to that. We've partnered with who we think are
16 some good partners, who share our philosophy, who
17 understand what we're trying to do. And quite frankly,
18 this is an opportunity for the State of Texas because
19 this will be the first minority-owned license in the
20 State of Texas and I think it's important that we
21 recognize this unique opportunity to do that.

22 So again, I want to thank you for the
23 opportunity to be here and let you know that we're
24 available for any questions. Should you want to ask
25 them later, you have our information. We'd be happy to

1 respond. Thank you.

2 CHAIRMAN ADAMS: Thank you,
3 Representative Davis.

4 MR. RON WILSON: Brian Norman is the real
5 lawyer in the group.

6 MR. NORMAN: I think Mr. Wilson is quite
7 a real lawyer himself.

8 My name is Brian Norman. I represent the
9 applicant. Mr. Chairman, Commission, staff, I thank
10 all of you for your time and service.

11 During the process in which the applicant
12 had first submitted its application, there had been
13 some indication from the staff that there were issues
14 regarding the ownership of the application -- of the
15 applicant that needed to be resolved before action
16 could be taken.

17 As we sit here now, we have two court
18 judgments signed by judges indicating that affiliates
19 of Mr. Alameel, in fact, own the applicant. More
20 recently there has been correspondence sent to the
21 staff in which an allegation that yet another party
22 may, in fact, own the applicant. We have responded to
23 that correspondence by, in fact, filing a declaratory
24 judgment action that attaches the two other court
25 judgments.

1 While we consider it to be overkill
2 because the judgments stand as to who the owner of the
3 applicant is, we certainly didn't want any more of the
4 innuendo or allegations to be floating out there that
5 might further delay action on the application.

6 MR. RON WILSON: Mr. Chairman, we
7 would -- members, we'd be glad to answer any questions
8 you might have for us. But we thought that the best
9 way for us to approach this was to come before you and
10 let you see that we didn't have horns and tails and
11 Representative Davis is not running for the U.S. Senate
12 and Dr. Alameel is not running for president and Lord
13 knows I'm not running for anything other than the
14 hills.

15 So if you have any questions of us, we'd
16 be glad to answer them. If not, thank you very much.

17 CHAIRMAN ADAMS: Thank you, sir.

18 Any questions at this time?

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

20 Appreciate it. Thank you all for coming.

21 Okay. Under general business, our first
22 item is discussion, consideration, and possible action
23 on the budget -- on the following items: Budget and
24 finance first. Shelley Harris-Curtsinger, our chief
25 financial officer, will make the report.

1 MS. HARRIS-CURTSINGER: Good morning,
2 Commissioners. Under Tab 3-1 you will find an update
3 on the agency's FY 2008 budget status. As of August
4 31st, 2008, with 99.5 percent of expenditures being
5 reported, as of this accounting cycle, staff is happy
6 to report that the agency is 12.73 percent under
7 operational budget and 9.66 percent under ATB budget.

8 The lapse in appropriations and
9 expenditures for FY 2008 is due to the closure of
10 Corpus Christi Greyhound Racetrack and the decline in
11 pari-mutuel handle during the year.

12 At our next Commission meeting I will
13 provide the final update of the agency's fiscal year
14 2008 budget and provide the initial update of the
15 agency's 2009 fiscal year budget.

16 In addition to this budget update, I
17 would like to also provide an update on the
18 appropriation for the upcoming legislative session.

19 The agency attended its first hearing on
20 September 11th before the joint budget panel. This
21 hearing was for the staff members of the Governor's
22 office, the Legislative Budget Board, the Senate, and
23 the House to attend and ask questions. Chair Adams,
24 Executive Director Charla Ann King, and I made
25 presentations to the panel and then responded to their

1 questions.

2 Questions posed to us were focused on the
3 areas such as exceptional items requested in the
4 agency's 2010-'11 Legislative Appropriations Act, the
5 agency's sunset review, the closure of Corpus Christi
6 Greyhound Racetrack, the agency's licensing process,
7 and the agency's performance measures.

8 Staff is continuing to answer questions
9 posed by the Legislative Budget Board staff regarding
10 the agency's 2010-2011 legislative appropriation
11 request in preparation for hearings with Senate finance
12 and House appropriations. We believe we will be
13 notified of these hearings within the next few months.

14 I'll be happy to answer any questions you
15 may have.

16 CHAIRMAN ADAMS: Are there any questions
17 for Shelley at this time?

18 I think not. Thank you, ma'am.

19 The next item on the agenda is the report
20 on racetrack inspections. Our compliance auditor,
21 Carol Olewin.

22 MS. OLEWIN: Good morning,
23 Commissioners. I'm Carol Olewin, inspection compliance
24 administrator. This is the report on racetrack
25 inspection activities.

1 The first three items are for Gillespie
2 County Fair. These were routine mid-meet inspections.

3 The next set of inspections are for Gulf
4 Greyhound Race Park. These are midyear inspections.
5 We did have some outstanding items that we have
6 suspended until Gulf Greyhound resumes operations after
7 Hurricane Ike.

8 The next set of inspections are Lone Star
9 Park. These are pre-meet inspections.

10 The next set is Retama Park. These are
11 also pre-meet inspections.

12 The next set is Sam Houston Race Park.
13 These were mid-meet inspections.

14 And Valley Race Park were midyear
15 inspections.

16 And the final two are training track
17 inspections.

18 Are there any questions regarding
19 inspections?

20 CHAIRMAN ADAMS: Any concerns, questions
21 from the Commission?

22 I think not. Thank you, ma'am.

23 MS. OLEWIN: Thank you.

24 CHAIRMAN ADAMS: The next item, report
25 and update by the executive director, Charla Ann,

1 please.

2 MS. KING: Good morning, Mr. Chairman and
3 members of the Commission. I have a fairly short
4 report for you today.

5 First I would like to address the
6 electronic fingerprinting project. It's going very
7 well. Our staff has worked hard on this change and we
8 need to recognize the efforts of Cathy Cantrell, Mark
9 Fenner, John Altman, and Shelley Harris-Curtsinger who
10 have provided leadership and support to get the pilot
11 well under way.

12 We currently have two machines in place
13 at Lone Star Park, one portable and one permanent. Our
14 licensing clerk, Laurie Reeter-Brown, is the project
15 manager there and doing a great job. We electronically
16 fingerprinted a total of 127 individuals in September.

17 In this pilot stage we are working on
18 various implementation issues, including getting set up
19 to track and collect the 12-dollar administrative
20 fingerprint fee. The rule that will allow us to
21 collect the 12-dollar fee is up today for adoption on
22 the agenda.

23 In the upcoming months we will be working
24 on the delivery schedule for two permanent machines to
25 be located at Sam Houston Race Park and Retama as

1 part -- as well as setting up a portable machine at
2 Valley Greyhound for the opening that is in November.
3 We will also be working on moving the portable machine
4 from Lone Star to Gulf Greyhound.

5 Commissioners, this project would not
6 have been possible without our partner DPS. The DPS
7 Commissioners and DPS staff members have been extremely
8 helpful. Because of the change, we will be more
9 efficient, with a shorter turnaround time on the
10 criminal histories. We thank DPS for getting us caught
11 up with the latest technology and for helping us
12 respond to a concern that was identified by Sunset
13 Commission staff.

14 Next I would like to cover improvements
15 to the agency's website. We are almost finished with a
16 redesign of the website. We are anticipating it will
17 be ready to go on Monday, October 20th. Our goal is to
18 make the site more customer friendly with an updated
19 appearance and format. It will now include a search
20 engine to make navigation of the site easier.

21 The site will continue to provide a wide
22 range of information. All of our agency publications
23 are accessible through the site, including our most
24 recent legislative appropriations request and the
25 detailed study guide for the new trainers exam.

1 In addition to making the current website
2 material easier to find, staff is adding some new
3 information. For example, all 2008 licensee rulings
4 will be accessible both alphabetically and by
5 racetrack. Disciplinary rulings are public records and
6 are already posted on bulletin boards at the tracks;
7 but now, as in many other states and other State
8 agencies, rulings will be available by computer for
9 those who are interested.

10 I have also encouraged our neighboring
11 jurisdictions to make their rulings available. This
12 would help regional regulators stay up to date on
13 enforcement actions in the south by west region. It
14 would also help contribute to increasing consistency in
15 the administration of penalties.

16 The Commission and the industry are using
17 the website more than ever before. As you all know, at
18 Chair Adams' request a few months ago, we moved away
19 from distributing over 100 hard copies of the
20 Commission agenda packet. Instead we are sending
21 e-mail notifications that the materials are available
22 online. In addition to conserving resources, the
23 information is getting out to people a lot more
24 quickly.

25 I will close with two racetrack items.

1 First, I would like to comment on the Quarter Horse
2 meet at Sam Houston Race Park. I am happy to report
3 that out of the 66 rulings issued during the Sam
4 Houston Quarter Horse meet, none of the rulings were
5 issued for an animal drug positive. Sam Houston's meet
6 ended on September 6, with a loss of two racing days
7 due to Hurricane Ike. The meet concluded with over
8 308,000 in attendance and a total handle of more than
9 26 million.

10 My last item is an important item because
11 it is about our most important resource, the good
12 people who make racing work. Everyone who heard the
13 news that Bob Pollock, general manager at Retama Park,
14 had decided to retire was disappointed. Well, everyone
15 but his family of course.

16 Bob started as an association steward at
17 Retama in 1995 and two years later became the general
18 manager. He has a long history in racing, starting
19 more than 40 years ago when he trained horses with his
20 father in the Midwest. He has helped Retama grow over
21 the past 13 years, including starting the training
22 center in 1997. In addition, he has put together a
23 great team of employees and has developed a
24 well-respected racing office that reflects his positive
25 attitude, high standards, and integrity.

1 I will long recall my first night on the
2 job because of Bob. He was giving me his general
3 manager's tour. We were in the winner's circle and Bob
4 asked if I had ever been to the starting gate and would
5 I like to go. Well, nobody had mentioned that so far,
6 so I said yes, I'd love to go. He then looked down at
7 my feet. He was relieved to see I was wearing boots
8 and not high heels; but he did ask, "Do you mind
9 getting your boots dirty?" I have been getting my
10 boots dirty ever since.

11 If you've ever been to the track and ever
12 had the opportunity to spend time with Bob, you will
13 know what a gentleman he is and what a kind person he
14 is. Everyone is going to miss him. I know our staff
15 will miss him very much. Some members of our staff
16 have known him longer than Bob would like to admit.

17 Bob, we wish you the best of luck and
18 good fortune in your future and we hope our paths will
19 cross again. Mr. Pollock, if you would, please rise
20 and be recognized by the Commission.

21 CHAIRMAN ADAMS: Mr. Modest. Good job,
22 Bob.

23 The next item on the agenda is a report
24 from our working groups. I will begin first with
25 Commissioner Ederer on policies, procedures, and

1 ethics.

2 COMMISSIONER EDERER: Before we get to
3 that, we only lost two racing days as a result of Ike?

4 MS. KING: At the Quarter Horse meet,
5 yes, sir.

6 COMMISSIONER EDERER: That's terrific.

7 CHAIRMAN ADAMS: Very good.

8 COMMISSIONER EDERER: We were
9 requested -- our group was requested to review the
10 ethics policy of the Commission, which we did. What I
11 did is I first tried to get it all together. It was
12 kind of helter-skelter, in various locations. So what
13 we have attempted to do and I think we have done now is
14 we've pulled the ethics policy and standards of conduct
15 all together.

16 We've divided it into four sections: The
17 office policies and conditions of employment, conflicts
18 of interest, ethics policy and standards of conduct for
19 Commissioners, ethics policy and standards of conduct
20 for the general counsel's office. Everything now can
21 be found -- everything that controls the ethics policy
22 and standards of conduct for the Commission can now be
23 found under Chapter 4.

24 There was never any intent -- after a
25 quick review it was obvious everything was in place and

1 there was never any intent to substantially change what
2 has been in effect, after review that it was obvious
3 that everything that needed to be there was there. But
4 it was in various locations, so we've now pulled it all
5 together and it is now in one place.

6 And we now request that the Commission
7 consider adopting Chapter 4, ethics policy and
8 standards of conduct, as we have presented it.

