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BEFORE THE
TEXAS RACING COMMISSION
AUSTIN, TEXAS

COMMISSION MEETING
JUNE 9, 2009

Reported by: SHERRI SANTMAN FISHER
Job #77842

1 BE IT REMEMBERED that the above entitled matter
 2 came on for hearing on the 9th day of June, 2009,
 3 beginning at 10:35 A.M. at 105 West 15th Street, Room
 4 120, 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: ROLANDO PABLOS
- G. KENT CARTER
- RONALD F. EDERER
- ROBERT SCHMIDT
- VICKI WEINBERG
- THOMAS LATHAM
- C. TOM CLOWE, JR.
- JIMMY ARCHER

1 CHAIRMAN PABLOS: Okay. Good morning,
2 folks. The time is 10:35. I will call today's meeting
3 of the Texas Racing Commission to order.

4 Would you please call roll, Carolyn?

5 MS. WEISS: Tom Clowe?

6 MR. CLOWE: Present.

7 MS. WEISS: Jimmy Archer?

8 MR. ARCHER: Here.

9 MS. WEISS: Ron Ederer?

10 COMMISSIONER EDERER: Here.

11 MS. WEISS: Gloria Hicks? Tom Latham?

12 COMMISSIONER LATHAM: Here.

13 MS. WEISS: Robert Schmidt?

14 COMMISSIONER SCHMIDT: Present.

15 MS. WEISS: Vicki Weinberg?

16 COMMISSIONER WEINBERG: Here.

17 MS. WEISS: Dr. Carter?

18 VICE-CHAIRMAN CARTER: Here.

19 MS. WEISS: Rolando Pablos?

20 CHAIRMAN PABLOS: Here.

21 Do we have a quorum?

22 MS. WEISS: Yes, sir.

23 CHAIRMAN PABLOS: Thank you.

24 At this time I'd like to recognize two
25 new Commissioners that are joining us today. They were

1 with us last meeting, but today they're up on the dais
2 officially. I'd like to welcome Commissioner Latham
3 and Commissioner Weinberg.

4 Commissioner Weinberg, would you like to
5 say a few words?

6 COMMISSIONER WEINBERG: Well, I'm just
7 happy to be here. I've kind of grown up in the horse
8 business in the Dallas-Fort Worth area a little bit and
9 have done some real estate development. And when I was
10 asked to serve on this Commission, I was honored. And
11 I look forward to working with all of you. Thank you.

12 CHAIRMAN PABLOS: Thank you, Commissioner
13 Weinberg.

14 Commissioner Latham?

15 COMMISSIONER LATHAM: Good morning.
16 Thank you very much. I'm also very, very glad to be
17 here. I'm a career police officer, so this is not
18 unlike a role that I've had for almost 40 years now.
19 So thank you very much for having me.

20 CHAIRMAN PABLOS: Thank you very much.

21 At this time, Carolyn or Mark, do we have
22 anyone signed up for public comment?

23 MR. FENNER: No, sir.

24 CHAIRMAN PABLOS: None at all? Thank
25 you.

1 Okay. So we'll step into our general
2 business portion of our meeting today. At this time
3 I'd like to recognize Shelley Harris-Curtsinger, the
4 CFO, to give us the budget and finance update.

5 Good morning.

6 MS. HARRIS-CURTSINGER: Good morning,
7 Commissioners. The budget information in your packet
8 is as of April 30th. And as of April, we are 67.67
9 percent through the current 2009 fiscal year. Although
10 we are two-thirds through the fiscal year, we are 10.91
11 percent under budget. This is primarily due to the
12 fact that the heaviest racing is during the months of
13 May, June, July, and August, so we will see increases
14 in salary and travel during the last quarter -- a
15 little more than a quarter of the year. Additionally,
16 each department manager has implemented cost savings to
17 address the revenue shortfall that we have asked them
18 to take.

19 In addition to the budget, I would like
20 to give an update on the legislative session as it
21 relates to the budget. The request for supplemental
22 appropriations for 2009 fiscal year was approved for
23 \$348,525 in general revenue funding.

24 As you recall, we originally requested
25 250,000 in supplemental appropriations; but the

1 introduced version of the supplemental bill had the
2 agency receiving only \$178,000. We then requested an
3 additional 217,000, bringing the total request to
4 460,000 -- excuse me, \$467,000.

