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BEFORE THE
TEXAS RACING COMMISSION
AUSTIN, TEXAS

COMMISSION MEETING
DECEMBER 2, 2008

Reported by: SHERRI SANTMAN FISHER
Job #73472

1 BE IT REMEMBERED that the above entitled matter
 2 came on for hearing on the 2nd day of December, 2008,
 3 beginning at 10:30 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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 8
 9 APPEARANCES

- 10
 11 Commissioners: ROLANDO PABLOS
 12 CHARLES L. "SONNY" SOWELL
 13 RONALD F. EDERER
 14 ROBERT SCHMIDT
 15 GLORIA HICKS
 16 C. TOM CLOWE, JR.
 17 JIMMY ARCHER

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1 CHAIRMAN PABLOS: Okay. Good morning.
2 The time is 10:32 and I will call this meeting to
3 order.

4 As many of you know, Governor Perry has
5 asked me to step in in anticipation of Chairman Adams'
6 departure here in February. And so I want to thank
7 Chairman Adams for his leadership. He's not here
8 today, but I wanted to thank him for his leadership and
9 also for helping me through this transition. I'm
10 honored to serve and I'm glad to be here. I wanted to
11 thank the Commissioners for being here today.

12 At this time I'd like to recognize
13 Carolyn Weiss to call the roll, please.

14 MS. WEISS: Jesse Adams? Jimmy Archer?

15 MR. ARCHER: Here.

16 MS. WEISS: Tom Clowe?

17 MR. CLOWE: Present.

18 MS. WEISS: Ron Ederer?

19 COMMISSIONER EDERER: Here.

20 MS. WEISS: Gloria Hicks?

21 COMMISSIONER HICKS: Here.

22 MS. WEISS: Robert Schmidt?

23 COMMISSIONER SCHMIDT: Here.

24 MS. WEISS: Sonny Sowell?

25 COMMISSIONER SOWELL: Here.

1 MS. WEISS: Dr. Kent Carter? Rolando
2 Pablos?

3 CHAIRMAN PABLOS: Thank you. Do we have
4 a quorum?

5 MS. WEISS: We have a quorum.

6 CHAIRMAN PABLOS: Thank you.

7 Carolyn or Mark, do we have anyone signed
8 up to speak under our public comment?

9 MR. FENNER: Mr. Hooper has given a
10 comment card.

11 CHAIRMAN PABLOS: Mr. Hooper, will you
12 please come up? Good morning.

13 MR. HOOPER: Good morning. Mr. Chairman,
14 members of the Commission, first of all,
15 congratulations, Mr. Chairman, on your appointment; and
16 I would share, on behalf of the Texas Thoroughbred
17 Association, your comments about the leadership of the
18 former chairman, Commissioner Adams.

19 I just wanted -- there are two major
20 things that are happening within the Texas Thoroughbred
21 Association and the Texas Thoroughbred industry and I'd
22 extend an invitation to all of you to participate.

23 This coming Saturday, the best
24 Texas-breds that are racing these days are expected to
25 be racing at Retama Park where Texas Champions Day will

1 be held, with the first post time beginning at 6:30.
2 And there's a buffet that's specially been set up by
3 Retama Park for participants as well as guests. And
4 we'd extend a warm invitation for you to be there on
5 Saturday night at Retama Park.

6 In addition, the annual Texas
7 Thoroughbred Association conference and awards banquet
8 is being held jointly with the Texas Quarter Horse
9 Association and it is going to be the first weekend in
10 January up in Dallas and you'll be getting letters
11 inviting you to attend that. And we look forward to
12 your participation if you can.

13 Thank you very much.

14 CHAIRMAN PABLOS: Thank you very much,
15 Mr. Hooper.

16 Now we'll go into our general business.
17 Our first item for discussion is my designation of two
18 very important committees. As most of you know, the
19 most important aspects of this Commission is licensing
20 and rulemaking; and so what I've been doing with staff
21 is figuring out a way to create a mechanism for more
22 effective and efficient handling of rulemaking and
23 licensing issues.

24 And really it's more for a desire to
25 improve the process, streamline the review, allow more

1 comprehensive consideration, and, most importantly,
2 ensure absolute public input. And so what I've asked
3 Mark to do is to help me put together a charge for both
4 of these committees.

5 At this time, Mark, would you like to
6 just very briefly go over the charge for each
7 committee, please?

8 MR. FENNER: The charge for the committee
9 on racetrack licenses would be to review all facets of
10 racetrack licensing, including the processes by which
11 new licenses are granted and the factors the Commission
12 considers when reviewing requests to change the
13 ownership or location of a racetrack.

14 The committee may hold public hearings to
15 obtain public input on racetrack licensing proceedings
16 and shall report that input back to the Commission.
17 The committee shall bring back recommendations to the
18 full Commission for any changes to the rules or
19 policies regarding racetrack licenses.

20 The charge to the committee on rules
21 would be to review and propose rules of the Commission
22 relating to all aspects of racing except those relating
23 to racetrack licenses. The committee may establish
24 working groups of experts, members of the public, or
25 other interested parties to advise the committee about

1 a proposed rule of the Commission. The committee shall
2 bring back recommendations to the full Commission for
3 any changes to the rules.

4 CHAIRMAN PABLOS: Thank you, Mark.

5 As you can see, this is a process really
6 designed to have a more deliberate and well-informed
7 recommendation. This will give the Commissioners an
8 opportunity to participate in the entire process. It
9 will give the industry an opportunity to share its
10 input so that when we are up here as a full body, we
11 know that the issue has been vetted properly, that all
12 parties, interested parties, have been -- have been
13 given the opportunity to participate.

14 And so I think that this is a very
15 positive step in making sure that we provide you with
16 the customer service that you deserve and also that we
17 provide this body the assurance that all issues have
18 been considered.

19 I've asked Commissioner Tom Clowe and
20 Commissioner Robert Schmidt to cochair the licensing
21 committee. And I've asked Jimmy Archer and
22 Commissioner Carter to cochair the rules committee.

23 So at this time are there any questions
24 or comments from the Commission?

25 MR. CLOWE: I have one, Mr. Chairman.

1 CHAIRMAN PABLOS: Yes, sir.

2 MR. CLOWE: I'd like to ask the general
3 counsel to give us general comments on the statutory
4 foundation based in law and then a general comment on
5 the rule application as it now exists so that these
6 committees might understand what leeway and latitude
7 they have and don't have.

8 MR. FENNER: Yes, sir, I can do that for
9 you.

10 There is a section of the Government Code
11 that talks specifically about advisory committees, and
12 I had some concern at the beginning that this would
13 have limits on the Commission's ability to form this
14 type of committee. But I have reviewed the materials
15 and the Attorney General's opinions and found that
16 unless the ability of the Commission is specifically
17 limited that you do have implied powers to do that
18 which is necessary to carry out the specific powers
19 that have been delegated to you.

20 In this case, you do have specific
21 statutory authority to form committees on rules; and
22 clearly racetrack licensing is a major function of this
23 agency; and therefore I think it is very reasonable to
24 believe and assert that you do have the ability to form
25 a committee on racetrack licensing.