9 COMMISSIONER SOWELL: So move.

10 CHAIRMAN ADAMS: Do we have a second to
11 that motion?

12 VICE-CHAIRMAN CARTER: Second.

13 CHAIRMAN ADAMS: It's been moved and
14 seconded that the new policies, procedures, and ethics
15 be made part of our provisions.

16 Any discussion on that?

17 All those in favor please indicate by
18 saying aye.

19 COMMISSIONERS: Aye.

20 CHAIRMAN ADAMS: Any opposed?

21 The motion carries.

22 Thank you, Mr. Ederer, for a lot of hard
23 work and your committee folks as well. And I know that
24 it took a lot of effort. And I don't know -- for those
25 of you all who may or may not realize that staff did go

1 out to all the adjoining states and pull together all
2 of their information. We went through the -- go
3 ahead.

4 COMMISSIONER EDERER: I didn't mention
5 that; but, yes, I had considerable help from Mark
6 Fenner, our general counsel. Of course, Commissioner
7 Hicks and Commissioner Anderson were part of the
8 Commission. I'm sorry I forgot to mention that. And
9 we then went -- after it was put together, we then sent
10 it to the Attorney General's office and the Attorney
11 General's office did approve it. They had some comment
12 and we now have a finished product.

13 CHAIRMAN ADAMS: So I applaud the
14 thoroughness of your effort, Mr. Ederer, and thank you
15 for taking the time to do that.

16 Moving on, the next item would be our
17 report by Commissioner Pablos on the working group for
18 future funding of the Texas Racing Commission.

19 COMMISSIONER PABLOS: Thank you,
20 Mr. Chair. We're at the stage in our process where
21 we've actually taken a look at other states with
22 respect to how the agencies are funded. And staff has
23 done a great job in performing a survey and Charla Ann
24 has some comments to make about the survey. In front
25 of you, you should have the preliminary results where

1 we have surveyed 28 jurisdictions and asked
2 particularly where -- or how they are funded. And so,
3 Charla Ann, if you could please give us an update.

4 MS. KING: Certainly. I'd be happy to,
5 just very briefly. This was our first run through the
6 survey. One of the things we found is that everyone's
7 method of finance story is fairly complicated and so
8 we're going to have to do some follow-up to clarify
9 what all these checks in the boxes actually mean.

10 But we wanted to give you the first look
11 at it so that you could see the number of jurisdictions
12 that are funded through general revenue and then
13 notably, from our perspective, was the number of
14 jurisdictions that get a percentage of the handle. It
15 was a little surprising to us. Very few get uncashed
16 tickets, a little bit of breakage, and then the rest is
17 pretty traditional in terms of fees and fines.

18 But we're finding a different pattern in
19 terms of, when that revenue is collected, you know, it
20 goes into revenue and how it's accounted for and how
21 the Racing Commissions get credit for the money that's
22 been collected either through taxes or fees. And so we
23 think there's probably some additional explanation
24 we'll be able to provide as follow-up on fees and fines
25 and the other forms of gaming.

1 But we wanted to get this to you because
2 it's an important issue; and with the legislative
3 session coming up and finance always a topic during the
4 session, we wanted to make sure that the Commissioners
5 had an idea of what was going on in other jurisdictions
6 and then we'll continue working with the Commissioner
7 on this project.

8 COMMISSIONER PABLOS: Thank you, Charla
9 Ann.

10 As you can see, this is a very good
11 overview of how Texas is funded and other states in
12 comparison. And so as you know, this is a long process
13 and we'll continue working on it and report to you next
14 time. Thank you, Mr. Chair.

15 CHAIRMAN ADAMS: Thank you, Commissioner
16 Pablos. I appreciate your efforts.

17 The next item will be the report by -- on
18 the working group on safety and medication. Dr. Marsh,
19 our chief veterinarian, please.

20 MR. MARSH: Good morning, Commissioners.
21 I'm Stewart Marsh, chief veterinarian for the Racing
22 Commission.

23 On September 16th we had a meeting of the
24 safety and medication working group. The participants
25 of the meeting were Dr. Carter, industry members, staff

1 of the Texas Veterinary Medical Laboratory, and the
2 Commission staff.

3 Our first item on the agenda was the
4 issue of anabolic steroid testing. We stated at the
5 meeting the intention of beginning to report anabolic
6 steroid positives on January 1st of 2009. The staff
7 has dealt with this issue for over a year. At the
8 September '07 meeting of this working group, we began
9 discussions on this issue.

10 Out of that meeting evolved a study in
11 which horsemen voluntarily offered their animals in
12 training to allow us to administer a known dose of
13 anabolic steroids and collect urine and blood samples
14 for 35 days after administration. And I'd like to
15 thank those people involved once again for their
16 participation.

17 Out of this, at this point we have
18 actually no data to report yet. We are having
19 problematic studies with the urine. It's become highly
20 labor intensive to quantitate and detect some of the
21 problems. Other studies that are being conducted in
22 Florida and New York, which are only doing blood, are
23 having similar problems and are not making public their
24 data at this time either.

25 So we have a model rule and a cry from

1 the industry, in particular the Thoroughbred Owners and
2 Breeders Association and the Breeders' Cup, who has
3 stated that if jurisdictions do not have some type of
4 rule in place, either in-house or by the Commission
5 governing the jurisdiction, that they will withdraw
6 their support as of January 1st, '09.

7 The actual discussion at this meeting did
8 not involve whether or not we should implement the
9 date. The discussion was the concerns of the horsemen
10 concerning horses they get from out of state.

11 Now, at the Racing Commissioners
12 International meeting in the spring of '08 that we had
13 here in Austin, we had a regional breakfast with our
14 neighboring states. New Mexico, Oklahoma, Louisiana,
15 Arkansas was there and Colorado were there. And at
16 that point we stated our January 1st intentions to
17 begin. Most states were in agreement. Oklahoma said
18 they were probably going to be a little bit behind
19 because of their process of passing rules in their
20 state.

21 So the issue of the starting date really
22 is not problematic. The problem the horsemen see is
23 horses they get into their barn to race in Texas from
24 other jurisdictions that do not have an anabolic
25 steroid rule. So this discussion rounded about to how

1 can we test these horses before entry to make sure that
2 we're not going to test positive in Texas.

3 Currently the TVMDL does not offer public
4 testing for anabolic steroids; so the solution was to,
5 at the owner or trainer's expense, probably send it to
6 another lab for testing prior to entry of this horse.

7 So the staff's approach on this has been
8 decided that at the next meeting in December, we should
9 propose a model anabolic steroid rule to be placed in
10 the Texas Register. This would give us time to look at
11 the results as they are available. Hopefully they'll
12 be available before this meeting and we'll have the one
13 rule that will stand the test of time. At this point
14 we don't know.

15 January 1st the intention is to begin
16 reporting anabolic steroid positive tests using our
17 existing rule. The statute allows us -- the Rules of
18 Racing allow us to set a limitation or a threshold on
19 certain therapeutic drugs. We have that list already.
20 We can add anabolic steroids to this list in urine and
21 use our existing rule and be within the limits of the
22 law.

23 In preparation of the February meeting,
24 we should have all our studies in order and be able to
25 report in all certainty that the rule that would be

1 adopted would be a satisfactory rule. So that's our
2 plan at this point on the anabolic steroid issue.

3 The next item on the agenda was toe
4 grabs. There's been a proposal by TOBA and the
5 Breeders' Cup again and a proposed model rule that the
6 limit of toe grabs on Thoroughbred horses would be two
7 millimeters. And I have some shoes for show-and-tell
8 provided by Mr. Jordan. And again, I thank him.

9 Now, by my measurements, this would be a
10 two-millimeter shoe.

11 CHAIRMAN ADAMS: We're supposed to trust
12 Mr. Jordan?

13 MR. MARSH: I measured two millimeters
14 and it was the size of two quarters put together.

15 And these are examples of other shoes.
16 This is a queen's plate. It has no toe grab at all on
17 it, which is commonly used right now in the
18 Thoroughbred industry.

19 Actually there was very little discussion
20 about this item on the agenda as long as it would be
21 limited to Thoroughbred horses. And I think there is a
22 lot of compliance there to begin with. However, we
23 discovered that no traction devices on the heels were
24 included in this rule, the model rule, and that would
25 negate any advantage of regulating toe grabs if we had

1 traction devices. So I have some examples here of a
2 heel traction device.

3 This is a caulk, otherwise known as a
4 block heel. And this would be called a sticker, which
5 is a sharper caulk, a smaller and sharper caulk. So
6 those are the types of shoes that are in question right
7 now.

8 So we limit the toe grabs to two
9 millimeters. We would allow no heel traction devices
10 to make the rule reasonable.

11 The staff's recommended approach for that
12 would be at the December 3rd meeting to propose a
13 comprehensive rule, which is not forthcoming yet from
14 the model rule but it's expected, to be placed in the
15 Texas Register. On the 1st of January we would rely on
16 the racetrack associations to enforce a house rule on
17 the two-millimeter toe grabs, which is very, very
18 possible. It takes no testing, no scientific people.
19 Their paddock farrier could do that. And we would do
20 this temporarily, waiting for the adoption of a toe
21 grab rule in the February meeting so we would meet the
22 desires of the TOBA and Breeders' Cup people.

23 Our last item on the agenda is a cleanup
24 item that I brought up. This is the uniform
25 classification guidelines for foreign substances and

1 recommended penalties and model rules. This was
2 recently revised in August of 2008.

3 As you can see, many, many drugs are
4 listed and classified in this. This is done by the
5 Racing Commissioners International board of chemists, a
6 very astute group. So this is a very well thought out
7 document.

8 I brought up to the meeting participants
9 that Texas has three drugs that vary in classifications
10 from these RCI standards. We have caffeine, we have
11 Acepromazine, and we have Clenbuterol that are all
12 lower classifications than in the RCI guideline
13 document.

14 Caffeine is a central nervous system
15 stimulant. It is truly an environmental contaminant.
16 It is found in many places in the environment,
17 including some plants. Currently it is a Class 2 RCI
18 drug. In Texas it is a Class 3 violation.

19 The Acepromazine is a tranquilizer. It
20 is a Class 3 drug in the RCI guides, a Class 4 drug in
21 Texas. Acepromazine is commonly used to perform
22 farrier procedures and possibly cosmetic procedures on
23 horses. It's -- I guess its claim to fame is that it
24 doesn't cause ataxia in the horse or wobbliness in the
25 horse after administration that is caused by most of

1 your other tranquilizers. I feel that it -- while it
2 acts as a sedative, it doesn't have quite the analgesic
3 properties as the other tranquilizers.

4 The third drug is Clenbuterol, which is a
5 bronchodilator. The bronchodilator group of drugs is
6 classified as a 3 in the RCI. Clenbuterol is a 4 in
7 Texas. Clenbuterol is the only bronchodilator that has
8 a veterinary label for use in horses. So that may be
9 the consideration of why the classification is lower.
10 I know the history on Clenbuterol somewhat. I know
11 none of the history on Acepromazine or caffeine on why
12 their classification is lower.

13 So that's my wrap-up. I would certainly
14 entertain any questions.

15 CHAIRMAN ADAMS: I have a question. Is
16 staff comfortable with the designation in Texas of
17 these three drugs being one step below of what RCI is
18 recommending?

19 MR. MARSH: At this point we are because
20 in looking at penalties in other jurisdictions, we find
21 that we are probably one of the most stringent penalty
22 states because we do follow the recommended penalties
23 as in this document, the RCI penalty guideline, and we
24 are comfortable at this time with those lower
25 classifications.

1 CHAIRMAN ADAMS: I have one other
2 question, Dr. Marsh. And I don't recall -- I know that
3 I had this information originally. But how many horses
4 and how many different classes do you have in your
5 test, in your anabolic steroid test, your urine test?

6 MR. MARSH: We had 40 horses. We had 10
7 horses in each group. We used four anabolic steroids
8 on it.

9 CHAIRMAN ADAMS: Very good. Thank you,
10 sir.

11 Any other questions for Dr. Marsh?

12 COMMISSIONER EDERER: Back to the toe
13 grab, is there any RCI standard at the present time?

14 MR. MARSH: No, there is not. There's a
15 proposed rule, model rule, that should be adopted in --
16 Minnesota? Is that correct?