5 With a lot of work answering questions
6 from legislative staff, including Senate Finance and
7 the Legislative Budget Board, we are pleased that the
8 amount was increased to the \$348,525.

9 The agency was granted our appropriations
10 request for 10.1 million each fiscal year of the
11 2010-2011 biennium. An additional rider providing 1.5
12 million cash in conjunction with our sunset legislation
13 was recommended. However, neither the agency's sunset
14 legislation or the sunset schedule bill passed. The
15 agency will now not be able to take benefit from that
16 relief that Senator Ogden and Senate Finance had
17 proposed.

18 Additional points for looking at our
19 budget that encompasses both our appropriations and our
20 cash flow, notwithstanding the fact that both the
21 sunset and schedule bills failed, the agency does have
22 the appropriations authority to continue through fiscal
23 year 2011. This is possible through Article 18 in the
24 Racing Act and the rider provided in the special
25 provisions section of the General Appropriations Act

1 which canceled out the rider within our appropriation
2 that authorized funding for only fiscal year 2010 if
3 sunset legislation did not pass.

4 During the next biennium the agency has
5 the flexibility to adjust to changes in the industry,
6 expending less should a track close or increasing the
7 appropriations through our rider should a new track
8 open. Since the agency did not see any method of
9 finance changes through the session as sunset had
10 recommended, we will continue to collect the outs
11 payments. We will also begin to assess what additional
12 fee changes have to be made. And we'll have to
13 continue to closely monitor the agency's cash flow and
14 revenue projections.

15 I'll be happy to answer any questions.

16 CHAIRMAN PABLOS: Thank you.

17 Commissioners, are there any questions on
18 this item?

19 Thank you very much.

20 Our next item is Item III-B, report on
21 racetrack inspections. I'd like to recognize Carol
22 Olewin, compliance audit administrator.

23 Good morning.

24 MS. OLEWIN: Good morning,

25 Commissioners. This is a report on racetrack

1 inspection activities.

2 The first two inspections are for Manor
3 Downs. These were mid-meet inspections. There were no
4 outstanding items.

5 The next set of inspections were for Lone
6 Star Park. These were pre-meet inspections. And there
7 are no outstanding items.

8 The next inspection was for Valley Race
9 Park. This was an end-of-meet inspection. There are
10 no outstanding items.

11 Next is Gulf Greyhound Park. These were
12 two scheduled inspections. And although this report is
13 showing four unsatisfactory items at this time, on May
14 31st we had a follow-up inspection of the kennels and
15 lockout pens and the outstanding items have been
16 reduced to one now.

17 The next set of inspections are Sam
18 Houston Race Park. These were all pre-meet
19 inspections. And there are no outstanding items.

20 And last is Valhalla Training Center in
21 Rockdale, Texas. And there were no outstanding items.

22 Are there any questions, Commissioners?

23 CHAIRMAN PABLOS: Commissioners, any
24 questions?

25 Hearing none, thank you very much.

1 Appreciate your report.

2 MS. OLEWIN: Thank you.

3 CHAIRMAN PABLOS: Next, Item III-C,
4 report and update by the executive director and staff
5 regarding administrative matters and take a look at our
6 legislative report. Charla Ann King, please.

7 MS. KING: Mr. Chairman, with your
8 permission, I would like to move the legislative report
9 to Item F and start with the racing report.

10 CHAIRMAN PABLOS: Thank you.

11 MS. KING: Both Valley Race Park and
12 Manor Downs had concluded their 2009 spring meets with
13 similar results. For their November '08 to April '09
14 race meet, overall on-track handle at Valley Race Park
15 was down four percent while attendance was down 6.5
16 percent as compared to the year before. Manor Downs'
17 total on-track handle was down 16.5 percent as compared
18 to the '08 meet, with attendance down over six
19 percent.

20 Lone Star Park's Thoroughbred meet that
21 started on April 9th has seen a decline in both
22 on-track handle and attendance over last season, with
23 about an eight percent decline in attendance and over
24 an 18 percent decline in wagering. To date, this has
25 resulted in both a six percent cut in overnight purses

1 and the cancellation of five stakes races.

2 As you recall, Retama Park concluded its
3 extended Thoroughbred race meet in February having run
4 43 extra Thoroughbred days on Sam Houston Race Park's
5 behalf, so there's not a meaningful comparison on that
6 particular meet. However, Bryan Brown will be speaking
7 to you later in the agenda about Retama Park's upcoming
8 '09 Thoroughbred meet that's scheduled to start on
9 August 28th.