1 Now, we've been very careful in the
2 charges to the committee that you are not, in fact,
3 delegating specific -- delegating authority to these
4 committees. These committees are bringing back
5 recommendations to the full Commission. It will be the
6 full Commission's -- still the Commission's
7 responsibility to take these actions. But you would be
8 in charge of bringing back recommendations and helping
9 to flesh out issues.

10 Does that help you, sir?

11 MR. CLOWE: That helps. It's not
12 complete. I want to ask you a couple of more questions
13 relative to that.

14 You gave an opinion about the granting of
15 licenses and a location being an implicit part of that
16 requirement.

17 MR. FENNER: Yes, sir.

18 MR. CLOWE: Is that embodied in a rule or
19 in a statute?

20 MR. FENNER: That is in the statute, that
21 in order to -- the statute talks about -- this is a bit
22 of a circuitous path, but the statute talks about what
23 you have to do in order to -- the factors you have to
24 consider in order to consider a change of ownership or
25 location and each of those two issues refers to a

1 different part of the statute.

2 If you go to the other part of the
3 statute, that's where it lists out the specific items.
4 And in the case of a change of ownership, they're
5 supposed to be putting forth what types of racing that
6 are going to be conducted. You have to have a location
7 in order to conduct live racing.

8 MR. CLOWE: And then a follow-up question
9 and it goes to, I think, an issue that's before the
10 Commission, Mr. Chairman. Does the charge ask the
11 committee to delve into the problem or the question of
12 existing licenses that are not in operation or do not
13 have a location that are subject to sale? How broad is
14 that intent on your part?

15 CHAIRMAN PABLOS: The intent here is to
16 bring all licensing issues to the subcommittee; and so
17 as they arise, we definitely -- or I would like to see
18 the committee take a look at that.

19 MR. CLOWE: So how I interpret that is
20 everything is on the table. This committee work is
21 fully scoped to all issues relating to licensing and
22 rules.

23 CHAIRMAN PABLOS: That is the intent.

24 MR. CLOWE: Thank you. That's very
25 helpful.

1 CHAIRMAN PABLOS: Thank you, Mark.

2 Any other comments?

3 Under Letter C, as most of you know, I
4 was charged by Chairman Adams to take a look at -- or
5 to preside over the working group on future funding for
6 the Commission; and given my recent appointment, I've
7 asked Sonny Sowell to take helm of that and preside
8 over that committee and he's graciously accepted.

9 And so I wanted to thank you,
10 Commissioner Sowell, for that.

11 The next item is budget and finance
12 update. Will Shelley Harris please give us your
13 report?

14 MS. HARRIS-CURTSINGER: Good morning,
15 Commissioners. Under Tab III-1 you will find the
16 update of the agency's fiscal year 2009 budget status.
17 We are currently 16.67 percent through fiscal year 2009
18 as of October 31st, 2008. As of this accounting cycle,
19 the agency has expended 13.03 percent of the
20 operational budget and expended 13 percent of the ATB
21 budget. This leaves the agency currently 3.65 percent
22 under budget.

23 In addition to the budget updates, I
24 would like to provide information on the comptroller
25 routine post-payment audit. Under Tab III-5 please

1 find a copy of the letter of intent dated November
2 7th. The agency has provided the preliminary
3 information as requested by the comptroller's staff.
4 We anticipate hearing from the comptroller's staff
5 shortly to set up a preliminary meeting and actual date
6 as to when the audit will begin.

7 Last, under Tab III-6 you will find the
8 estimated revenue loss due to the past hurricane
9 season. This includes figures from Hurricanes Dolly
10 and Ike which affected Valley Race Park, Sam Houston
11 Race Park, and Gulf Greyhound Park. To date, the
12 losses have totaled just over \$225,000. This includes
13 direct losses to the revenue of the agency's operating
14 budget, the Texas-bred program, escrowed horse purse,
15 and the State pari-mutuel tax. This information has
16 been provided to the Governor's office and to the
17 Legislative Budget Board at their request.

18 Due to the revenue losses from the
19 hurricanes, the change in the way the outs funds are
20 now collected, as well as the downturn in the economy,
21 we are keeping an even closer eye on the agency's cash
22 flow.

23 I will be happy to answer any questions.

24 CHAIRMAN PABLOS: Are there any
25 questions?

1 COMMISSIONER SCHMIDT: Shelley?

2 MS. HARRIS-CURTSINGER: Yes.

3 COMMISSIONER SCHMIDT: One small
4 question. I've been looking over the percent of budget
5 elapsed. The rent, I consider that sort of a fixed
6 expense. That was a little higher, 24 percent.

7 MS. HARRIS-CURTSINGER: That is three
8 months of rent because as of October 31st, we would
9 have already processed November's rent to pay
10 electronically on November 1st, so it was included in
11 that report. So it is 25 percent of the year.

12 COMMISSIONER SCHMIDT: Thank you.

13 CHAIRMAN PABLOS: Any other questions?

14 Thank you very much.

15 Under III-E we have a report on racetrack
16 inspections. Carol Olewin, please?

17 MS. OLEWIN: Good morning,
18 Commissioners. This is the report on racetrack
19 inspection activities.

20 The first group of inspections with Gulf
21 Greyhound, these are routine follow-up inspections or
22 unannounced inspections. The next set is Lone Star
23 Park. These were during the live race meet at Lone
24 Star Park. The next set is Manor Downs. These were
25 mid-meet and we have no outstanding items there.

1 The next is Retama Park. These were
2 follow-up -- or not -- I'm sorry. Not follow-up.
3 These were unannounced inspections during the course of
4 the live meet. And then the last section is Valley
5 Race Park. And these are beginning of the meet
6 inspections. And two training track inspections.

7 CHAIRMAN PABLOS: Thank you.

8 Are there any questions?

9 Thank you very much.

10 Item III-F, report and update by the
11 executive director and staff regarding administrative
12 matters. Charla Ann, please?

13 MS. KING: Good morning, Mr. Chairman and
14 members of the Commission. I have a fairly -- I have a
15 fairly short report for you today.

16 At the last meeting you adopted our new
17 ethics policy which consolidated the agency's ethics
18 policy with the standards of conduct for Commissioners,
19 employees, and the general counsel's office. We have
20 incorporated the new policy into our employee handbook
21 and our new Commissioner training materials.

22 In addition to distributing to all the
23 Commission employees, at the request of Commissioner
24 Sowell, the document has also been distributed to the
25 general managers of all racetracks and executive

1 directors of the breed registries and the Horsemen's
2 Partnership for their review and their referral.

3 The policy is also posted on our
4 website. And we've asked each general manager to
5 ensure that it has been posted on their bulletin boards
6 for viewing by licensees and by the public.

7 We want to thank again Commissioner
8 Ederer and Commissioner Hicks for their work on the new
9 policies. It's been very helpful.

10 A short report on racetrack meets. I'm
11 happy to report that the extension of the Thoroughbred
12 racing at Retama Park has been seamless, a credit to
13 all who worked through the many issues involved with
14 Sam Houston Race Park not being able to conduct their
15 fall Thoroughbred meet due to the damage from Hurricane
16 Ike.