17 MS. KING: It was passed at the board
18 level but needs to go to the member jurisdictions in
19 March, so it's a slow process. But it's a
20 two-millimeter that's in process.

21 COMMISSIONER EDERER: And in Texas we
22 would go with two millimeters?

23 MR. MARSH: Yes. On Thoroughbreds.

24 COMMISSIONER EDERER: And as far as
25 Quarter Horses are concerned, no toe grab.

1 MR. MARSH: No.

2 CHAIRMAN ADAMS: There's no restriction
3 or there's no toe grab allowed?

4 MR. MARSH: There's no restriction on
5 Quarter Horses at this time in this proposed rule.

6 CHAIRMAN ADAMS: Okay. Any other
7 questions?

8 Thank you very much, Dr. Marsh.

9 VICE-CHAIRMAN CARTER: Can I clarify
10 something? We're not acting on this today, but we're
11 planning to act on it at the next meeting. Is that
12 correct?

13 MS. KING: Yes, sir, that's correct.

14 VICE-CHAIRMAN CARTER: Okay.

15 CHAIRMAN ADAMS: Thank you, Dr. Marsh.

16 MS. KING: I would just point out that
17 we've attached the steroid rule and the toe grab rule
18 so you could get a look at it before the next meeting.

19 CHAIRMAN ADAMS: Okay. Next we have a
20 report and update by the Texas Arabian Breeders
21 Association as the official State horse breeding
22 registry for Arabians. And Mr. Ed Wilson is president
23 of the breeders association. Is Mr. Wilson here?
24 Yes.

25 MR. ED WILSON: Thank you, Mr. Chairman,

1 fellow Commissioners. I'm Ed Wilson, president of the
2 Arabian Breeders Association. And we're happy to have
3 the opportunity to visit with you and let you know
4 about what's going on with us.

5 We're fairly small in regard to
6 number-wise to the other organizations. We have 75
7 members and it varies usually -- the last three years
8 it's run from 75 up to about 85 active membership. And
9 each annual -- we'll just kind of run you through the
10 year.

11 We start out with our annual meeting
12 usually in the latter part of January and we've been
13 having that in Houston. We usually tie some kind of
14 races with that so that they get our people out to
15 enjoy it. This coming year, though, we're going to
16 join with the Thoroughbreds and Quarter Horses at their
17 annual meeting that they're pulling together in Dallas
18 in January. So we'll be there to be a part of that and
19 that way our people can also take part in the seminars
20 and activities that they have going on there.

21 About five or six years ago the Arabians
22 came up with their version of a Triple Crown and it
23 starts with two races, one for males and one for
24 females, four-year-olds, in California in January.
25 Then in March, the second race of that is run at Sam

1 Houston here in Texas. The first one is five and a
2 half furlongs. This one is seven furlongs. And then
3 it winds up in Delaware in June with -- I think the
4 females go a mile and the males go a mile and a
5 sixteenth. And these are all graded stakes.

6 And we'd like to report that last year
7 both divisions was won by accredited Texas-bred horses
8 out in Houston and then the colt went ahead and won his
9 division at Delaware in June. So we feel like that
10 showed our program was going well in that respect.

11 In April, for several years Retama Park
12 has been nice enough to allow us to have an auction.
13 They hold an auction for Arabian racehorses there. We
14 generally have about 40, plus or minus. We have had as
15 high as 70 horses participate in this sale. At times
16 we don't have as many buyers as we'd like to get, but
17 it's gone fairly well.

18 The last two years our averages were
19 about the same. In '07 we had individual horses that
20 brought higher prices; but then in '08 the median price
21 was about -- was more consistent; and for the average
22 for the two years, we're about -- I think within about
23 a hundred dollars of each other. So that wasn't too
24 bad.

25 Our accreditation program has also been

1 fairly consistent. In 2007 we had an additional 58
2 runners accredited, 28 additional broodmares, and three
3 stallions. In '08, of course, the runners are not
4 accredited. They won't be probably until later on
5 through this year. But we had an additional 29
6 broodmares come in and five additional stallions come
7 in this year. So that was a little bit of an
8 increase.

9 We're also pleased that in 2007, of
10 accredited Texas-bred horses of the races that Arabians
11 ran in Texas, in 67 percent of our races we had an
12 accredited Texas horse finish first, second, or third,
13 at least one, in 67 percent of those races. And this
14 year, up through last Saturday night, we've had one or
15 more accredited horses finish first, second, or third
16 in 81 percent of our races. So we have -- we feel like
17 that we're breeding some good horses in Texas now.

18 As a matter of fact, one of our owners,
19 Sam Vasquez, is the leading -- has won more races than
20 any other owner in the United States at this point. He
21 races primarily in Texas and he runs in Colorado and
22 out in California some, too. So he has probably the
23 largest stable of anyone that I know particularly.
24 There may be some in Delaware that has larger stables,
25 but Sam is real active in the program and probably 50

1 or better percent of those horses he's actually bred
2 himself and some of the others that he bought were
3 accredited Texas-bred, but some -- some but not all of
4 them are.

5 On our accredited Texas-bred funds that
6 we've distributed, we've had -- in looking at it to
7 make sure that -- we do cap the amount of awards that
8 we pay on any particular race. If a horse earns more
9 than \$5,000, we still cap it off at five so that we can
10 spread some money out, we feel like, more among all the
11 members and that figure probably will have to be looked
12 at a little bit different one of these days because we
13 are having -- especially on stakes that are running up
14 over that and we probably need to adjust that.

15 But in '07 we had 13 different individual
16 owners, eight individual different breeders, and five
17 different stallion owners that received awards. And
18 many of those had more than one horse that was running
19 in that category. This is individual people that got
20 awards. And at this point, if we paid out up through
21 now, we would have 19 owners, eight breeders, and seven
22 stallion owners that have earned awards up to this time
23 with one or more horses. So we're real pleased with
24 that.

25 Where do we race? We race with Sam

1 Houston in the -- beginning in January through their
2 meet into March, early April. And then, as of now,
3 basically we're not running any more in Texas or very
4 little more in Texas until Retama Park opens in late
5 August or -- yeah, late August. This past year they
6 were nice enough to allow some of our trainers that
7 didn't leave the state and owners that had some young
8 horses they were bringing up -- they allowed us to run,
9 I think, during the Quarter Horse meet like three or
10 four maiden races down there to give those people an
11 opportunity to run in.

12 Most of our owners and trainers have sent
13 their horses out of state during that period of time.
14 Colorado has come up with a particularly good program.
15 They start in late May and run through about the 10th
16 or 15th of August and they run from one to two races a
17 day up there for Arabians, so therefore the horses get
18 a lot of opportunities to run and their purses are
19 generally very similar to ours. So it gives them an
20 opportunity to race their horses quite a bit more.

21 Basically we run two races a week here in
22 Texas with the tracks we're running. We have just
23 completed, I think, a good meet at Sam Houston -- I
24 mean, at Retama Park. We will run up through this past
25 weekend there. And we also opened at Lone Star this

1 past Friday night with a couple of races there and then
2 we'll be running additional races there through the end
3 of their meet and then go back to Sam Houston in
4 December.

5 So that's kind of an overview of what we
6 do and what we are. And if you've got any questions,
7 I'll be glad to answer any of them I can for you.

8 CHAIRMAN ADAMS: Thank you, Mr. Wilson.

9 Any questions of Mr. Wilson on the
10 Arabian racing program?

11 I think not. Thank you, sir.

12 Before we go on to the next item, I was
13 reminded by staff that we need to read into the record
14 that Commissioner Sowell has joined us at 10:45.

15 Thank you, ma'am.

16 The next item is to recognize Mr. Bruce
17 Grider, executive director of the Texas Paint Horse
18 Association, for his update on the official state of
19 the Paint program.

20 MR. GRIDER: Good morning,
21 Commissioners. My name is Bruce Grider. I'm president
22 of the Texas Paint Horse Breeders Associates, which was
23 founded in 1989. Our first Texas-bred races were run
24 at Trinity Meadows in Weatherford in the early '90's.
25 Our membership has been up and down over the years due

1 to different things, mainly because of competition for
2 our Paint horses going to Oklahoma, California,
3 Louisiana at different times. But in the last year or
4 so, our membership has started to grow again because of
5 the racing opportunities here.

6 Since the 1998 racing season to the 2008
7 racing season, the average added money in our Texas
8 stakes races has more than doubled, as well as the
9 addition of several new stakes races added to the
10 schedule. We owe a tremendous thanks -- a thank you to
11 Sam Houston Race Park and Manor Downs for their
12 continuous support of Paint racing during the whole
13 period that we've been in existence and to Lone Star
14 for offering the richest stakes races in Texas Paint
15 history and to Retama Park for adding the Colors of the
16 Alamo Futurity in 2007.

17 The Gillespie County Fair at
18 Fredericksburg always holds a special place in our
19 heart because of their history with Paint racing and
20 for me because I won the race one time. And I was a
21 coach there at one time. So I had ties to that.

22 At the present time there are over 300
23 accredited Texas broodmares and we are looking to
24 increase that number to over 450 in the 2009 breeding
25 season. We expect the 2009 active membership to double

1 during the 2009 breeding and racing year to around
2 200. We have added interest in our lifetime
3 memberships because people are beginning to see that
4 Paint racing looks like it's here to stay.

5 We have initiated a stallion auction, a
6 breeding auction for the 2009 breeding season, and it's
7 increasing the number of accredited Texas-bred
8 stallions from an average of 23 to over 75 for the 2009
9 breeding season, which that's kind of contrary to
10 what's been going on.

11 Geographically, the Valley area south of
12 San Antonio has become one of our most productive areas
13 because owners are choosing to stay at home, racing at
14 Sam Houston, and rather than traveling to Oklahoma, et
15 cetera. You know, gas is high. But at the same time
16 Sam Houston and the other tracks have been offering us
17 more stakes schedule.

18 Our leading earner of Texas-bred money,
19 our Texas-bred funds, for 2007 earned \$17,232.08 as a
20 breeder of racing stock. He owns stallions and he
21 owned broodmares. So he accumulated quite a little
22 bit, which is encouraging. There would be several
23 other owners, particularly of Quarter Horses and
24 Thoroughbreds, who, had they nominated their stallions
25 for just a 50-dollar lifetime accreditation fee and a

1 50-dollar annual fee, would have jumped in there and
2 earned some more money also.

3 We've joined the Texas horse movement
4 because we want to see our Texas-bred horses be
5 successful here in Texas. Many of our retired
6 racehorses move on to the performance horse arena as
7 barrel horses, roping horses, as well as eventing. We
8 actually have Paint -- retired Paint racehorses who
9 jump fences. And there are many of them that retire
10 and have very colorful -- colorful 4-H competitors.

11 We look forward to many productive years
12 in the future with an aggressive stakes program and, as
13 our numbers grow, a complete racing schedule. If you
14 would like to try to keep up with us, we have also
15 added a website at www.tphba.com. Thank you.

16 CHAIRMAN ADAMS: Thank you, Mr. Grider.
17 Appreciate your report.

18 Any questions?

19 Thank you, sir.

20 The next item on the agenda is provisions
21 relating to the change of location for a racetrack.
22 General counsel, Mr. Fenner.

23 MR. FENNER: Commissioners, after the
24 last Commission meeting, I was requested to come up and
25 give a brief description of the statutory and rule

1 provisions that relate to the change in location of a
2 racetrack. And I prepared some materials for you and
3 you'll see before you today a new four-pager. It's two
4 pages stapled front and back. They give kind of a
5 brief overview. And in addition to the statutory and
6 rule provisions that relate to it, I also was asked to
7 provide a bit of a historical context about these
8 changes.

9 So the first thing I want to let you know
10 is that a racetrack license is site-specific. Under
11 Section 6.14 of the act which is entitled "Racing
12 Restricted to a Designated Place," it says an
13 association may not conduct greyhound or horse racing
14 at any place other than the place designated in the
15 license. And then it provides two exceptions. One is
16 in case of a fire, flood, or catastrophe. There's kind
17 of an alternative method. The other is if -- for a
18 temporary location, if a racetrack facility has not
19 been constructed, then the Commission could issue a
20 temporary license in the same county. That temporary
21 license is only good for two years. So a license is
22 site-specific.