10 Sam Houston Race Park reopened as planned
11 on May 1st, having completed major repairs and
12 renovations to the grandstand, backside, dorms, and
13 track due to extensive damage from Hurricane Ike. I'm
14 hearing good reviews about their new tote board and I'm
15 looking forward to seeing it myself. I'm going to try
16 to get out into the field soon. However, their
17 on-track live wagering is down almost 14 percent as
18 compared to the first 19 days of racing at the '08
19 Quarter Horse meet and attendance is off over 34
20 percent.

21 There is some good news. Gulf Greyhound
22 Park's handle and attendance are both holding steady as
23 compared to the same time period last year. And we
24 will be hearing from Sally Briggs shortly, who will be
25 reporting on the reopening plans for Gulf Coast

1 Racing's greyhound track in Corpus Christi.

2 So that's the racing report. I'll move
3 to the report on Racing Commissioners International.

4 CHAIRMAN PABLOS: Please.

5 MS. KING: The RCI meetings were held in
6 Lexington this year. As many of you know because you
7 attended the meetings last year here in Austin, it's an
8 intensive week of information sharing and regulatory
9 analysis.

10 The models rules committee, of which I'm
11 a member, took up some important issues in Lexington.
12 Of particular note were the adoption of model rules
13 relating to veterinary oversight of racehorses,
14 including prerace vet checks, vet's list requirements,
15 and duties for Commission veterinarians. The new model
16 rules are more detailed and help set stricter standards
17 and practices.

18 Staff will be taking these rules to the
19 safety and medication working group for discussion.
20 However, we are not anticipating very many changes for
21 our own rules because we already have a high standard
22 in our own rules and procedures at the track and, in
23 fact, they used some of our rules in the development of
24 the model rules.

25 Other rules addressed by the model rules

1 committee approved included a uniform TCO2 testing
2 rule -- they've finally gotten that completed -- a
3 definition of traction device, a horseshoe inspector
4 rule, transfer of ownership requirements, horse
5 registration certificates, transfer of claimed horses,
6 and weight penalties.

7 The committee deferred action on the
8 approved type and rating of safety vests worn by any
9 person mounted on a horse or a stable pony and anyone
10 handling a horse in the starting gate. This rule and
11 others will be taken up at the next model rules
12 committee meeting which is scheduled for the end of
13 July in conjunction with the next RCI board meeting.

14 A wide range of topics are planned for
15 this next model rules committee meeting, including
16 secondary pari-mutuel certification, jockey fees,
17 riding crop, trainer continuing education, post-mortem
18 exams of horses, and test sampling.

19 We will also be discussing the use of
20 hyperbaric oxygen chambers, out-of-competition testing
21 of horses, recommended penalty guidelines for
22 medication violations, which was my request to be
23 discussed at the committee, and the development of an
24 interstate racing compact to improve the consistency of
25 regulation nationwide.

1 And that's a topic that we'll probably be
2 bringing more information to you about this interstate
3 compact. You know, there's been a lot of national
4 attention on consistency nationwide and some of the
5 states feel that an interstate compact is the way to
6 address that issue.

7 Texas will also provide at that meeting
8 or help provide at that meeting a report on the
9 greyhound model rules committee meeting that's
10 scheduled to meet in Austin this month, June 23rd and
11 24th. We are looking forward to working with other
12 states and the Texas Greyhound Association and the
13 tracks to review regulation of greyhound racing and
14 find ways to become more efficient and consistent.

15 So please let me know if you're
16 interested in hearing more about or discussing any of
17 these upcoming topics or you're interested in RCI.

18 That concludes this portion of the
19 report, Mr. Chairman.

20 CHAIRMAN PABLOS: Thank you, Charla Ann.

21 Commissioner Schmidt, I know you had a
22 chance to go up and participate. Do you have any
23 comments on your visit to the RCI?

24 COMMISSIONER SCHMIDT: Nothing really to
25 add to Charla Ann's report other than I do think you're

1 seeing a much greater impetus toward states working
2 together in terms of coordinating relationships between
3 states which may make more of a national compact a
4 reality in the next several years.

5 I would also like to state that just from
6 an unbiased view, Charla Ann is very, very active at
7 these meetings and very visible and recognized as a
8 superb contributor to these meetings.