17 The Quarter Horse meet at Lone Star Park
18 ended on Saturday. The total on-track average handle
19 and attendance rose slightly up from last year.
20 However, the export handle declined almost 14 percent
21 compared to last year, perhaps a reflection of the
22 national economic situation.

23 In response to the horsemen's need for
24 training space, you'll recall that we discussed that
25 last time when we were in Houston. With Sam Houston's

1 backside being closed and Retama continuing to run
2 through February, Lone Star Park made the decision to
3 remain open through the winter for training. This
4 provides the horsemen with a viable option for winter
5 stabling and training and everyone appreciates Lone
6 Star's decision.

7 To date, during the Quarter Horse meet at
8 Lone Star Park and Thoroughbred meet at Retama, there
9 have been seven medication violations, all of them
10 minor. Valley Race Park opened for their winter meet
11 this past Friday, the day after Thanksgiving, with
12 handle up 20 percent over last year and attendance up
13 over 47 percent. Their meet runs through April 5th.

14 Commissioners, that concludes my report
15 for today. I'm happy to answer any questions.

16 CHAIRMAN PABLOS: Are there any questions
17 of Charla Ann?

18 Thank you very much.

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

20 CHAIRMAN PABLOS: We'll move on to Item
21 III-G, approval of the internal audit plan for FY
22 2009. I'd like to invite Monday Rufus, our auditor,
23 for the report.

24 MR. RUFUS: Good morning, Chairman and
25 Commissioners. I'm here to represent the firm of

1 Monday N. Rufus, PC, the internal auditor for the Texas
2 Racing Commission. I'd also like to introduce one of
3 my associates, Robert Gonzales, CPA.

4 As required by the Texas Internal
5 Auditing Act, Government Code 2102.008, we have
6 provided the audit plan for fiscal year 2009. We are
7 recommending the following areas for audit as a result
8 of our risk assessment, one of them being the personnel
9 processes within the agency. The second one is a
10 follow-up, internal audit recommendation, the audit
11 that we did back in 2006 related to racing
12 administration.

13 And last, but not least, a follow-up on
14 internal audit of the Texas-bred incentive program and
15 associations. We did the audit in 2007 and we will be
16 doing the follow-up to determine if our recommendations
17 have been implemented.

18 Your approval of the above areas will
19 enable us to commence internal audit activities for
20 fiscal year 2009.

21 I'll be more than happy to entertain any
22 questions you may have.

23 CHAIRMAN PABLOS: Are there any technical
24 or clarifying questions of Mr. Rufus?

25 Okay. Hearing none, I'd like to -- do we

1 have any public comment?

2 I'd like to invite the Commissioners to
3 make a motion to approve the internal audit plan for
4 the FY 2009 as presented.

5 COMMISSIONER SOWELL: So move.

6 COMMISSIONER EDERER: Second.

7 CHAIRMAN PABLOS: Moved by Sowell,
8 seconded by Ederer.

9 Is there any discussion?

10 Hearing none, at this time I'd like to
11 take a vote. All those in favor please signify by
12 saying aye.

13 COMMISSIONERS: Aye.

14 CHAIRMAN PABLOS: Any opposed?

15 The motion carries.

16 Item III-H, approval of memorandum of
17 understanding with the Texas Veterinary Medical
18 Diagnostic Laboratory for FY 2009. Mr. Mark Fenner,
19 will you please give us your report?

20 Take your time.

21 COMMISSIONER SOWELL: When it comes to
22 this highly technical stuff, women are superior. Isn't
23 that correct?

24 MR. FENNER: I wouldn't limit it to
25 that.

1 MR. CLOWE: I was going to say.

2 COMMISSIONER SOWELL: Well, you've got to
3 start somewhere.

4 MR. FENNER: Can you hear me? Well
5 enough.

6 All right. The Texas Racing Act,
7 specifically Section 3.07, provides that the drug
8 testing on race animals is performed by the Texas
9 Veterinary Medical Diagnostic Laboratory and that the
10 charges for that testing are paid for by the
11 associations and that the Commission reviews the
12 invoices to make sure that the charges are reasonable.

13 As part of that process, the agency
14 enters into a memorandum of understanding with Texas
15 Veterinary Medical Diagnostic Lab each year that sets
16 the prices for the drug testing the following year; and
17 this MOU contains some price increases from the prior
18 year.

19 We have met with TVMDL and had numerous
20 phone conversations with them regarding the prices. We
21 have worked very hard to keep those prices reasonable.
22 They have worked very hard to keep them reasonable as
23 well. There are increases. There's also a new drug
24 testing program that's going to be implemented, the
25 steroids rule, and obviously that has costs with it.

1 Here from Texas Veterinary Medical
2 Diagnostic Lab, I'd like to introduce Dr. Tammy
3 Beckham, who's the director of TVMDL, as well as Ken
4 Peck, who is in charge of the drug testing program
5 there, the lab itself.

6 You have the price increases in your
7 materials. I believe there's a copy of the MOU in the
8 packet.

9 Do you have any questions for me?

10 CHAIRMAN PABLOS: Any technical or
11 clarifying questions of Mr. Fenner?

12 Hearing none, do we have anyone signed up
13 to speak on this? No?

14 Okay. So at this time I'd like to invite
15 the Commission to make a motion for approval of the
16 memorandum of understanding with the Texas Veterinary
17 Medical Diagnostic Laboratory for FY 2009.

18 COMMISSIONER SCHMIDT: So move.

19 COMMISSIONER SOWELL: Second.

20 CHAIRMAN PABLOS: Moved by Dr. Schmidt,
21 seconded by Sowell, Commissioner Sowell.

22 Any discussion?

23 MR. CLOWE: I would like to ask if this
24 is a one-year price list. Do we anticipate an increase
25 in prices the following year? Was that discussed in

1 the negotiations?

2 MR. FENNER: It is a one-year MOU. We do
3 review with TVMDL the prices each year. This is only
4 the second price increase over the past several years.

5 As to what the future holds, it depends a
6 lot on the race dates, the number of race dates. The
7 more race dates there are, the less the per-test cost
8 is. If the number of race dates continues to decline,
9 it can have a negative effect on the individual
10 per-test cost.

11 MR. CLOWE: Thank you.

12 CHAIRMAN PABLOS: Any further discussion
13 or questions of Mr. Fenner?

14 At this time I'd like to take a vote.
15 All those in favor please signify by saying aye.

16 COMMISSIONERS: Aye.

17 CHAIRMAN PABLOS: Any opposed?

18 The motion carries.

19 The next item, III-I, legislative
20 proposals by the Texas Racing Commission to the 81st
21 Texas Legislature, regular session, 2009. Charla Ann,
22 please?

23 MS. KING: Mr. Chairman and
24 Commissioners, you'll find on page III-28 of your
25 packet the legislative proposals related to racing for

1 the 81st Legislature. We've identified for you three
2 Commission proposals at the top of that handout which
3 Mark is going to explain in more detail in a minute. I
4 just wanted to address the process here for you all in
5 terms of the sunset process and how important our
6 legislative proposals are this time for your
7 consideration.