23 However, the act also provides a
24 mechanism by which the location can be changed; and
25 that's in Section 6.14(d) of the act which provides

1 that the Commission shall amend a racetrack license to
2 change the location if it finds that the conduct of
3 race meetings will be in the public interest at that
4 new location, that there wasn't a competing applicant
5 for the original license, and that the association's
6 desire to change location is not the result of
7 subterfuge in the original license proceeding. If you
8 find that all three of those criteria are met, then the
9 statute provides that you shall change the location of
10 the license.

11 Now, when it talks about these three
12 criteria, in the first one, that the conduct of race
13 meetings will be in the public interest, this is very
14 similar language as what's in Section 6.04 of the act,
15 which is about what you consider when a license is
16 originally granted. You'll see there on 6.04(a) that
17 there are 11 factors listed. And these 11 factors
18 relate to the finances and the business plan of the
19 association. They relate to the site and the
20 facilities, the operations, and the background that are
21 planned -- the operations of the track and then the
22 background of the individuals who would be either
23 owning or operating the track, as well as the economic
24 impact that the license would have in the new
25 location.

1 So when in the past the Commission has
2 considered whether or not a change of location serves
3 the public interest, these are the factors that you
4 have reviewed. And in fact, if you'll look at page
5 three of your two-pager or four-pager, two pages back
6 and front, you'll see the types of material that staff
7 has requested as part of the regular application
8 period.

9 This is the form that we require
10 applicants to fill out regardless of whether it's a
11 change in the controlling interest of a racetrack or a
12 change in the location or both. We make them fill out
13 all this information. And it's a lot of information.

14 This information also relates to the
15 relevant Commission rules which are on page two of
16 four. You'll see quite a list of rules that an
17 applicant for a change in location has to comply with.

18 What happens is once the staff has
19 reviewed the application and determined that it is
20 complete, then we distribute it among our staff and the
21 folks who are subject matter experts in each area of it
22 will review the application in light of these rules and
23 assess whether or not it complies with those rules.

24 Once staff has reviewed it and we have
25 also sent it over to the Department of Public Safety to

1 do their background checks on these prospective either
2 owners or the new management of the racetrack, then we
3 prepare a report to the Commission and we give it to
4 the Commission. And you'll also see that one of the
5 factors that we're considering is the expressed support
6 or opposition to the racetrack. You may recall from
7 the Pflugerville license that expressed support or
8 opposition played heavily into your decision-making.

9 I want to talk a little bit about the
10 history of requests to change location. The original
11 change came back in January of 1993 and this was
12 shortly after that Section 6.14(d) was passed. This
13 was to change Lubbock Downs from a location in Lubbock
14 County to a location near Slaton, which is also in
15 Lubbock County, so it wasn't very far. They moved the
16 license about 10 miles.

17 Then later, in 2001, the Commission
18 approved the sale and relocation of Lubbock Downs to
19 Amarillo. That happened August 9th, 2001. They
20 followed very much the same process that I have
21 outlined here. They filled out an application form.
22 The Commission discussed all these factors in a public
23 meeting and found that it served the public interest,
24 that there was not a competing applicant for the
25 original license, and that there was no subterfuge in

1 the original application process and thereby approved
2 the location -- relocation to Amarillo.

3 The other license that has changed
4 location would be Longhorn Downs, which you also know
5 as Austin Jockey Club. Longhorn Downs was originally
6 granted in 1989. In 1993 it was approved to be
7 relocated from its original site in Round Mountain to a
8 site in Grand Prairie.

9 They had quite a discussion. They filled
10 out the same types of application forms that we've
11 discussed here. But a year later they approved the
12 relocation of that license right back to Round
13 Mountain.

14 The third change of location for Austin
15 Jockey Club or Longhorn Downs was to move it to a site
16 in East Austin. And that took place in 2000. Again,
17 there was a completed application form. All the types
18 of documents about the stock purchase agreement and
19 letters of support and opposition were considered. The
20 Commission found that it met those three criteria and
21 approved the relocation to East Austin.

22 Unfortunately, the zoning for that site
23 did not come about and that site came up for a fourth
24 motion to seek relocation to the Pflugerville area.
25 There was a hearing on that in 2004. After

1 consideration of the same types of factors, the
2 Commission ultimately decided to delay consideration of
3 the requested change in location until 2005 to give the
4 Austin Jockey Club time to address the local issues,
5 particularly issues of ingress and egress, or to
6 present an alternative site. And that's where that
7 stands right now.

8 So you see that there are provisions in
9 the act that address change of location. There are
10 rules that relate to it. We have -- in the past, when
11 there are not rules directly related to a particular
12 item, we have borrowed from the new license application
13 process and applied those types of standards; but we're
14 welcome -- or open to guidance from the Commission if
15 you'd like to see any changes in this process.

16 CHAIRMAN ADAMS: Any questions for
17 Mr. Fenner?

18 If you recall, at the last meeting we did
19 ask him to prepare this report and bring it to us so
20 we'd have a better understanding of what the history of
21 change has been and what the status of the outstanding
22 licenses currently is.

23 So I appreciate your effort and extensive
24 effort in going back and researching all this history
25 and hopefully this will be of great significance here

1 as we go forward.

2 Yes, Commissioner.

3 VICE-CHAIRMAN CARTER: I have one
4 question just for clarification. I think I read this
5 and you said it. But can we -- according to the rules,
6 it seems like it's not plausible to transfer ownership
7 without a location.

8 MR. FENNER: It is --

9 CHAIRMAN ADAMS: First, let me ask, can
10 we discuss this?

11 MR. FENNER: Well, it's a generic
12 question. He's not tied it to a specific license.

13 CHAIRMAN ADAMS: Okay.

14 MR. FENNER: I think it's very difficult
15 to do that because when you talk about transfers in
16 location -- in fact, I was looking this up. Section
17 6.13 of the act, Subsection (b) says a transaction that
18 changes the ownership of the association requires
19 submission of updated information of the type required
20 to be disclosed under Subsection (a) of Section 6.03,
21 which goes back to the original licensing provision of
22 the act.

23 If you go to Subsection (a) of Section
24 6.03, it lists the types of information that have to be
25 disclosed as part of an ownership transfer and these

1 include such things as the exact location at which a
2 race meeting is to be conducted, whether that facility
3 is to be owned by the applicant, if construction is to
4 be initiated -- has not been initiated, whether it's to
5 be owned by the applicant or if it's to be leased, a
6 detailed statement of assets, liabilities, the kind of
7 racing that is to be conducted, a copy of each
8 management, concession, and tote contract.

9 There's a lot of things that are required
10 to be considered for the transfer of a pecuniary
11 interest in a license that are more than just blessing
12 it, that they pass the background check. So it's
13 problematic to do one without the other.

14 CHAIRMAN ADAMS: Any other questions?

15 Thank you, Mr. Fenner. Appreciate your
16 report.

17 The next item, we'll move on to
18 proceedings on racetracks, discussion, consideration,
19 and possible action on the impact of Hurricane Ike on
20 Sam Houston Race Park, including possible modifications
21 to its 2008 live racing schedule.

22 We have signed on this -- we have a whole
23 bunch of people signed in on this and so we'll begin
24 with Andrea.

25 MS. YOUNG: Good morning. Thank you for

1 allowing us to speak on this matter this morning. I
2 want to give the Commissioners and everyone here an
3 update on the damage and the impact of Hurricane Ike at
4 Sam Houston Race Park.

5 As already mentioned, we were forced to
6 cancel the last two days of our live race meet as well
7 as eight days of simulcasting. We reopened the
8 Saturday after the storm for simulcasting in what I
9 would classify as a contained environment because the
10 facility did take in a lot -- quite a bit of damage
11 from the storm. That is possibly -- it's pretty
12 significant because there's a possible impact to our
13 soon to start -- our Thoroughbred meet that begins the
14 Friday after Thanksgiving.

15 I'm going to focus -- there are a lot of
16 things that happened at the park. We estimate the
17 damages will be indeed, you know, tens of millions of
18 dollars for us. But I'm going to focus on the areas
19 that, for our purposes, could really impact our ability
20 to host live racing.

21 The first is the grandstand, the main
22 grandstand of the building. The roof of that structure
23 actually physically lifted during the storm. Every
24 seam, every screw was compromised. When that roof
25 lifted, a lot of water came into the facility, so

1 clearly there's water damage throughout. But
2 furthermore, you know, all the insulation was pretty
3 much destroyed as well as some of the membrane that,
4 you know, houses the roof structure.

5 We are in the process still of -- and I
6 use the word "process" because this is a lengthy
7 process, I'm learning, of determining what actually can
8 be done to that roof. We are somewhere between, right
9 now, as it stands today, a significant repair to a
10 complete redo.

11 The roof is also of concern because code
12 in Harris County has changed somewhat significantly
13 since the facility was built in 1994, so any
14 significant work to that roof structure is also going
15 to require us to, you know, bring it up to current
16 codes and requirements.

17 The second area that I'd like to
18 highlight today is the barn area. Our largest dorm,
19 Barn Q, for those of you who know the property,
20 sustained a significant amount of damage. The roof --
21 you know, some items penetrated through the roof and so
22 we have big gaping holes. That barn is pretty much
23 going to have to be completely reconstructed. The
24 dorms that are above it where the grooms live during
25 the race meet were completely destroyed.

1 In fact, as we talk about dorms, a lot of
2 our dorms sit on top of barn structures on the
3 property. Every single one of them sustained a
4 significant amount of water damage. We have tried to
5 dry them out in hopes to salvage them. We have been
6 unsuccessful at doing that. As of late last week -- it
7 hadn't rained until today since the storm -- they, you
8 know, were still wet. So we're in the process of
9 evaluating whether or not they will be completely
10 gutted and basically a pillar stays or demoed and have
11 to start over. Again, you know, codes, current
12 electrical -- building codes and such, you know, really
13 impact our ability to move forward with that project
14 quickly.

15 Finally, and probably the least
16 significant of the things I'll highlight, I think,
17 because I do think the Commission would work with us on
18 this, is our tote board was completely destroyed. We
19 have been in contact with Daktronics and some other
20 vendors about replacing that board. So you know we are
21 going down that path.

22 Like I mentioned, there are a lot of
23 carpet, a lot of paint, a lot of ceiling tiles, a lot
24 of the electrical, you know, other tote boards on the
25 property, our beltway sign, our awning. All sorts of

1 things were significantly damaged in the storm.

2 That's where we sit today. I want to
3 thank the Commission staff, Charla Ann and Mark and
4 Sammy, because they've been very helpful through this
5 process. We've also been in contact with the
6 horsemen.

7 Currently our simulcast operation is
8 contained to the entry level of the facility because
9 the way our facility works is that -- for those of you
10 who have not been there, it actually opens up into --
11 the club level opens up into the roof. It's kind of an
12 unfinished feel, I guess. And so, you know, right now
13 we've determined that that level is not safe.

14 We expect additional engineering
15 evaluations to begin tomorrow. We are told that that
16 could take, you know, another 10 days to two weeks to
17 really complete. And this will be kind of, you know,
18 30 people on the property that look at every nook and
19 cranny and the structural integrity of every bit of --
20 every building on the property because that's important
21 when the -- given how long the facility sustained very
22 high winds.

23 So that's where we sit today. We've been
24 in discussion with the staff and the horsemen about
25 contingency plans because of a lot of the issues that

1 could occur, the timing of some of these issues and how
2 quickly we'll be able to complete those repairs. We've
3 asked questions about our ability to conduct
4 construction during a live race meet while animals and
5 patrons are on the property.

6 Obviously the roof is probably the most
7 significant concern because if that is going to have to
8 be replaced like we anticipate it may very well, that's
9 really going to require us to open up the facility and
10 that's a long project.

11 So that's where we stand today. We
12 understand, you know, and are sensitive to the fact
13 that our meet is soon and decisions have to be made
14 that are in everyone's interest so that they can know
15 if we have the ability to host our current meet as is,
16 if we have to alter the meet in some way so that people
17 can, you know, make plans because obviously this
18 impacts a lot of people beyond just the folks at Sam
19 Houston Race Park.