9 CHAIRMAN PABLOS: Wonderful. Thank you
10 for mentioning that.

11 Charla Ann, I understand that you are
12 recognized as a leader in that organization and so I
13 encourage you to please continue down that path. And
14 as Dr. Schmidt said, you know, the cooperation amongst
15 the states is very important to us and, you know, best
16 practices is always good to have. And so thank you for
17 all your good work. Appreciate that.

18 MS. KING: Thank you.

19 COMMISSIONER EDERER: Excuse me. Charla
20 Ann, aren't you the secretary?

21 MS. KING: Yes, I was just elected to be
22 secretary-treasurer of the board, of the RCI board, so
23 I'm part of the executive committee and an officer and
24 I understand just like the third woman ever to be on
25 the board. So I'm pleased to be at that level.

1 COMMISSIONER EDERER: Congratulations.

2 MS. KING: Thank you.

3 CHAIRMAN PABLOS: Well, thank you very
4 much.

5 The next item is Item 4, a status
6 report -- a status report on Austin Jockey Club's
7 application for a transfer of pecuniary interests and
8 change of location for Longhorn Downs.

9 Mark Fenner, could you please give us an
10 update?

11 MR. FENNER: I have a very brief report.
12 At the last Commission meeting I had given you kind of
13 a chronology of how we've gotten to this stage and
14 where we are in the review of the application for the
15 transfer of Longhorn Downs.

16 At that point we were awaiting a DPS
17 background report. I can tell you that I have received
18 the background report this very morning. Under the
19 act, the application for change of location and
20 ownership is eligible for consideration by the
21 Commission once it has been on file with the Commission
22 for 14 days; so as soon as 14 days from today, the
23 application would be eligible for consideration by the
24 Commission.

25 CHAIRMAN PABLOS: Okay. Thank you very

1 much. Thank you for the update.

2 We'll move on to Item No. 5, report on
3 authority and responsibilities of stewards and judges.

4 Mark Fenner, please?

5 MR. FENNER: Commissioners, Chair Pablos
6 asked for kind of an update or a report on this about
7 the authority of the stewards and judges and so I've
8 reviewed the materials.

9 What I can tell you about this is the
10 stewards and judges are responsible to the Commission
11 for the conduct of racing and enforcing the laws and
12 the rules of the Commission. Their authority includes
13 the supervision of all racing officials, track
14 management, licensees, and even the patrons to the
15 extent necessary to ensure compliance with the rules.

16 They have authority to resolve conflicts
17 and disputes and to discipline violations. They have
18 the authority to interpret the rules and to decide all
19 questions of racing not specifically covered by the
20 rules.

21 They have a wide range of duties. These
22 include conducting hearings on rule violations. They
23 determine the eligibility of the race animals. In the
24 case of horses, they maintain a list of the horses that
25 are ineligible to start, either because they weren't

1 competitive or because they pose a danger to other
2 participants in the race.

3 They supervise the entries, the drawing
4 of post positions, and scratches. They view each race
5 and they act on inquiries and objections. They verify
6 the complete order of finish and declare the race
7 official.

8 They give the tests to those who want to
9 become licensed as trainers and assistant trainers.
10 They monitor the sales and lease agreements of race
11 animals. And they oversee the claiming process as part
12 of claims races.

13 They oversee the locking of the
14 pari-mutuel betting machines before or as the starting
15 gate opens. They verify the accuracy of the official
16 program. They make periodic inspections of the
17 facilities, including the restricted areas of the
18 jockey quarters and the paddock.

19 They can order testing of race animals
20 for drugs or order a pulmonary examination of a horse
21 to be able to detect exercise-induced pulmonary
22 hemorrhage or bleeding. They can order drug testing of
23 licensees.

24 They suspend the live racing whenever
25 hazardous weather occurs. And they perform any other

1 duty necessary on behalf of the Commission to ensure a
2 race meeting is conducted in accordance with the act
3 and the rules.

4 Due to the complexity of the sport and
5 the impracticality of developing a rule for every
6 single situation, our rules specifically provide wide
7 authority to the stewards and judges through the
8 following language. These are in Rules 313.22 and
9 315.5. It says "If a question arises during a race
10 meeting regarding the operations of a racetrack or the
11 conduct of racing that's not covered by the act or the
12 rules, the stewards and judges shall resolve the
13 question in conformity with custom, precedent, justice,
14 and the best interest" -- "the best interest of
15 racing."