8 What our approach -- our proposed
9 approach would be is for you all to review these and,
10 if willing, approve them; and then that would enable us
11 to coordinate, with the sunset process, some additions
12 to the sunset legislation. We would work with the
13 sunset staff and then we would work with the sunset
14 legislation bill sponsor and their staff to see if they
15 would be open to including our proposals in the sunset
16 legislation. And so that's why we've identified these
17 for your consideration today.

18 And I'm going to have Mark explain those
19 three and then you'll also see on the handout some
20 additional proposals that touch the Texas Racing Act as
21 well that were discussed at the Legislature recently.
22 So if I could have Mark provide the content on that.

23 CHAIRMAN PABLOS: Yes, please.

24 MS. KING: Thank you.

25 MR. FENNER: The first proposal that

1 we've brought for your consideration is to provide
2 additional oversight of the stewards' and judges'
3 decisions. Right now the maximum penalties that the
4 judges or stewards can assess is a 5,000-dollar penalty
5 and one-year suspension. That 5,000-dollar penalty is
6 the original penalty that was in the Texas Racing Act
7 back from 1986 when it was originally adopted, so we do
8 think that there is an opportunity here to provide for
9 an enhancement of that monetary penalty as well as the
10 flexibility for the Commission to impose a two-year
11 suspension.

12 Now, the way we would see that working is
13 that once the board of stewards or judges has issued a
14 decision, then Charla Ann or the executive director
15 would be able to review that decision and, before that
16 decision became final, be able to enhance that
17 penalty. The licensee would still have their full
18 appeal rights through the State Office of
19 Administrative Hearings, and that decision would then
20 come before you for final review.

21 The second proposal is to modify the
22 definition of performance. Now, performance relates to
23 greyhound racing. Currently its definition means -- it
24 puts a cap of 13 races in a greyhound performance.
25 This has not really been a sufficient number for the

1 racetracks; and the Commission, through its rules, has
2 allowed for the additional running of extra races
3 through what's called an abbreviated performance which
4 is up to an additional five races. What this change to
5 the act would do, it would allow you to establish the
6 maximum number of races in a greyhound performance.

7 And the third proposal staff is bringing
8 forward is to add the definition of a handicapping or
9 handicapper tournament. We've had quite a bit of
10 interest from the racetracks in the ability to hold
11 handicapping tournaments. And reviewing the Texas
12 Racing Act, it does not provide for that type of
13 activity, at least not where the tracks could impose or
14 collect a fee for entering the tournament to offset
15 some of their expenses. So what this would allow them
16 to do is to hold handicapping tournaments and charge an
17 entry fee to participate.

18 Now, on page III-28 you will also see
19 some legislative items that were taken up by the
20 licensing and administrative procedures committee.
21 Each of these were adopted by the committee. We're not
22 bringing those to you for any action today, but we did
23 think that you would want to know about these. I don't
24 intend to go into a great deal of detail about them.

25 I would like to point out that

1 Recommendations No. 1 and No. 2 which relate to
2 partnering with State agencies to perform economic
3 duties and reviewing and promoting economic development
4 through partnering with State agencies is an item that
5 Commissioner Sowell spoke of and on behalf of at the
6 Sunset Commission, and the licensing and administrative
7 procedures committee did adopt that as a recommendation
8 to the Legislature.

9 Most of these remaining ones are -- many
10 of these remaining ones came from the Texas
11 Thoroughbred Association; and each of these
12 recommendations were, in fact, adopted by the
13 committee.

14 So the items we have before you today are
15 the first three proposals that I mentioned.

16 CHAIRMAN PABLOS: Thank you, Mark.

17 Are there any questions, clarifying
18 questions, of Mark?

19 Is anyone signed up to speak on this
20 item?

21 Okay. Well, then what I'd like to do is
22 take up all proposals as a group. So I'd like to
23 invite Commissioners to make a motion to approve the
24 Commission's legislative proposal to the 81st Texas
25 Legislature.

1 COMMISSIONER EDERER: So move.

2 COMMISSIONER SOWELL: Second.

3 CHAIRMAN PABLOS: Moved by Ederer,
4 seconded by Sowell.

5 Any discussion on this item?

6 Charla Ann, I want to thank you and your
7 staff for the great work you're doing on this. As you
8 know, you know, we're entering into a very busy time
9 here with the session coming up and with sunset and so
10 I look forward to working more closely on these items
11 and having your staff focus on sunset as much as you
12 can. So I appreciate that.

13 MS. KING: Thank you.

14 CHAIRMAN PABLOS: So at this time I'd
15 like to take a vote. All those in favor please signify
16 by saying aye.

17 COMMISSIONERS: Aye.

18 CHAIRMAN PABLOS: Any opposed?

19 Okay. That motion carries.

20 Next, Item IV, proceedings on racetracks,
21 we have a report by Sam Houston Race Park on the status
22 of reconstruction. I'd like to recognize Andrea Young,
23 please.

24 MS. YOUNG: Good morning, Commissioners.

25 Good morning. I'm a little more excited to be here

1 today with some progress than at our last meeting.
2 We've made quite a bit of progress since we met at the
3 end of October. I'm going to run everyone through kind
4 of a couple of key areas we've identified to talk about
5 today.

6 One, most notably, the grandstand and the
7 grandstand roof which we discussed last month -- or at
8 the end of October. I'm sorry. About two and a half
9 weeks ago we placed the order for the new grandstand
10 roof. So we've selected a vendor. We're very pleased
11 with the vendor we're working with. In fact, there is
12 a meeting today at the park to schedule all of the
13 coordination efforts related to the actual project,
14 when it will begin, et cetera.

15 The materials are expected to be on site
16 at the end of December and we fully anticipate to start
17 construction on January the 4th. That time line puts
18 us well on pace to meet our April 1st goal that we set
19 out and it's our hope we're going to meet that and we
20 fully expect that we can meet that with a little room
21 to spare.

22 Secondly, because of the grandstand roof
23 project, on January the 3rd, the day before, we
24 anticipate moving all of our simulcast operations to
25 the pavilion, which is a facility located adjacent to

1 the grandstand. That facility sustained some damage,
2 so we are in there this week -- or this entire month
3 cleaning it up and preparing it as much as we can.
4 We're going to work with staff to make sure they have
5 the opportunity to come in and inspect the week prior
6 to that move.

7 We're going to take -- that roof is also
8 going to ultimately be replaced. We've kind of got it
9 patched pretty well and as well as we can right now;
10 and so we're going to wait until the spring, until we
11 can move our simulcast operations back into the
12 grandstand, to begin that project.

13 The barns and stable areas, the
14 demolition has been totally completed. We have three
15 final bids that we're reviewing and we've had to go
16 back and ask for some additional clarifications and
17 adjustments because of fire and code upgrades, but we
18 fully anticipate beginning that work by January 15 and
19 completing it on track with the roof repair.

20 Our tote board, we actually have
21 Daktronics in Houston today meeting with our staff
22 making a presentation on various options. We have to
23 order that piece of equipment by the end of this month
24 and we fully anticipate doing that.