20 So with that said, we are trying to make
21 a decision fairly quickly. Again, it's just a very
22 long process of understanding, on a facility of our
23 size, not only the damage that we incurred but the best
24 time line of how we go forward and address it.

25 So that said, I'm happy to answer any

1 questions that you guys might have.

2 COMMISSIONER SCHMIDT: Can you comment on
3 your racing surface? Was that damaged significantly?

4 MS. YOUNG: Not significantly. We did
5 lose about an inch of surface from our dirt track, but
6 we've been able to salvage a lot of that and we
7 certainly are well equipped on how to repair that as
8 well and add new surface. So what we did do -- we did
9 lose some surface. Our track lights were damaged. But
10 we believe those will be able to be repaired in
11 relatively quick order.

12 Our pump house, the main irrigation
13 system for the track, where it's housed was completely
14 destroyed. We were recently able to get that rebuilt
15 quickly so we could, you know, get the irrigation back
16 up and running. And we've been able to do that
17 through, you know, some -- those were what we
18 considered urgent things that you have to go forward
19 and do.

20 CHAIRMAN ADAMS: Any other questions for
21 Ms. Young?

22 COMMISSIONER EDERER: So at the present
23 time is it your intention to go ahead and try to go
24 forward with your meet as scheduled?

25 MS. YOUNG: We'd like to. As scheduled,

1 I think, is hard to -- I think will be challenging. I
2 think it will be challenging given the scope of repairs
3 that need to be done.

4 COMMISSIONER EDERER: And you're keeping
5 communication going with the horsemen at all times?

6 MS. YOUNG: Yeah, absolutely.
7 Absolutely.

8 CHAIRMAN ADAMS: As a Commission, of
9 course, we're concerned and sorry for what you're going
10 through there. And I'd like to again offer any
11 additional help that we can -- as Commissioners or as
12 staff that we can lend to you. We're available and
13 more than happy to help.

14 MS. YOUNG: Okay.

15 CHAIRMAN ADAMS: Thank you, ma'am.

16 MS. YOUNG: Thank you.

17 CHAIRMAN ADAMS: Also signed on this
18 item, I believe, Mr. Hooper.

19 MR. HOOPER: Mr. Chairman, members of the
20 Commission, I'm David Hooper, the executive director of
21 the Texas Thoroughbred Association. And on behalf of
22 all of our members, we want to extend a warm welcome to
23 our newest Commissioner. We look forward to working
24 with you, sir.

25 Certainly our sympathies go out to the

1 people of Houston and the officials and the workers at
2 Sam Houston Race Park and all the other areas affected
3 by Hurricane Ike. Over the last two to three weeks
4 we've received a number of phone calls from some of our
5 members or trainers as well, hearing rumors that the
6 race meet at Sam Houston might not be held because of
7 the damage sustained in the hurricane.

8 I did have an early conversation, within
9 10 days after Hurricane Ike went through Houston, with
10 Eric Johnston, the vice-president of racing at
11 Houston. And he told us about Barn Q and verified the
12 problems with the dorm rooms being damaged and the loss
13 of some of them and cited some of the other reports
14 that Andrea has just mentioned.

15 But he didn't indicate that there was any
16 severity to the point that the race meet might be in
17 jeopardy. And that bothers me because the first
18 contact that I had from Andrea was yesterday at 4:15 in
19 the afternoon or four o'clock in the afternoon. That's
20 three and a half weeks since Hurricane Ike went
21 through.

22 I'm also getting sort of a mixed bag or
23 mixed message here because I had a call from one of our
24 prominent members, Danny Shifflett, as recently as this
25 morning. And he manages Will Farrish's Lane's End

1 Texas in Hempstead. He told me he was at Sam Houston
2 on Sunday evening about 5:30 and that the simulcast
3 operations were going full tilt and there was a
4 terrific crowd there. He also indicated that there was
5 a concert that went on that evening and a lot of people
6 came for the concert. So I'm really up in the air on
7 where we are on this race meet.

8 I can't tell you how critical it is to
9 have these racing days; and if they aren't at Houston,
10 they must be in Texas someplace else. We have owners
11 and breeders who are members of ours that are crying
12 out for racing opportunities and are greatly concerned
13 by the loss of racing days that they've had over the
14 years. And any further loss may just cause them, like
15 some others have already done, to just plain get out of
16 the business.

17 This is the time of year when breeders
18 are planning matings for next year, what mares they
19 have that they're going to breed to. We have a number
20 of people, a number of our members in recent years, who
21 have elected not even to breed their mares because they
22 didn't see -- they didn't like what they saw on the
23 horizon in Texas. And if we lose a race meet and we
24 lose race days, there are going to be more people, more
25 breeders and owners, who are going to exit this

1 business.

2 This is a very, very critical time. And
3 we've got to act responsibly. We've got to act
4 quickly. We've got to sit down and have some dialogue
5 with Houston officials, with the horsemen's
6 organization, because we can't afford to lose these
7 days.

8 I can tell you I have my own personal
9 experience with Arlington Park in Chicago which was
10 decimated -- that grand grandstand built in 1937 was
11 decimated on July 31st in 1985. And Arlington's great
12 race of its summer meet since the early '80's has been
13 the Arlington Million. Despite the fact that that
14 grandstand was completely destroyed, within 20 days the
15 wreckage was cleared and they ran the Arlington Million
16 25 days after that devastating fire because the owner
17 wanted to get it done and the wrecking crew worked 20
18 hours a day for 20 straight days to clear the wreckage
19 and then the building of temporary facilities went up
20 in tents and so on and they had a grand day. It was a
21 spectacular day, with Teleprompter winning the
22 Arlington Million.

23 So it shows to me that if a track
24 operation really wants to get something done, they can
25 get it done. And they did it with the cooperation of

1 the horsemen and the breeders. I plead with you to do
2 whatever is necessary to move this process forward.

3 Thank you for your time.

4 CHAIRMAN ADAMS: Thank you, Mr. Hooper.

5 Any questions?

6 COMMISSIONER EDERER: Yes. Mr. Hooper,
7 what can the Commission do to assist there?

8 MR. HOOPER: Well, I believe that Charla
9 Ann did send a couple of your staffers and I assume
10 that you're going to get a report from them here
11 momentarily. I'm anxious to hear what their assessment
12 is of what they saw here just within the past few
13 days.

14 And I would hope that the staff, in
15 immediate order, would call a meeting of the
16 representatives of the breed organizations affected,
17 which is the Texas Thoroughbred Association and
18 representatives of the Texas Horsemen's Partnership, to
19 see how we can work through this. In addition,
20 obviously the tracks that are out there.

21 We're running a race meet right now at
22 Retama. Obviously we're dealing with -- there will
23 have to be some transfer of purse revenue from one
24 account to another if they can't run the Thoroughbred
25 meet at Houston, but it also has to be economically

1 feasible for Retama to run. And Retama makes a lot of
2 money during the winter operating as a training
3 center. If they were going to be racing, that impacts
4 the training center operations.

5 But I understand from Bryan Brown in a
6 conversation as recently as this morning that Retama
7 would be interested in extending its current meet for
8 Thoroughbreds for a reasonable period of time, without
9 defining exactly what's a reasonable period of time.

10 There has been no dialogue, according to
11 Drew Shubeck, with anyone from Sam Houston relative to
12 Lone Star Park. But Lone Star has always been
13 interested in running early in April. Right now I
14 believe they're designated to start April 10th, the
15 traditional opening, but they've been interested in
16 that previous weekend as well. Well, is it possible
17 that they could open two weeks ahead of time or three
18 weeks?

19 And then, you know, you may end up with a
20 little gap in there; but we do have Manor Downs
21 operating here in Austin beginning in late February.
22 And your Quarter Horse two-year-olds can't start
23 running until March 1st. That is a mixed meet. Maybe
24 we could run a couple of more weekends at Manor to fill
25 a gap between Retama and Lone Star and run more

1 Thoroughbred races than are normal on the card there at
2 Manor Downs.

3 Again, in all those situations you're
4 dealing with transfers of purse money; but this is a
5 critical, critical development.

6 COMMISSIONER SOWELL: Mr. Hooper, have
7 you had an opportunity to have a discussion with anyone
8 at Sam Houston?

9 MR. HOOPER: I'm sorry?

10 COMMISSIONER SOWELL: Have you had an
11 opportunity to discuss with the Sam Houston folks
12 anything that might be done?

13 MR. HOOPER: In the course of the
14 conversation with Andrea Young yesterday afternoon and
15 after she went through her recitation of the damage --
16 and I want to add something to that. We did talk
17 about -- I raised -- I said, "We've got to have
18 racing. We've got to have the Thoroughbreds be able to
19 go someplace and to race." And she said that Houston
20 would be very open to that.

21 Now, yesterday, when she talked to me --
22 and I reported this to my board last night and I got a
23 response from our president and I want to add some
24 questions that she raised in her response to my memo to
25 my board. And I cited many of the items of damage that

1 Andrea reported to you this morning.

2 My memo to the board said "Andrea Young,
3 COO of Sam Houston Race Park, called me this afternoon
4 to provide a heads-up on the report she will make to
5 the Texas Racing Commission tomorrow at the regularly
6 scheduled meeting in Austin about the damage incurred
7 to the facility from Hurricane Ike. She will report
8 that the 2008-'09 Thoroughbred meet cannot open as
9 scheduled on the Friday after Thanksgiving and it may
10 not be possible to get all needed repairs done in time
11 to hold a meaningful length of race meet early in
12 2009."

13 My president responded this morning to my
14 memo. She said "There are many stables which are
15 unaware of this problem and will be required to change
16 travel and racing plans. While the act of God cannot
17 be predicted, timely dissemination of information
18 greatly assists mortal mechanics." Then some questions
19 and the subject of insurance coverage for a disruption
20 in business came up in the discussion that Andrea and I
21 had yesterday.

22 "Will the insurance cover the loss of
23 revenue at a 2007 level, at a 2006 level, at an average
24 of the last three years? Are we perhaps to enjoy the
25 upper level of projections before the latest downward

1 turn of activity? For what period of time is the
2 insurance to generate breed and purse funding? What of
3 the entertainment venue? Is it also tied to the
4 overall repairs or just the front side and the
5 backside? We're aware the holiday season is the most
6 profitable season for the front side, but we should
7 keep the backside bottom line in focus as well."

8 And those are some observations of our
9 president Dr. Jacquelyn Rich.

10 CHAIRMAN ADAMS: Other questions?

11 COMMISSIONER EDERER: Well, it seems to
12 me that, first, a determination has to be made whether
13 or not it can open and, if so, when. And as far as
14 timing is concerned -- and obviously Ms. Young doesn't
15 have that answer yet, but she will have it very soon
16 apparently.

17 So once that occurs, it seems to me that
18 it would be incumbent upon you to have alternatives
19 prepared to come forward as soon as possible to help
20 the horsemen primarily. Like you said, there's an
21 awful lot of people out here that their jobs depend on
22 them being able to run.

23 So I guess what I'm saying is I would
24 request that -- I'm sure you're already way ahead of me
25 here on that. But get alternatives to what would

1 happen just in case this doesn't come in; and of
2 course, Ms. Young is here and we'd request her to
3 notify you as soon as she knows. But of course, she
4 doesn't know yet.

5 MR. HOOPER: Yes, I think you're right on
6 the money, Commissioner Ederer, and that we've got to
7 have some immediate sit-down discussions and what are
8 the viable alternatives, if there were a need to move
9 some of the days and extend the Retama -- the current
10 Retama Thoroughbred meet, you know, how can that be
11 made economically feasible for Bryan Brown and the
12 Retama operation.

13 And there are a lot more questions out
14 there right now than there are answers; but to have
15 some alternatives in place when the report does come
16 back and a decision is made by Sam Houston officials,
17 then at least we can move forward and move forward
18 quickly and tell horsemen what their future is.