16 It's very broad authority. They can take
17 disciplinary action on their own initiative or they can
18 act on referrals from an investigator or upon a
19 complaint. When they hold hearings, the hearing must
20 comply with at least minimum due process. If they find
21 a violation occurred, they can suspend the licensee for
22 up to one year and fine the licensee up to \$5,000.

23 Now, when they impose suspensions and
24 fines, they follow policy guidelines established by the
25 executive director, but they also have authority to

1 deviate from those recommended penalties for repeat
2 violators or when the circumstances surrounding the
3 violation justify it. If the stewards or judges
4 determine that an individual poses an imminent danger
5 to the public health, safety, or welfare, they can
6 summarily suspend the licensee before a hearing is even
7 held.

8 The stewards have the authority to revoke
9 or deny a license to an applicant who's been convicted
10 in a court of a felony or of a crime of moral turpitude
11 that's reasonably related to their fitness to hold the
12 license. They can also deny or suspend a license to an
13 applicant whose license has been suspended or revoked
14 in another jurisdiction.

15 With all the authority and the
16 responsibilities that the Commission entrusts to the
17 stewards and judges, it's easy to see how critical
18 these positions are. We're very fortunate that ours
19 have many years of experience, both as stewards and
20 judges and in racing in general. I believe all of them
21 have previously served as racing officials and several
22 of them were also jockeys or trainers.

23 They work long hours during the meet and
24 they have to make difficult and frequently unpopular
25 decisions. So while you Commissioners frequently see

1 Charla Ann and me and Sammy and Jean and other members
2 of the state headquarters staff, to the people who go
3 to the tracks, it's the stewards and judges who are the
4 faces of the Commission.

5 That concludes my report.

6 CHAIRMAN PABLOS: Thank you, Mark.

7 Commissioners, the reason I asked Mark
8 and Charla Ann to look into this is for those two
9 reasons stated. One is because there is great
10 subjectivity involved. There's wide authority that the
11 stewards are given. And also because they are the face
12 of the Commission at the tracks. And so I felt it
13 important for us to recognize their duties.

14 I encourage you to get more involved with
15 respect to what they do and learn more about what they
16 do at the tracks. I want to make sure that from a
17 customer service perspective we're providing the best
18 customer service to our licensees and also to the
19 tracks.

20 And so I want to commend you, Charla Ann
21 and staff, for the good job you're doing. I do want to
22 get more involved. As I mentioned to you, I'd like to
23 meet with the stewards. And I'd like to also institute
24 some type of a report format where the stewards would
25 report to us.

1 I feel that there might be a slight
2 disconnect from the Commissioners' level to the
3 stewards' level and so I want to bring this to you so
4 that you can become more aware of what it is that
5 they're doing and at the same time we can be also given
6 a heads-up of the kind of decisions they're making so
7 that whenever any appeals or any type of cases come our
8 way, we would have already been apprised of the
9 situation. So really that's the reason I wanted to
10 have Mark look at that.

11 Are there any comments from the
12 Commission? Commissioner Clowe?

13 MR. CLOWE: Mark, can you tell us how
14 many stewards and judges there are at each track?

15 MR. FENNER: Yes, sir. Each board of
16 stewards or judges has three serving on them. Now,
17 they're not necessarily the same three at each given
18 time. We do have judges or stewards who will rotate in
19 as others need to take some time off. But it's three
20 stewards or judges at each racetrack.

21 MR. CLOWE: And I can tell you from a
22 personal experience of meeting some of these
23 individuals at the tracks that I've visited that they
24 are very professional. They take their roles very
25 seriously. They are very favorably viewed by the

1 people who race the animals, both horses and dogs. I
2 think my overall impression is extremely positive.

3 CHAIRMAN PABLOS: Thank you, Commissioner
4 Clowe.

5 Any other comments or questions of Mark
6 or staff?

7 Hearing none, thank you, Mark, very
8 much. Charla Ann, thank you. And we'll continue this
9 process so that we can have the stewards become better
10 engaged in the whole process. Thank you.

11 MS. KING: Yes, sir.

12 CHAIRMAN PABLOS: Appreciate it.

13 Next item is Item D, a report by the
14 rules committee. I'd like to recognize Vice-Chair
15 Carter and Commissioner Archer who co-chair the
16 committee on racetrack and licensing.