25 During November we had two meetings with

1 our insurance adjusters, first on our accounting and
2 the BI, business interruption, teams, and then on
3 November 21st on our property claim. Both of those
4 meetings were very positive. We feel things are moving
5 well and in the right direction. They're currently
6 reviewing all of the information that we have provided
7 them.

8 And plans are well under way for us to
9 begin live racing again on May 1st with the start of
10 our Quarter Horse meet. Our staff is working, you
11 know, pretty diligently on making it a big deal for
12 Houston and for Sam Houston Race Park and for the start
13 of that meet and it's something we're looking forward
14 to.

15 With that said, I'll open it up to any
16 questions if there are any.

17 CHAIRMAN PABLOS: Any questions?

18 Well, congratulations on your progress.
19 We look forward to hearing some more updates in the
20 future.

21 MS. YOUNG: Thank you.

22 CHAIRMAN PABLOS: Thank you.

23 Okay. At this time we'll take up Item
24 IV-B and C together. IV-B and C are requests by Gulf
25 Greyhound Park for the approval of amendment to the

1 totalisator contract with United Tote, and IV-C is a
2 request by Gillespie County Fair & Festivals
3 Association for an approval of amendment to the
4 totalisator contract with United Tote.

5 At this time I'd like to recognize Carol
6 Olewin, please.

7 MS. OLEWIN: Gulf Greyhound Park
8 submitted an addendum to their original totalisator
9 contract with United Tote Company that was dated March
10 31st, 2006. That original contract was approved by the
11 Commission in June 2006, with an expiration of December
12 31st of 2008. This addendum extends the tote contract
13 for one year, to expire on December 31st, 2009.

14 Staff has reviewed the addendum and
15 recommends the Commission approve the extension of the
16 contract. United Tote is in good standing with the
17 Texas Racing Commission Rules of Racing.

18 CHAIRMAN PABLOS: So the effect of the
19 amendment is to extend by one year, correct?

20 MS. OLEWIN: Correct.

21 CHAIRMAN PABLOS: Now, as a Commission,
22 we cannot discuss the details of these tote contracts
23 in public. We have to go into executive session. At
24 this time I'd like to see if -- are we able to ask
25 technical questions, Mark?

1 MR. FENNER: About the details of the
2 contract, no, sir. So we would have to go into
3 executive session if you have detailed questions.

4 CHAIRMAN PABLOS: Okay. Well, then let
5 me ascertain if we have any questions with respect to
6 these amendments.

7 Okay. Hearing none, thank you very
8 much.

9 Is there any public comments on this,
10 Mark? Okay. Thank you.

11 Okay. Well, then what I'd like to do is
12 invite the Commissioners to make a motion to approve
13 the amendments to the tote contracts between Gulf
14 Greyhound Park and United Tote and the one between
15 Gillespie County Fair & Festivals Association and
16 United Tote.

17 COMMISSIONER SOWELL: So move.

18 COMMISSIONER SCHMIDT: Second.

19 CHAIRMAN PABLOS: Moved by Sowell,
20 seconded by Schmidt.

21 Any discussion? We can't have any
22 discussion, so -- and we don't have any.

23 So at this time I'll take a vote. All
24 those in favor please signify by saying aye.

25 COMMISSIONERS: Aye.

1 CHAIRMAN PABLOS: Any opposed?

2 Okay. Well, that carries. Thank you.

3 Under IV-D we have the item where we're
4 seeking allocation by the Texas Greyhound Association
5 of interstate cross-species purse money for 2009. I'd
6 like to recognize Sammy Jackson, deputy director.

7 MR. JACKSON: Good morning,
8 Commissioners.

9 Commissioners, on page IV-5 through IV-8
10 of the agenda packet, you'll find the Texas Greyhound
11 Association's proposed allocation of interstate
12 cross-species purse money for calendar year 2009.
13 Commission Rule 303.102(d) requires the TGA to annually
14 prepare and submit a proposed allocation for
15 consideration by the Commission.

16 In preparing this allocation, TGA is
17 required to consider the following: Average price per
18 point paid for purses at each greyhound racetrack
19 during the preceding year, the purse payout at each
20 greyhound racetrack during the preceding year, and the
21 impact that cross-species simulcasting has made on
22 greyhound purse revenues at each greyhound racetrack
23 during the preceding year.

24 The Texas Greyhound Association has
25 submitted a formula that allocates interstate

1 cross-species purse money on a weekly basis to both
2 Gulf Greyhound Park and Valley Race Park. By making
3 weekly payments, a steady and consistent purse flow
4 will be maintained to the greyhound owners and kennel
5 owners participating in racing in Texas.

6 Staff has reviewed the proposed
7 allocation formula for calendar year 2009 and finds
8 that the criteria listed in Commission Rule 303.102(d)
9 has been satisfactorily complied with.

10 If you have any questions regarding the
11 proposed allocation formula, Diane Whiteley, the
12 executive director of the Texas Greyhound Association,
13 is here to address them today. Additionally, if I can
14 answer any questions on behalf of staff, I'll be more
15 than happy to do so.

16 CHAIRMAN PABLOS: Thank you, Sammy.

17 Are there any clarifying questions of
18 Sammy?

19 Do we have anyone signed up to speak on
20 this item?

21 Okay. Well, then I'd like to invite the
22 Commissioners to make a motion to approve the Texas
23 Greyhound Association proposed allocation of interstate
24 cross-species purse money through December 31st, 2009.

25 Do I have a motion?

1 COMMISSIONER SCHMIDT: So move.

2 CHAIRMAN PABLOS: Moved by Schmidt.

3 COMMISSIONER EDERER: Second.

4 CHAIRMAN PABLOS: Seconded by Ederer.

5 Any discussion on this item?

6 All those in favor signify by saying aye,
7 please.

8 COMMISSIONERS: Aye.

9 CHAIRMAN PABLOS: Any opposed?

10 That item carries. Thank you.

11 Now I'll take up Item IV-E, allocation
12 among various breeds of horses of purse revenue
13 generated by simulcasting under Commission Rule
14 321.505(a) for 2009 and 2010. Sammy, please?

15 MR. JACKSON: Commissioners, on pages
16 IV-12 through IV-20 of the agenda packet, you will find
17 a signed agreement that has been submitted by the horse
18 racing associations for consideration and approval that
19 specifies the allocation of purse revenue generated by
20 simulcasting amongst the various breeds of horses for
21 each racetrack for calendar year 2009 and 2010.

22 This agreement has been submitted in
23 accordance with Commission Rule 321.505(a)(6) that
24 stipulates the association may submit the agreement to
25 the Commission for consideration if an association and

1 all the industry organizations reached a signed
2 agreement.

3 Staff has reviewed the agreement and
4 finds that it complies with 321.505(a)(6). For
5 simplification purposes, staff has prepared a summary
6 chart of the agreed-to allocations amongst the various
7 breeds of horses for calendar year 2009 and 2010 and
8 included it on pages IV-10 of the agenda packet for
9 your use and reference.