19 COMMISSIONER EDERER: Ms. Young is just
20 dying to get up here right now.

21 CHAIRMAN ADAMS: Any other questions?

22 I had one statement for Mr. Hooper. It's
23 not at all unusual, Mr. Hooper, in a major storm
24 disaster like this that the actual extent of damage is
25 not determined for weeks and sometimes months after the

1 storm because you just -- you just don't look up at
2 that roof and think that it has a problem until
3 somebody actually crawls up there and determines it
4 does, in fact. And the safety of the public has to be
5 a primary concern here.

6 So I can understand how Sam Houston may
7 have not fully understood or realized the significance
8 of the damage until more recently. I think as a group
9 and as a Commission, we have to allow them to go ahead
10 and complete their engineering studies to determine
11 where they stand on that.

12 I fully agree to the fact that as soon as
13 we know something, we've got to move forward and make
14 plans for having some kind of consistency and
15 continuation of the race dates. I agree with that.

16 MR. HOOPER: Yes, sir. And I agree,
17 Mr. Chairman. Sometimes the severity of the damage
18 doesn't surface in some areas for a long period of time
19 and hopefully we'll have a better understanding here
20 very, very shortly.

21 CHAIRMAN ADAMS: Thank you, Mr. Hooper.
22 Yes. Ms. Young, did you want to come
23 forward again?

24 MS. YOUNG: I just wanted to probably
25 follow up on a couple of comments Mr. Hooper made

1 Adams, to your point, absolutely, you know, in the
2 first few days after the storm, we didn't really
3 understand the damage to that roof. And I just feel
4 like it's really important that everyone know that, you
5 know, I personally, all of my senior management team,
6 everybody at the track is significantly --
7 significantly invested in trying to determine the scope
8 of repairs that are necessary and moving forward with
9 them very quickly. There's nothing, you know, that
10 we -- you know, we're in the live racing business; and
11 so of course we want to be live racing.

12 I also want to comment on, you know, what
13 Sunday might have looked like. Yes, as I mentioned, we
14 can contain our simulcast operation to the entry level
15 of the facility. We've done that. In fact, since
16 we've opened back up, you know, we've exceeded numbers
17 almost every day compared to prior year. So we're
18 going to keep that going as long as we can and, you
19 know, even during repairs to the extent possible.

20 Furthermore, the concert they referenced
21 was a third-party event that was hosted in one of our
22 parking lots. Parking lots are big, giant, open
23 structures; and so, you know, you can see how that
24 wasn't really impacted by the storm.

25 So we have a responsibility to go forward

1 with every bit of business that we can. And, you know,
2 that's what -- certainly when we start talking about
3 insurance claims and so forth, our insurance company is
4 going to expect us to do that. So we can't -- we have
5 to conduct the business that we're actually capable of
6 doing.

7 Finally, I'd like to say that Charla Ann
8 and I have discussed about actually keeping the folks
9 that are here today, you know, guys like Bryan Brown
10 and Drew Shubeck and Mr. Hooper, here afterwards so
11 that we can continue this dialogue here today because
12 it makes a ton of sense while we're all in the room.

13 So I just felt it was important to
14 clarify that and our commitment to live racing.

15 CHAIRMAN ADAMS: Thank you, Ms. Young.

16 Yes.

17 MR. CLOWE: What is the date certain that
18 you have to announce go or no-go in order for other
19 arrangements to be made timely and properly?

20 MS. YOUNG: You know, I'm probably not
21 the best person to answer that question. I can tell
22 you what I've been told. When we had a conversation
23 last week with Tommy Azopardi and Charla Ann, he said
24 he felt like we had to make a decision within 45 days
25 of when we were scheduled to open. That is very soon.

1 I think that's next week. So it is our hope to do it
2 this week if we can.

3 CHAIRMAN ADAMS: What is your opening
4 date again?

5 MS. YOUNG: November 28th.

6 MR. CLOWE: It seems to me if you commit
7 to that, then --

8 MS. YOUNG: You better do it.

9 MR. CLOWE: -- you either do it or other
10 arrangements start getting made very promptly and
11 that's what would serve everyone's interest.

12 MS. YOUNG: I agree. I agree.

13 Thank you.

14 CHAIRMAN ADAMS: Thank you, ma'am.

15 Anything else on this item? Staff, do we
16 have anything else on this item?

17 Okay. Let's move forward then to the
18 impact of Hurricane Ike on Gulf Greyhound Park and
19 possible modification to its 2008 live racing
20 schedule. Sally Briggs, are you here?

21 MS. BRIGGS: Yes, sir. Good morning.
22 I'm Sally Briggs, general manager at Gulf Greyhound
23 Park.

24 We also have extensive damage from
25 Hurricane Ike. We also lost part of the roof on the

1 south end of the building and had water come down on
2 all four floors. So we have pulled ceiling tile, light
3 fixtures, carpet, Sheetrock, et cetera, to dry the
4 building out.

5 Our simulcasting facility was on our
6 third floor, which had -- has extensive damage. So we
7 have moved that to our first floor. We have moved
8 televisions. We have moved counters. And we're in the
9 process of moving carrels to our first floor. We did
10 open for simulcasting on Friday, September 27th, just
11 that first floor, after we had had an engineer come in
12 and declare that our building was sound and safe for
13 the public.

14 Our paddock, we lost part of the ridge
15 row on the roof and had quite a bit of damage on the
16 top, in the trainers lounge of that. We lost the fence
17 around the track, but we were able to get that back up
18 pretty quick and did redo the track surface and move
19 some sand around.

20 And I am happy to say that we did open up
21 for live this past Friday; so we had live racing
22 Friday, Saturday, and Sunday, which was our regular
23 schedule. We had a good crowd considering that we are
24 in the heart of the damage and only about 10 to 15
25 miles from Galveston. So we were pleased with that.

1 We were able to get emergency roof
2 repairs on Sunday and Monday after the storm. Our
3 kennel buildings had a few shingles off and an awning
4 off behind one of the kennels. We had about 850
5 greyhounds on site during the storm and about 60
6 people, so we were able to try to get rid of some of
7 the water immediately in the building which I think
8 helped us a lot to be able to get back open real
9 quick.

10 We're in the process of getting estimates
11 for repairs, but I feel real good about what we have
12 done so far. Our maintenance staff has done great.
13 The judges on staff for the Racing Commission have
14 helped us a lot in determining the things that we
15 needed to do to be able to open back up for live, so I
16 think we got things completed in a very timely manner.

17 CHAIRMAN ADAMS: Very good.

18 Any questions for Ms. Briggs?

19 MS. BRIGGS: Thank you.

20 CHAIRMAN ADAMS: Thank you, ma'am.

21 Yes, Charla Ann.

22 MS. KING: I just wanted to point out
23 that based on the results of this report and then
24 people gathering together, especially on the Sam
25 Houston Race Park issue, that if there is to be a

1 transfer of dates, it will require a meeting with your
2 approval. So we'll keep you posted on the results of
3 that, but I just wanted to give you all fair notice
4 that we may be calling and looking at your calendar if
5 that indeed is needed.

6 CHAIRMAN ADAMS: It will require an
7 actual meeting or -- we can't do it --

8 MS. KING: Yes, sir, it would require an
9 actual meeting.

10 CHAIRMAN ADAMS: Okay. Thank you,
11 ma'am.

12 The next item, a request by Valley Race
13 Park to modify its 2008 live racing schedule. And Milt
14 Roth is signed to speak. Mr. Roth?

15 MR. ROTH: We're happy to say that we
16 want to expand our racing schedule. We were fortunate
17 enough to get enough greyhounds to add extra
18 performances to our schedule and that's what we're
19 asking for now, to expand our schedule for the 2008
20 season and also for part of our 2009 season.

21 CHAIRMAN ADAMS: Okay, sir. How many
22 days are we talking about or how many races are we
23 talking about?

24 MR. ROTH: I left my notes back there,
25 but all the Wednesdays in November, December, January,

1 February, March, and one in April basically, and then
2 two extra performances as our extra performances on
3 every performance except on Thursdays.

4 CHAIRMAN ADAMS: Very good. We have that
5 in our packet and I apologize on that.

6 MR. ROTH: Correct. Yes, sir.

7 CHAIRMAN ADAMS: Thank you very much. I
8 don't think we have any questions, Mr. Roth.

9 Ms. Whiteley is signed to speak. Is
10 Ms. Whiteley here? Yes.

11 MS. WHITELEY: Good morning, Mr. Chairman
12 and Commissioners. The Texas Greyhound Association
13 certainly supports more racing opportunities, so we are
14 in full agreement with Valley Race Park offering
15 additional races.

16 And I didn't sign up for this, and I
17 should have, but I wanted to let you know from the
18 Texas Greyhound Association point of view is that Gulf
19 Greyhound did a wonderful job during the hurricane.
20 Sally Briggs kept in touch constantly. All the
21 greyhounds were there. We knew that was the safest
22 place for them to be.

23 She worked very well with the media, got
24 the word out that no greyhounds were in danger down
25 there because it is built to withstand a Category 4.

1 She gave out walkie-talkies, hand radios, to all the
2 kennel owners and the trainers in all the kennels so
3 they could keep in touch, kept some maintenance crew
4 there, kept plenty of food there for everybody that
5 stayed on the grounds with the dogs, also got all the
6 farm dogs that were in the area and opened up some
7 kennels so they could move some puppies and mom dogs
8 in.

9 So I can't say enough of how well they
10 handled this crisis. There was never a concern that
11 the greyhounds and the people down there were in safe
12 hands.

13 CHAIRMAN ADAMS: Thank you, ma'am. It's
14 very refreshing to hear that.

15 And congratulations, Ms. Briggs, on a
16 stellar effort.

17 Thank you, ma'am.

18 Let's see. I have no one else signed to
19 speak, but we do have Sammy Jackson available if
20 there's any question regarding these added dates or any
21 concern on the Commissioners' part.

22 So unless there are questions of Sammy,
23 the Chair would recognize a motion to approve the
24 modifications and adding the date for Valley Race Park
25 for the 2008 live date racing dates. And we're only

1 going to address the 2008 ones, correct? Because
2 2009 -- yes. Okay.

3 MR. FENNER: You could combine them
4 because I believe Mr. Roth discussed both items.

5 CHAIRMAN ADAMS: Let's combine those
6 together, Item C on your agenda and Item D. So it
7 would be -- if we choose to, let's have the motion
8 include the addition of the '08 dates and the '09 live
9 race dates.

10 VICE-CHAIRMAN CARTER: So move.

11 COMMISSIONER SCHMIDT: Second.

12 CHAIRMAN ADAMS: It's been moved and
13 seconded.

14 All those in favor please say aye.

15 COMMISSIONERS: Aye.

16 CHAIRMAN ADAMS: Any opposed?

17 The motion carries. Thank you very
18 much.

19 Item E, allocation of live race dates for
20 Corpus Christi Greyhound Track under Commission Rule
21 303.41. If you will recall, members, this was tabled
22 at our last meeting. And we have several folks signed
23 up here to speak on this. So any particular order here
24 as to who would speak first? Yes, sir. That would be
25 Nick James.

1 MR. JAMES: Mr. Commissioners --
2 Mr. Chairman and Commissioners, my client last night
3 sent a letter to the Commission asking to withdraw the
4 dates today. It was erroneously worded. We would like
5 to ask the Commission to table it until the December
6 meeting pending a possible sale. If it doesn't sell,
7 then we want to be able to come back and request our
8 race dates. If it does sell, we'd like the new owners
9 to be able to request their own. It's a slight change
10 in what the letter had.

11 CHAIRMAN ADAMS: Okay, sir. So we're
12 going to disregard the letter that we received last
13 night.

14 MR. JAMES: Yes, sir.

15 CHAIRMAN ADAMS: And you're asking that
16 we set it -- that we leave it on the table until the
17 following -- until the next meeting.

18 MR. JAMES: Exactly.

19 CHAIRMAN ADAMS: Okay, sir.

20 Next signed, Ricardo Pimentel.

21 MR. PIMENTEL: I just left myself up
22 for -- I'm the general manager for the greyhound
23 racetrack in Corpus and I'm just here available for
24 questions if there are any.

25 CHAIRMAN ADAMS: Any questions at this

1 time?