17 VICE-CHAIRMAN CARTER: We drew straws and
18 I lost, so I get to give the report today.

19 The rules committee met last week,
20 Wednesday of last week, to discuss many of the -- all
21 of the rules that are to be voted on later today to be
22 adopted or posted. Present at the meeting were myself,
23 Commissioner Archer, the staff, representatives of the
24 racetracks, and representatives of the horsemen's
25 groups.

1 17 years that I've been working with the Commission,
2 the rules committee process has been very, very
3 helpful, I believe, in, like Doc said, streamlining,
4 you know, the explanation of the rules at the
5 meetings.

6 I also think it offers an opportunity for
7 all the parties to come together prior to the meetings
8 and discuss these rules, so it makes the meeting
9 process here more efficient. I want to applaud the
10 Commissioners that are involved and the industry and
11 staff.

12 Thank you.

13 CHAIRMAN PABLOS: I'd like to echo that
14 sentiment. And exactly -- Commissioner Archer, that's
15 exactly why we set up this committee. We wanted to
16 make sure that all the issues were vetted properly
17 beforehand and that the Commissioners themselves had an
18 opportunity to be walked through the process and really
19 understand it before we all come up here and are
20 expected to vote on these items. And so I also want to
21 thank you for all your good work.

22 That leads us to the next item, which is
23 now we've got a situation where we have Commissioner
24 Archer who's going to be stepping off -- and we'll talk
25 about that in a little bit -- but also Dr. Carter. We

1 need to have Dr. Carter help us with other issues. And
2 so what I'd like to do is I would like to designate new
3 members to the committee on rules.

4 And I personally am going to become more
5 involved with the rulemaking process. Given what has
6 happened in the recent legislative session, I think
7 it's important that we look towards rulemaking to
8 accomplish some of those items that we weren't able to
9 accomplish during the session.

10 And so I would like to ask Commissioner
11 Latham to consider chairing this committee on rules.
12 And you don't have to tell me right now, but certainly
13 please consider that. And also given that we have
14 Commissioner Weinberg new to the Commission, I'd like
15 to see if you would consider doing that, too. I'll be
16 part of it and also anyone else who might be
17 interested. This is going to be a very important
18 process because of what I just said regarding those
19 issues that we weren't able to get done during the
20 session.

21 And so if there are any comments or
22 anyone else who might be interested, please let me know
23 and we can set up the rules committee for the new
24 membership and we'll immediately set up a date so that
25 we can start meeting and start crunching through all

1 these very important items that we have.

2 MR. CLOWE: Excellent choices.

3 Excellent.

4 CHAIRMAN PABLOS: Thank you.

5 COMMISSIONER LATHAM: You're the third
6 member?

7 MR. CLOWE: No, no, no.

8 CHAIRMAN PABLOS: I don't mean to put you
9 on the spot; but certainly I think you have a lot of
10 experience, Commissioner Latham, in this process; and
11 so again, let me know if that's acceptable to you and
12 we can talk about it. Great. Thank you very much.
13 Appreciate that.

14 Okay. So our next item, Charla Ann, will
15 you please go over our legislative report -- actually
16 would it be Mark or -- how do you want to do this?

17 MS. KING: I'll start.

18 CHAIRMAN PABLOS: Okay. Charla Ann,
19 please, let's move on to Item F, which is the
20 legislative report.

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

22 We are obviously still in the process of
23 surveying the impact of the legislative session. As
24 was the case for most State agencies, it was a
25 challenging time. We did perhaps have a few more

1 twists and turns to negotiate, but I believe we managed
2 some good outcomes in the midst of some significant
3 turmoil.

4 At the top of the list of things that
5 went well, we turn to Senate confirmation of our new
6 Commissioners. On May 5th the Senate unanimously
7 confirmed our six appointees. Chairman Pablos and
8 Commissioner Latham answered a number of questions
9 posed by the nominations committee. They assisted the
10 committee in understanding more about challenges that
11 are being faced by the industry, including the
12 condition of purses. They had questions about that.

13 Staff would like to officially extend our
14 appreciation to all of the Commissioners for your
15 serving with us to regulate horse and greyhound
16 racing. And to our newest members, Commissioner
17 Weinberg and Commissioner Latham, we look forward to
18 your input and participation and working together.