10 If you have any questions regarding the
11 agreement, the association representatives are here
12 today to answer them. Additionally, if I can answer
13 any questions on staff's behalf, I'll be happy to do
14 so.

15 CHAIRMAN PABLOS: Thank you, Sammy.

16 Any clarifying questions of Sammy?

17 We do have Bryan Brown signed up to
18 speak. Bryan, do you want to take this item up now or
19 all of them together?

20 MR. BROWN: Together will be great.

21 CHAIRMAN PABLOS: Okay. Come on up,
22 please.

23 MR. BROWN: Good morning, Commissioners.

24 It says to speak up here, but I don't know if it's
25 working or not. It should say "Use this," is what it

1 should say.

2 Good morning, Commissioners. The
3 agreement that you have in your packet is the result of
4 a lot of very, very hard work, negotiations, and
5 concessions by all the parties; and we are very, very
6 pleased to once again present it to you for your
7 approval. And I'm certainly happy to answer any
8 questions that you have.

9 CHAIRMAN PABLOS: Thank you, Bryan.

10 Any questions of Bryan?

11 Thank you very much.

12 MR. BROWN: Thank you.

13 CHAIRMAN PABLOS: Appreciate it.

14 Anyone else signed up to speak?

15 Okay. May I have a motion to approve the
16 proposed allocation of purse revenue under Rule
17 321.505(a) for the 2009 and 2010 years in accordance
18 with the three-year agreement in the packet?

19 COMMISSIONER EDERER: So move.

20 CHAIRMAN PABLOS: Moved by Ederer.

21 COMMISSIONER SCHMIDT: Second.

22 CHAIRMAN PABLOS: Seconded by Schmidt.

23 Is there any discussion?

24 Then I'll take a vote. All those in
25 favor please signify by saying aye.

1 COMMISSIONERS: Aye.

2 CHAIRMAN PABLOS: Any opposed?

3 The motion carries.

4 COMMISSIONER EDERER: I would like to
5 make a comment --

6 CHAIRMAN PABLOS: Okay.

7 COMMISSIONER EDERER: -- at this point in
8 time. The horsemen did work very hard to put this
9 together, to get these agreements; and as a
10 Commissioner, I certainly appreciate and I think the
11 whole Commission does appreciate the hard work that
12 they have done.

13 CHAIRMAN PABLOS: Thank you,
14 Commissioner. And thanks to everyone for their hard
15 work. Appreciate that.

16 Item F, distribution of the escrowed
17 purse account under Commission Rule 321.509 for 2009
18 and 2010. Sammy Jackson, please?

19 MR. JACKSON: Commissioners, on page
20 IV-12 through IV-20 of the agenda packet, you'll find
21 the signed agreement that has been submitted by the
22 associations for consideration and approval that
23 specifies the distribution of the escrowed purse
24 account to each racetrack and the division of the
25 escrowed purse account amongst the various breeds of

1 horses for calendar years 2009 and 2010.

2 This agreement has been submitted in
3 accordance with Commission Rule 321.509(e) that
4 stipulates an association may submit the agreement to
5 the Commission for consideration if an association and
6 all the industry organizations reach a signed
7 agreement.

8 Staff has reviewed the agreement and
9 finds that it complies with 321.509(e). For
10 simplification purposes, staff has prepared a summary
11 chart of the agreed-to distributions to each
12 association along with the agreed-to allocations
13 amongst the various breeds of horses for calendar years
14 2009 and '10. This chart is located on page IV-11 of
15 the agenda packet for your use and reference.

16 If you have any questions regarding the
17 agreement, the association representatives are here
18 today to answer them. And additionally, if I can
19 answer any questions on staff's behalf, I'll be happy
20 to do so.

21 CHAIRMAN PABLOS: Thank you, Sammy.

22 Are there any clarifying questions of
23 Sammy?

24 At this time I'd like to then entertain a
25 motion to approve the proposed distribution of the

1 escrowed purse account under Rule 321.509 for 2009 and
2 2010 in accordance with the three-year agreement in the
3 packet.

4 COMMISSIONER EDERER: So move.

5 CHAIRMAN PABLOS: Do I hear a motion?

6 Moved by Ederer.

7 COMMISSIONER SCHMIDT: Second.

8 CHAIRMAN PABLOS: Seconded by Schmidt.

9 Any discussion?

10 All those in favor signify by saying
11 aye.

12 COMMISSIONERS: Aye.

13 CHAIRMAN PABLOS: Any opposed?

14 The motion carries.

15 We'll take up Item IV-G, allocation among
16 various breeds of horses of the Texas-bred incentive
17 program revenue generated by simulcasting under
18 Commission Rule 321.505(b) for 2009 and 2010. Sammy
19 Jackson, please?

20 MR. JACKSON: Commissioners, on page
21 IV-29 of the agenda packet, you will find a signed
22 agreement that has been submitted by the breed
23 registries for consideration and approval that
24 specifies the allocation of Texas-bred incentive
25 program funds generated by simulcasting at each horse

1 racetrack among the various breeds of horses for
2 calendar year 2009 and 2010.

3 This agreement has been submitted in
4 accordance with Commission Rule 321.505(b)(4) that
5 stipulates the breed registries may submit an agreement
6 to the Commission for consideration if the agreement
7 stipulates the percentages of allocation amongst the
8 various breeds of horses and if the agreement is signed
9 by all breed registries.

10 Staff has reviewed this agreement and
11 finds that it complies with the rules. And for
12 simplification purposes, staff has prepared a summary
13 chart of the agreed-to Texas-bred incentive program
14 fund allocations amongst the various breeds of horses
15 for calendar year 2009 and '10 and included it on page
16 IV-28 of the agenda packet for your use and reference.

17 If you have any questions regarding the
18 agreement, the breed registry representatives are here
19 today to answer them. And additionally, if I can
20 answer any questions on staff's behalf, I'll be happy
21 to do so.

22 CHAIRMAN PABLOS: Thank you, Sammy.

23 Are there any clarifying questions of
24 Sammy?

25 Is there anyone signed up to speak?

1 Okay. Well, then I'll invite the
2 Commissioners to make a motion to approve the
3 allocation among the various breeds of horses of the
4 Texas-bred incentive program revenue generated by
5 simulcasting under Commission Rule 321.505(b) for 2009
6 and 2010 in accordance with the three-year agreement in
7 the packet. Do I have a motion?

8 COMMISSIONER SCHMIDT: Make the motion.

9 COMMISSIONER SOWELL: So move.

10 CHAIRMAN PABLOS: Moved by Schmidt.

11 Second?

12 COMMISSIONER EDERER: Second.

13 CHAIRMAN PABLOS: Seconded by Ederer.

14 Any discussion?

15 All those in favor signify by saying
16 aye.

17 COMMISSIONERS: Aye.

18 CHAIRMAN PABLOS: Any opposed?

19 That motion carries.

20 Under IV-H, a request by Manor Downs to
21 modify its 2009 live racing schedule. I'd like to
22 recognize Howard Phillips, CEO of Manor Downs.