2 COMMISSIONER EDERER: Do you think we'll
3 know by our next meeting?

4 MR. PIMENTEL: I very well hope so, one
5 way or the other. They seem to be very interested and
6 we're moving forward with this really quickly.

7 CHAIRMAN ADAMS: These are '09 dates, are
8 they not?

9 MR. PIMENTEL: '09 and 2010 also.

10 CHAIRMAN ADAMS: Okay, sir. Thank you.

11 Diane Whiteley?

12 MS. WHITELEY: I was prepared for a
13 longer conversation, but we have absolutely no
14 objection to tabling this until December.

15 CHAIRMAN ADAMS: Okay. Thank you,
16 ma'am. Appreciate that.

17 The Chair would entertain a motion.

18 COMMISSIONER SOWELL: So move.

19 CHAIRMAN ADAMS: We do not have to have a
20 motion, do we not? Or should we?

21 MR. FENNER: Actually I believe you
22 should.

23 COMMISSIONER EDERER: Second.

24 MR. FENNER: Items that are tabled are
25 only good to the following meeting.

1 CHAIRMAN ADAMS: Okay. So we will -- go
2 ahead, Sonny. Moved and seconded by Commissioner
3 Sowell and Commissioner Ederer that we place this item
4 back on the table until the next meeting, our December
5 meeting, or -- let's not say our next meeting. Let's
6 say our December meeting in case we do have a
7 meeting --

8 COMMISSIONER SOWELL: There may be
9 another next meeting.

10 MR. FENNER: Our next regularly scheduled
11 meeting.

12 CHAIRMAN ADAMS: Our next regularly
13 scheduled meeting.

14 All those in favor please say aye.

15 COMMISSIONERS: Aye.

16 CHAIRMAN ADAMS: Any opposed?

17 The motion carries.

18 Okay. Item 5 in our agenda is
19 proceedings on rulemaking, discussion, consideration,
20 and possible action on rule adoptions. We're going to
21 break out 311.3 first and then we'll talk about the
22 rest of those together. So our counsel, Mark Fenner,
23 please address background investigations.

24 MR. FENNER: Yes, sir. The rule proposal
25 for Section 311.3, information for background

1 investigation, was published in the August 22nd edition
2 of the Texas Register. We've received no comments on
3 it.

4 The change will create a new 12-dollar
5 fee whenever fingerprints are required for a background
6 check, which is generally every three years. This will
7 allow the Commission to recover the cost of submitting
8 electronic fingerprints, the cost of credit card fees,
9 and additional miscellaneous costs.

10 Staff recommends adoption.

11 CHAIRMAN ADAMS: Okay, sir.

12 Any questions?

13 Thank you, sir.

14 Let me clarify those signed up here to
15 speak to make sure that they are signed up actually to
16 speak on this item. Mr. Brown?

17 MR. BROWN: Just 309's.

18 CHAIRMAN ADAMS: And Ms. Whiteley?

19 MS. WHITELEY: No.

20 CHAIRMAN ADAMS: You're okay with this
21 one? Do you want to speak on the rest of them or do
22 you want to speak on this item, this one item?

23 MS. WHITELEY: Just the last group that
24 relates to the greyhounds.

25 CHAIRMAN ADAMS: Okay. Okay. We're not

1 there yet. Thank you, ma'am.

2 Okay. So we don't have anyone signed to
3 speak on this particular item.

4 The Chair would entertain a motion to
5 adopt the changes to the 311.3 as published in the
6 Texas Register.

7 COMMISSIONER SCHMIDT: So move.

8 VICE-CHAIRMAN CARTER: Second.

9 CHAIRMAN ADAMS: Moved and seconded,
10 Commissioner Carter and Commissioner Schmidt, for the
11 approval of this motion.

12 All those in favor please say aye.

13 COMMISSIONERS: Aye.

14 CHAIRMAN ADAMS: Any opposed?

15 The motion carries.

16 The next item is the adoption of the
17 remaining sections of 309.103 -- that were published,
18 103, 116, 118, 120, 168, 250, 294, 296, 309, 311, 312,
19 314. Mr. Fenner?

20 MR. FENNER: Mr. Chairman, with your
21 permission, I'd like to just go ahead and run through
22 them all and then -- very good.

23 Each of these rules were published in the
24 June 27th, 2008 edition of the Texas Register. Staff
25 received a number of comments; and following the

1 me just a minute. Let me ask a question.

2 MR. FENNER: Yes, sir.

3 COMMISSIONER SOWELL: Is there a
4 possibility that this may have the reverse impact of
5 what it's in here and intended to do? With the damage
6 caused by the hurricane, it may be necessary or
7 desirable to waive some of these provisions in order to
8 get something started sooner than even the 30 days that
9 normally would be very reasonable.

10 MR. FENNER: Staff would always have the
11 flexibility to have a faster turnaround time; so if
12 there was a need to focus on this and approve it in
13 order to expedite their remodeling, we would put forth
14 every effort to do that and this would not preclude us
15 from doing that.

16 COMMISSIONER SOWELL: And wouldn't
17 require a meeting of the Commission?

18 MR. FENNER: No, sir. No. The executive
19 director has the authority to approve that.

20 COMMISSIONER SOWELL: Thank you.

21 MR. FENNER: Any other questions?

22 Okay. 309.116, the complaints rule, this
23 proposed change would have expanded the associations'
24 responsibility to document complaints, notify the
25 Commission of complaints, and respond to complaints.

1 The associations objected that the rule was overly
2 broad and that it didn't make a distinction between
3 verbal complaints and written complaints.

4 We took that into consideration in the
5 revision to the rule. Now they will have to notify and
6 document complaints, written complaints, in three new
7 categories: Alleged violations of ordinances or
8 statutes, accidents or injuries, and unsafe or
9 unsanitary conditions. It still retains the
10 requirement to document all complaints, written or
11 verbal, about violations of the Texas Racing Act or the
12 Texas racing rules.

13 The next change is to Rule 309.118,
14 regulatory office space and equipment. This was to
15 update the facility and technology requirements for the
16 regulatory office space. The only change that came
17 about after the meeting was to delete the term
18 "private" regarding telephone lines because
19 essentially all the telephone lines they already
20 provide to us are private in that somebody can reach a
21 Racing Commission employee directly by direct dial. So
22 we made that change. As far as I know, I've received
23 no comment after the meeting in regard to the changes
24 we've made.

25 309.120, parking for licensees, this

1 proposed rule provides that the parking area an
2 association provides for licensees must be lighted.
3 Most of the racetracks are already in compliance with
4 this rule and those that aren't said it would not be a
5 problem to come into compliance. Therefore, there's no
6 change to this proposal.

7 An adoption of 309.168, the hazardous
8 weather rule, the proposed rule required associations
9 to order everyone to take shelter before
10 lightning-producing thunderstorms moved within six
11 miles or whenever the facility is within the affected
12 area of a National Weather Service declared severe
13 thunderstorm or tornado warning.

14 The associations felt that this didn't
15 provide enough flexibility and addressed the need for
16 them to -- for staff to consult with management before
17 making that decision. They also wanted more
18 flexibility to continue live racing using on-the-ground
19 judgment.

20 The revised proposal does provide an
21 opportunity for management to consult with the stewards
22 or the judges about hazardous weather. It specifies
23 two hazardous weather scenarios under which live racing
24 must be suspended and it requires associations to
25 develop and implement a plan to promptly notify

1 rule would require the identification in the program of
2 both the lessor and lessee of leased racehorses as well
3 as the city and state of the owner. Some associations
4 said they would have minimal costs related to software
5 or programming changes needed to include the additional
6 information on the program. There's no change to the
7 rule as proposed.

8 We did have a specific scenario that
9 prompted this rule proposal and it related to two
10 owners with the same name with horses entering in a
11 race and then the wrong owner received the purse
12 money. So this would help to address that problem.

13 309.309, the lockout kennel, the proposed
14 rule provides a greyhound association with additional
15 flexibility with providing a method for kennel owners
16 and trainers to monitor the lockout kennels. For
17 example, some tracks prefer to provide a closed-circuit
18 TV system rather than a viewing window. The TGA
19 requested the association also provide a view of the
20 back of the starting boxes and the industry was okay
21 with that and the modified proposal reflects that
22 change.

23 309.311, kennel compound, the proposed
24 rule would have eliminated the need for a separate
25 kennel building to accommodate stakes races. The TGA

1 expressed concern that although no association's
2 current buildings, kennel buildings, are currently all
3 under contract, it could happen in the future and then
4 the need for a separate stakes building would be
5 unmet.

6 The compromise that the group reached was
7 to require an association to provide a separate kennel
8 building for stakes races if all the current kennel
9 buildings are under contract. As long as they're not
10 all under contract and there is an available empty one,
11 they can use that for a stakes race building.

12 The turnout pens under 309.312, the rule
13 proposal would have modified the strict requirement to
14 replace the turnout pens sand every three months in
15 favor of a less rigid requirement that the pens be
16 maintained in a sanitary state. And this was to
17 address greyhound racetracks that don't run on a
18 year-round basis.

19 The revised proposal clarifies that an
20 association must ensure that each kennel building has
21 an adequate drainage system, which was a concern of the
22 TGA, as well as adequate sand or comparable material to
23 keep the pen in a sanitary state. The changed proposal
24 also adds the requirement that the sand and drainage
25 system be subject to periodic inspection by the

1 Commission veterinarian.

2 And finally, 309.314, sprint path, the
3 proposed rule would reduce the minimum number of sprint
4 paths from one per three kennels to one per five
5 kennels. It also required the associations to place a
6 highly visible material at both ends of each sprint
7 path.

8 The TGA observed that a sprint path for
9 every five kennels would not provide an adequate number
10 of paths if all the kennel buildings became fully
11 occupied and the group reached a compromise that
12 requires an association to provide a sprint path for
13 every three occupied kennel buildings rather than just
14 all kennel buildings regardless of whether they are
15 occupied or not. It maintains the requirement that
16 there be a highly visible material at both ends of each
17 sprint path.

18 Those are the proposed rules.

19 CHAIRMAN ADAMS: Okay. Thank you,
20 Mr. Fenner. We do have some individuals signed to
21 speak regarding this, so we'll take questions and then
22 we may have you come back to the podium again.

23 Again, with the -- I believe Mr. Bryan
24 Brown is signed regarding the B through I. Is that
25 correct, Bryan?

1 MR. BROWN: Yes. Good afternoon,
2 Mr. Chairman and Commissioners. I just have comments
3 on two of the rules. The rest are fine as drafted.
4 And we'd like to compliment the staff for working with
5 us on all the rules. We had a very, very good -- a
6 long but good conversation and worked through a lot of
7 issues.

8 On 309.168, which is hazardous weather,
9 our issue is with regard to (b)(2) which would have the
10 stewards suspending live racing whenever the facility
11 is within an affected area of a thunderstorm or --
12 severe thunderstorm or tornado warning.

13 Our issue there is that Bexar County,
14 Harris County, Dallas County, for that matter Travis
15 County, are big, big counties and you could have a
16 thunderstorm warning in particular that really may not
17 impact our specific area but it may be issued for all
18 of the county. And we'd hate to suspend live racing
19 and have a storm, you know, 30, 40 miles away from us
20 yet it impact our racing.

21 So our suggestion was to change the word
22 "shall" in (b), which is line eight, to "may" and
23 then, if necessary, add a provision which would allow
24 the stewards to suspend racing any time, in their
25 opinion, severe weather might cause harm to the patrons

1 or the jockeys. So it's a very open-ended, broad item
2 which we would add as (b)(3).

3 And that just gives, I think, some --
4 should give some comfort to the Commission and staff
5 that, no matter what, the stewards have the ability to
6 suspend live racing, which I think they do today. And
7 we'd certainly -- if the stewards came to us today
8 without this rule and said, "We're not comfortable with
9 what's going on," we would certainly immediately
10 announce that live racing is suspended and keep the
11 horses in the paddock or in the barn area as it may
12 be.

13 But anyway, we would like some
14 flexibility so if there is a storm warning that may not
15 impact our area that the stewards would have -- in
16 their judgment, have the ability to not suspend racing
17 until they do feel like there's danger.