23 MR. PHILLIPS: Good morning,
24 Commissioners. I'm Howard Phillips representing Manor
25 Downs. Before you, you have a request from Manor Downs

1 to move its mixed meet back one week, that is, to start
2 February 28th instead of February 21st and end April
3 26th instead of April 19th. The same number of races
4 will take place during the body of this meet. The
5 purpose is to minimize the overlap with Retama Park's
6 Thoroughbred meet which ends on Saturday, February
7 28th.

8 I'll be glad to answer any questions. I
9 think in my request you see we have the support of the
10 industry and we wouldn't have brought this before you
11 if we didn't.

12 CHAIRMAN PABLOS: Thank you,
13 Mr. Phillips.

14 Any clarifying questions of
15 Mr. Phillips?

16 I have Mr. Rob Werstler for public
17 comment.

18 MR. WERSTLER: Good morning,
19 Commissioners. Rob Werstler, executive director of the
20 Texas Quarter Horse Association. And we are in support
21 of moving these race dates. I'm here to answer any
22 questions if you have them.

23 CHAIRMAN PABLOS: Thank you.

24 Are there any questions of Mr. Werstler?

25 Thank you, Mr. Werstler.

1 Next signed up to speak, Tooter Jordan?

2 MR. JORDAN: Good morning,
3 Commissioners. I'm Tooter Jordan with the Texas
4 Horsemen's Partnership. And I'm here to delightfully
5 say that we are in complete support of Manor Downs'
6 request. If you have any questions, I'll be happy to
7 answer them.

8 CHAIRMAN PABLOS: Any questions?

9 Okay. Hearing none, anyone else signed
10 up to speak?

11 Thank you, Mr. Jordan.

12 Okay. Then I'd like to invite the
13 Commissioners to bring a motion to approve Manor Downs'
14 request, requesting modification to its live racing
15 schedule for 2009. Do I have a motion?

16 COMMISSIONER SOWELL: So move.

17 CHAIRMAN PABLOS: Moved by Sowell.

18 COMMISSIONER SCHMIDT: Second.

19 CHAIRMAN PABLOS: Seconded by Schmidt.

20 Any discussion?

21 I'll take a vote. All those in favor
22 please signify by saying aye.

23 COMMISSIONERS: Aye.

24 CHAIRMAN PABLOS: Any opposed?

25 The motion carries.

1 month, six weeks. And we have -- the other party has
2 filed papers with the Commission, but I don't believe
3 they're complete yet, and so we're hoping to have
4 everything done by the next meeting. That's our plan.

5 MR. CLOWE: Thank you.

6 CHAIRMAN PABLOS: Any other questions?

7 Thank you very much.

8 MR. JAMES: Thank you.

9 CHAIRMAN PABLOS: Rick Pimentel signed up
10 to speak. Would you like to -- okay. He'll pass.

11 Okay. So we have in front of us a motion
12 to table the Corpus Christi Greyhound Racetrack's
13 request for race dates until the next regularly
14 scheduled meeting and, in the interim, to refer the
15 request to the committee on racetrack licenses for
16 discussion and a recommendation to this full
17 Commission. Do I have a motion?

18 COMMISSIONER SOWELL: Move it be tabled.

19 CHAIRMAN PABLOS: Moved by Sowell.

20 Second?

21 COMMISSIONER SCHMIDT: Second.

22 CHAIRMAN PABLOS: By Schmidt.

23 Any discussion?

24 Okay. I'll take a vote. At this time
25 those in favor please signify by saying aye.

1 the front shoes of a Thoroughbred to two millimeters
2 and on a Quarter Horse to four millimeters.

3 Do you have any questions?

4 CHAIRMAN PABLOS: Any clarifying
5 questions of Mr. Fenner?

6 Thank you, Mark.

7 We do have David Hooper signed up to
8 speak.

9 MR. HOOPER: Could I address both the
10 rule proposals?

11 CHAIRMAN PABLOS: Yes, please.

12 MR. HOOPER: Now?

13 CHAIRMAN PABLOS: Yes, please.

14 MR. HOOPER: David Hooper, executive
15 director of the Texas Thoroughbred Association. The
16 Texas Thoroughbred Association is very supportive of
17 these rule proposals. They are in compliance with the
18 model rules. They're moving forward with the Jockey
19 Club recommendations and with TOBA as was mentioned.

20 The more uniformity that we have in this
21 industry, the better it is. I've worked in it for
22 many, many, many years; and there's been a lack of
23 uniformity from one jurisdiction to another, from one
24 region to another, and nationally. And this is a move
25 in the right direction and we strongly encourage that

1 you move forward and have these rules published as has
2 been promulgated. Thank you.

3 CHAIRMAN PABLOS: Thank you.

4 Any questions of Mr. Hooper?

5 Thank you, Mr. Hooper.

6 Okay. Anyone else signed up to speak?

7 Okay. So we -- I'd like to propose a
8 motion to publish the proposed Rule 313.426 in the
9 Texas Register for public comment. Do I have a
10 motion?

11 COMMISSIONER EDERER: So move.

12 COMMISSIONER SOWELL: Second.

13 CHAIRMAN PABLOS: Moved by Ederer,
14 seconded by Sowell.

15 Any comment?

16 All those in favor signify by saying
17 aye.

18 COMMISSIONERS: Aye.

19 CHAIRMAN PABLOS: Any opposed?

20 The motion carries.

21 The next item, V-A-2, proposal for new
22 Rule 319.364, testing for androgenic-anabolic
23 steroids. Mark Fenner?

24 MR. FENNER: Similar to the toe grab rule
25 you all just voted to publish in the Texas Register,

1 this is a testing rule for anabolic steroids. It was
2 discussed at the medication and safety working group
3 meeting on September 16th. It is -- it follows word
4 for word the RCI proposal that's on their website.
5 Staff recommends adoption -- or proposing this rule.

6 CHAIRMAN PABLOS: Thank you, Mark.

7 Any clarifying questions of Mark?

8 COMMISSIONER SCHMIDT: Yes. One comment
9 or question, Mark. I'd like to compliment you and the
10 staff for really getting out in front on the model
11 rules.

12 These refer to urine collections
13 primarily. Is there a trigger for a plasma collection
14 at a later date or is that still being worked out?

15 MR. FENNER: May I ask Dr. Marsh to
16 respond to your question?

17 COMMISSIONER SCHMIDT: Sure.

18 CHAIRMAN PABLOS: Welcome, Dr. Marsh.

19 MR. MARSH: Thank you. Good morning,
20 Commissioners.

21 Yes. The answer is yes. These urine
22 samples are -- actually the values are from European
23 rules that have been in place for many years in Europe
24 and that's how they were derived for the model rule.
25 The blood work is being done now and eventually there

1 will be -- serum will be the gold standard for
2 testing. There's been several States working on this,
3 including Texas, and the values aren't in yet; and with
4 the January 1st deadline, we were more or less forced
5 to go with the urine rule.

6 COMMISSIONER SCHMIDT: Okay. Thank you.

7 MR. MARSH: More questions?

8 CHAIRMAN PABLOS: Thank you very much.

9 Anyone signed up to speak?

10 Okay. So at this time I'd like to ask
11 for a motion from the Commissioners to publish the
12 proposed new Rule 319.364 in the Texas Register for
13 public comment. Do I have a motion?

14 COMMISSIONER SCHMIDT: Yes.

15 COMMISSIONER SOWELL: Move the approval.

16 COMMISSIONER SCHMIDT: Second.

17 COMMISSIONER SOWELL: Or the proposal.

18 CHAIRMAN PABLOS: Moved by -- motion by
19 Sowell, seconded by Schmidt.

20 Any discussion?

21 I'll take a vote. All those in favor
22 please signify by saying aye.

23 COMMISSIONERS: Aye.

24 CHAIRMAN PABLOS: Any opposed?

25 That motion carries.

1 The next item is under rule review. We
2 have a readoption of Chapter 309, racetrack licenses
3 and operations. Mark Fenner, please?

4 MR. FENNER: Commissioners, the Texas
5 Government Code requires each State agency to review
6 its rules at least every four years to make sure that
7 the original reasons for adopting that rule were still
8 good and that the rule was still necessary.

9 The Commission voted to open up this
10 chapter for rule review in November of 2007. It was
11 published in the January 4th, 2008 edition of the Texas
12 Register. We have been through many, many rules in
13 reviewing Chapter 309 as many of you are aware. We've
14 made many modifications to the rules. We've repealed a
15 couple of rules. There's some new rules.

16 I believe our work on this particular
17 chapter is done at this time and it would be
18 appropriate to readopt the chapter, that the remaining
19 rules are still needed and should be readopted.

20 CHAIRMAN PABLOS: Thank you, Mark.

21 Any questions of Mark?

22 Thank you, Mark.

23 Anyone signed up to speak?

24 Okay. At this time I'd like to entertain
25 a motion to conclude the rule review of Chapter 309 and

1 readopt it with the changes that have already been made
2 during the review period. Do I have a motion?

3 COMMISSIONER SCHMIDT: So move.

4 CHAIRMAN PABLOS: Moved by Schmidt.

5 Second?

6 COMMISSIONER SOWELL: Second.

7 CHAIRMAN PABLOS: Seconded by Sowell.

8 Any further discussion on this?

9 All those in favor signify by saying
10 aye.

11 COMMISSIONERS: Aye.

12 CHAIRMAN PABLOS: Any opposed?

13 The motion carries.

14 Under Item 2, review of Chapter 307,
15 proceedings before the Commission. Mark Fenner?

16 MR. FENNER: Commissioners, as with
17 Chapter 309, our Chapter 307 is now up for rule
18 review. It is time to review the rules within that
19 chapter which relate to proceedings before the
20 Commission. These apply to things such as contested
21 cases, racetrack licenses, proceedings before the
22 stewards and judges, and the rulemaking process
23 itself.

24 Staff would ask that we open this rule up
25 for rule review.

1 CHAIRMAN PABLOS: Thank you, Mark.
2 Any questions of Mark?
3 Anyone signed up to speak on this?
4 Okay. So I'd like to entertain a motion
5 to publish Chapter 307 for rule review in the Texas
6 Register and open the public comment period. Do I have
7 a motion?
8 COMMISSIONER SOWELL: So move.
9 COMMISSIONER EDERER: Second.
10 CHAIRMAN PABLOS: Moved by Sowell,
11 seconded by Ederer.
12 Any discussion?
13 All those in favor signify by saying
14 aye.
15 COMMISSIONERS: Aye.
16 CHAIRMAN PABLOS: Any opposed?
17 That motion carries.
18 Item 3, review of Chapter 313, officials
19 and rules of horse racing. Mark Fenner, please?
20 MR. FENNER: Commissioners, similarly,
21 it's time to review the rules within Chapter 313.
22 These relate to the rules of horse racing, including
23 the stewards' duties, the duties of all officials, the
24 entries, scratches, allowances, allowances, claiming
25 races, the running of the race, training facilities.

1 We need to open up and look at all of
2 those rules and we ask that you go ahead and post this
3 for rule review.

4 CHAIRMAN PABLOS: Thank you, Mark.

5 Any questions of Mark?

6 Anyone signed up to speak?

7 At this time I'd like to entertain a
8 motion to publish Chapter 313 for rule review in the
9 Texas Register and open the public comment period. Do
10 I have a motion?

11 COMMISSIONER SCHMIDT: So move.

12 CHAIRMAN PABLOS: Moved by Schmidt.

13 Second?

14 COMMISSIONER EDERER: Second.

15 CHAIRMAN PABLOS: Seconded by Ederer.

16 Any discussion?

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

19 COMMISSIONERS: Aye.

20 CHAIRMAN PABLOS: Any opposed?

21 That motion carries.

22 Item 4, review of Chapter 315, officials
23 and rules of greyhound racing. Mark Fenner, please?

24 MR. FENNER: Chapter 315 is the greyhound
25 version of Chapter 313. It relates to greyhound racing

1 and the officials, duties, race procedures, greyhound
2 breeding farms. It's time to review all of these
3 rules.

4 We'd ask that the Commission open the
5 chapter up for rule review and put it in the Texas
6 Register.

7 CHAIRMAN PABLOS: Thank you, Mark.

8 Are there any questions of Mr. Fenner?

9 Hearing none, anyone signed up to speak?

10 Okay. At this time I'd like to entertain
11 a motion to publish Chapter 315 for full review -- for
12 rule review, excuse me, in the Texas Register and open
13 the public comment period. Do I have a motion?

14 COMMISSIONER SCHMIDT: So move.

15 COMMISSIONER SOWELL: So move.

16 CHAIRMAN PABLOS: Moved by Schmidt.

17 Second?

18 COMMISSIONER EDERER: Second.

19 CHAIRMAN PABLOS: Seconded by Ederer.

20 Any discussion?

21 All those in favor please signify by
22 saying aye.

23 COMMISSIONERS: Aye.

24 CHAIRMAN PABLOS: Any opposed?

25 The motion carries.

1 Okay. We'll move on to Item VII, old and
2 new business. Is there any old or new business that we
3 might have, Charla Ann?

4 MS. KING: No, sir.

5 CHAIRMAN PABLOS: Commissioners?

6 Okay. So our next scheduled Commission
7 meeting will be on Tuesday, February 3rd, and this time
8 we'll have it at Retama Park. I want to thank Bryan
9 Brown and the crew at Retama Park. I like Charla Ann's
10 idea to go down to San Antonio and perhaps we can start
11 doing this a little bit more often where we visit
12 everyone and have an opportunity to also look at the
13 facilities and visit with everyone in the particular
14 city.

15 So hearing no new or old business, at
16 this time I'd like to adjourn our meeting. Thank you
17 for coming. Appreciate it.

18 (Proceedings concluded at 11:32 a.m.)

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1 STATE OF TEXAS)

2 COUNTY OF TRAVIS)

3

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

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

14 GIVEN UNDER MY OFFICIAL HAND OF OFFICE at Austin,
15 Texas, this 8th day of December, 2008.

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22 SHERRI SANTMAN FISHER, Texas CSR 2336
Expiration Date: 12-31-09
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