18 The second one is just --

19 CHAIRMAN ADAMS: Before you move on, let
20 me ask you something. Now, your comments about the
21 county designation of a storm area, your particular
22 facility is right on a county line, is it not?

23 MR. BROWN: Right. We're in Bexar
24 County, but we're close to other counties. So you
25 could have actually a warning that might apply to

1 another county that's -- you know, Hays, for instance,
2 that may be more applicable to us than even a Bexar
3 County designation would be.

4 I did research quite a bit on the
5 National Weather Service website to try to find out
6 what warnings apply to. I couldn't. Just from my
7 memory, and it may be not real good, I just always
8 remember warnings applying to counties. You know,
9 sometimes it might say southern Bexar County, I
10 suppose. But it would be hard for a warning to really
11 apply to this specific area just based on what I was
12 able to research on the website and just going on
13 memory of watching the television and seeing warnings.

14 CHAIRMAN ADAMS: Okay, sir. I'm sorry I
15 interrupted you. Go ahead.

16 MR. BROWN: Then I just have a question
17 on 309.296, which is the official program. These
18 changes are acceptable. My only question is -- were
19 twofold. Number one, it says for each race day. I
20 want to make sure that applies to live races. In other
21 words, as we bring in simulcast races, it would be very
22 difficult to provide all this information for tracks
23 around the country. So I want to clarify that it is
24 for live races within the state.

25 And then, secondly, we'll be a guinea pig

1 a little bit because we're racing right now and I want
2 to make sure there's some timing flexibility so, for
3 instance, this weekend we don't have to have all this
4 information necessarily done. If we can get it done,
5 we'd be happy to have it done; but this may apply
6 rather quickly and we just want to clarify as to when
7 this would take effect.

8 CHAIRMAN ADAMS: Good question. Thank
9 you, Mr. Brown.

10 Any questions of Mr. Brown? Yes.

11 VICE-CHAIRMAN CARTER: My main question,
12 do you have wording to propose so that we can get this
13 done today or do we have to table it again?

14 MR. BROWN: I'm embarrassed. I left it
15 right back there. Can I grab it real quick?

16 VICE-CHAIRMAN CARTER: I think you had a
17 proposal to change one line somewhere, didn't you?

18 MR. BROWN: Our proposal in line eight of
19 309.168 would be to change the word "shall" to "may"
20 and then to add a Section (b)(3) and that would read
21 "at any time the stewards feel the safety of the
22 jockeys or patrons is in jeopardy due to hazardous
23 weather".

24 So in other words, they would be able
25 to -- they would have the discretion to suspend live

1 racing any time they felt like it. Again, I feel
2 they -- either written or unwritten, they kind of do
3 now.

4 And a couple of meetings ago Ms. King had
5 pointed out, and I think rightfully so, the real -- one
6 of the real questions with hazardous weather, and that
7 is who makes the decision. And I think this rule is
8 very well written now. It's clear the stewards are the
9 ultimate authority and they'll consult with us so that
10 we're able to notify patrons about the rulings.

11 CHAIRMAN ADAMS: Any other questions for
12 Mr. Brown?

13 Thank you, sir.

14 MR. BROWN: Thank you.

15 CHAIRMAN ADAMS: Does staff want to
16 respond to this before we go on to the greyhound
17 portion? I think that probably would be wise.

18 MR. FENNER: Commissioners, I just would
19 like to clarify one thing about the extent of the
20 warning area. When we developed this rule and used the
21 language about whenever the facility is within the
22 affected area of a severe thunderstorm or tornado
23 warning, we were using the definition provided by the
24 National Weather Service, which provides that a severe
25 thunderstorm warning is issued when either a severe

1 thunderstorm is indicated by radar or a spotter
2 reporting a thunderstorm producing hail three quarters
3 of an inch or larger in diameter or winds equaling or
4 exceeding 58 miles an hour, therefore people in the
5 affected area should seek safe shelter immediately, and
6 that severe thunderstorms can produce tornadoes with
7 little or no advance warning.

8 And then moving down a little in the
9 definition, severe thunderstorm warnings will include
10 where the storm was located, what towns will be
11 affected by the severe thunderstorm, and the primary
12 threat associated with the severe thunderstorm
13 warning. So it's talking about the storms that are
14 affected -- even though it may issue a county-wide
15 warning, I mean, the language is the affected area
16 within the severe thunderstorm warning area.

17 So we didn't intend for it to be, you
18 know, the entire -- a portion of the county that is not
19 being affected. Severe thunderstorm warnings are, by
20 definition, more narrowly tailored than that. They
21 identify affected areas within it.

22 That's all I have to say.

23 CHAIRMAN ADAMS: Can you answer his
24 questions concerning the implication -- the date that
25 we will actually be requiring that these things take

1 place regarding the 294?

2 MR. FENNER: The official program rule?

3 CHAIRMAN ADAMS: Yeah.

4 MR. FENNER: First of all, I would like
5 to clarify this is only applying to the live racing.
6 We're not talking about the imported simulcasting
7 schedules.

8 MR. CLOWE: But you like the word "shall"
9 rather than "may". You want to stay with that. Is
10 that your recommendation?

11 MR. FENNER: Yes, sir. I believe that --

12 MR. CLOWE: I think you gave us an
13 explanation of what your definition was and it's not in
14 the county.

15 MR. FENNER: I'm sorry, sir?

16 MR. CLOWE: It's not a county
17 definition.

18 MR. FENNER: It is the affected area.

19 MR. CLOWE: You went at it a different
20 way in your definition and you want the "shall" to
21 remain rather than the "may".

22 MR. FENNER: Yes, sir. And the reason
23 for that is that the impetus for the rule in the first
24 place is that there had been confusion in the past
25 about pulling the trigger, suspending the live racing,

1 and it's better in that situation just to have a black
2 and white rule.

3 MR. CLOWE: This makes it clear.

4 MR. FENNER: Yes, sir.

5 MR. CLOWE: I just wanted that
6 understanding. Thank you.

7 MR. FENNER: Yes, sir.

8 VICE-CHAIRMAN CARTER: The (b)(3)
9 statement he said, that any time the stewards feel the
10 facility or the patrons are in jeopardy, does that
11 not -- that does not weaken our statement in any way,
12 does it?

13 MR. FENNER: That provides additional
14 flexibility. And I would agree with his statement that
15 the stewards, I feel, already have that authority. I
16 don't have any objection to the inclusion of that.

17 Is that okay with you? It's not really
18 my -- it's your call.

19 CHAIRMAN ADAMS: Do we have an answer to
20 the actual effective date of these changes?

21 MR. FENNER: Well, they become effective
22 20 days after they're posted in the Texas Register.

23 CHAIRMAN ADAMS: Not the posting that
24 brought them to this stage, but the posting that would
25 be -- would take place after they passed.

1 MR. FENNER: After this meeting, yes,
2 sir.

3 MS. KING: After this meeting. 20 days
4 after this meeting.

5 MR. FENNER: When I go back to the office
6 and I post this in the Texas Register, it will become
7 effective 20 days later.

8 CHAIRMAN ADAMS: Okay. Any other
9 questions for Mr. Fenner?

10 Okay. Let's go ahead then. And our next
11 speaker is Diane Whiteley who will address the last
12 four items, J through M, those items that deal with the
13 greyhound racing.

14 MS. WHITELEY: We had some good
15 discussions in our working group and on some -- on
16 these rule changes, and I think everyone is content
17 with these rule changes. On V-13, however, on the
18 lockout kennel -- and this is a very minor point -- on
19 line 26 it should be "starting box" instead of "staring
20 box," which is kind of appropriate, but starting box.

21 And on V-14, which is 309.311 with the
22 stakes kennel -- and I think this is a real good
23 workable compromise for us. Our concern was if we do
24 change revenue at some point in time to where we can
25 have some really large stakes races that we would like

1 to house them in a separate kennel with their own
2 trainers. And so this was a good compromise,
3 particularly in light of the hurricane recently, so
4 we're very workable on that.

5 V-15, which was 309.312, that was one of
6 our main concerns was the sanitary condition of the
7 turnout pens because that can also be very subjective
8 and we would like to make it a little bit more
9 objective. And so we've put it under the periodic
10 inspection by the Commission veterinarian and we will
11 work with the Commission staff to get them some
12 guidelines for bacteria level contents and drainage,
13 systems like that.

14 And it's a good compromise on the sprint
15 paths, recognizing that we don't want the associations
16 to have to do additional maintenance on things that
17 aren't being used on a regular basis.

18 So I think we're fine with all of these
19 changes.

20 CHAIRMAN ADAMS: Okay. Thank you,
21 ma'am. Appreciate your comments.

22 Any questions?

23 Okay. We'll close this part of the
24 discussion and the public input and hopefully the
25 Commission can make a decision as to how we want to

1 proceed with these.

2 The Chair would recognize a motion from
3 the Commission however -- in any direction you want to
4 choose to make it regarding those items that were
5 contested. I think basically we just have the -- at
6 this point, the one item, Item F, the hazardous
7 weather, that's of concern. So we need to either have
8 some discussion or a motion on the table before we have
9 discussion regarding how we handle these items.

10 MR. CLOWE: I'll make a motion. I move
11 we adopt that rule as proposed.

12 COMMISSIONER EDERER: Second.

13 CHAIRMAN ADAMS: Okay. And you're
14 speaking of --

15 MR. CLOWE: 309.168.

16 CHAIRMAN ADAMS: Okay. So we're going to
17 break out 168 or do you want to take them all at once?

18 MR. CLOWE: I propose we adopt them all
19 but specifically address 168 because there was a
20 choice.

21 CHAIRMAN ADAMS: Okay, sir.

22 Any discussion on the motion? We do have
23 a motion and a second to adopt the Rules 309.103
24 through 309.314 as revised and proposed by staff.

25 Hearing no discussion, all those in favor

1 please say aye.

2 COMMISSIONERS: Aye.

3 CHAIRMAN ADAMS: Any opposed?

4 The motion carries. Thank you very
5 much.

6 VICE-CHAIRMAN CARTER: Can I say
7 something, Chairman?

8 CHAIRMAN ADAMS: Yes, you certainly can,
9 sir.

10 VICE-CHAIRMAN CARTER: I'd like to
11 applaud all the people who went through all the work to
12 get all the input to sit down and make this work so
13 that we didn't have to hash it all out here in a
14 meeting. I think this is a very good example of how
15 the system can work well.

16 CHAIRMAN ADAMS: Very good point. And as
17 we tried to do at the last meeting and so aptly failed
18 at. So very good job, staff.

19 Okay. Do we have -- do we have a need
20 for an executive session?

21 MR. FENNER: We do have a representative
22 from the Attorney General's office here. I think it
23 would be useful.

24 CHAIRMAN ADAMS: Is the Attorney
25 General's office here?

1 MR. FENNER: Yes, we do.

2 CHAIRMAN ADAMS: So at this time -- let's
3 see. It is 12:50. We're going to close the -- we're
4 going to close the meeting so that the Commission can
5 go into executive session and we're to confer with our
6 attorneys regarding litigation against the Commission
7 in Cause No. D-1-GN-08-000416, Larry Lawley and James
8 Dunnigan doing business as The Lawley Group, at this
9 time. Thank you.

10 (Recess for executive session from 12:46
11 p.m. to 1:03 p.m.)

12 CHAIRMAN ADAMS: We will now reconvene
13 our regular meeting. We've now come out of the
14 executive session and it is seven minutes after one
15 o'clock and we will take no action regarding the
16 discussion that was held at the executive session.

17 The last item of business is to schedule
18 the next Commission meeting and it's suggested that
19 December the 2nd, 2008, be the date.

20 Do I have a motion to that effect?

21 COMMISSIONER SCHMIDT: So move.

22 COMMISSIONER SOWELL: Second.

23 CHAIRMAN ADAMS: Moved and seconded.

24 All those in favor?

25 COMMISSIONERS: Aye.

1 CHAIRMAN ADAMS: The motion carries.

2 That's all we have, so the meeting is now

3 adjourned. Thank you.

4 (Proceedings concluded at 1:04 p.m.)

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1 STATE OF TEXAS)

2 COUNTY OF TRAVIS)

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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 10th day of October, 2008.

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SHERRI SANTMAN FISHER, Texas CSR 2336

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