19 In regard to appropriations, we were
20 successful in obtaining the very important supplemental
21 appropriation to close out the fiscal year as
22 Ms. Harris-Curtsinger mentioned. We owe thanks to
23 Chairman Ogden and Vice-Chairman Hinojosa and his staff
24 for their support and assistance, and we are sending
25 correspondence to make sure they know how much we

1 appreciate their support.

2 I would also like to thank
3 Ms. Harris-Curtsinger, Mr. Jackson, and Ms. Goode, who
4 all diligently provided members with budget information
5 and answered lots and lots of questions about our
6 budget and our process.

7 Mr. Jackson and Ms. Goode were also the
8 team that fulfilled a heavy responsibility for
9 producing fiscal notes that are requested by the
10 Legislative Budget Board, who seemed to request from us
11 this time around an unusually high number of fiscal
12 notes about general government and not just racing and
13 gaming bills. And personally, I think they like our
14 work product.

15 Moving on to House Concurrent Resolution
16 252, Representative Thompson, vice-chair of licensing
17 and administrative procedures, authored a concurrent
18 resolution to appoint a task force on horse and
19 greyhound racing. HCR 252 was approved by a majority
20 of both the House and Senate and is awaiting approval
21 from the Governor.

22 The resolution sets forth five
23 objectives: To support and promote horse and greyhound
24 racing and breeding programs, to review the Texas
25 Racing Act, to establish guidelines for increasing

1 revenue and creating more jobs within the industry, to
2 improve the working and living conditions of the people
3 who work and reside in and around the racetracks, and
4 to develop methods to enhance participation in and
5 enjoyment of the sport.

6 If signed, the resolution specifies that
7 the Governor's appointments include reps from the
8 training and breeding industries, business community,
9 regulatory community -- that would be us -- and other
10 experts with racing interests, and the membership must
11 reflect demographic diversity of the state.

12 Under the resolution, the Governor's
13 office and other agencies may provide staff and funding
14 to assist the task force. The task force may consult
15 with racing industry experts. And they're supposed to
16 look at other states as well. Before convening the
17 82nd Legislature, the task force would be required to
18 submit a full report, including findings,
19 recommendations, and possible legislation.

20 If signed by the Governor, we look
21 forward to working with the task force to accomplish
22 the resolution's objectives.

23 Now turning to the list of what did not
24 go well this session, that would be the sunset
25 legislation.

1 Obviously we are all disappointed that
2 the sunset legislation did not pass. With the vast
3 amount of time, effort, and resources devoted by the
4 Racing Commission, the Sunset Commission, and numerous
5 legislators and their staff members over the last two
6 years, the failure of the bill is both dissatisfying
7 and frustrating.

8 I would like to stress the agency's
9 commitment to continuing the sunset change process. As
10 an agency, we want to make sure that we move forward
11 promptly, where possible, to implement any more
12 improvements that we can here with the Commission.

13 For example, out of the 13 original
14 sunset recommendations, four were management actions.
15 I'm happy to report that the staff has addressed each
16 of these recommendations. These recommendations have
17 resulted in a faster method of obtaining criminal
18 history reports through electronic fingerprinting, a
19 process for oversight of practical examinations for
20 licensing horse trainers, more consistent oversight
21 from racetrack to racetrack by changing our staffing
22 pattern and requiring better reporting on enforcement
23 actions, and better integration of field staff effort
24 with central office efforts through increased
25 communication, coordination, and some more staff

1 changes.

2 The nine remaining sunset recommendations
3 were statutory changes. Our sunset bill was Senate
4 Bill 1013 by Hinojosa and it was engrossed by the
5 Senate. So it made it through the Senate. And the
6 engrossed version of the bill contained the sunset
7 recommendations with some modifications.

8 For example, the Senate added changes
9 that we requested relating to the enhanced authority to
10 review stewards' and judges' decisions and enhance
11 penalties as appropriate.

12 The Senate added general revenue funding
13 for the agency's annual operating budget, an excellent
14 provision that would have ensured that the agency's
15 yearly operating budget would be funded at the
16 beginning of each fiscal year. This would have
17 alleviated our cash flow concerns. Even though the
18 agency would be required to repay the loan, it would
19 have been a solution to the irregular and unpredictable
20 revenue stream.

21 The Senate also added fees on license
22 holders of inactive racetracks. This provision
23 provided an alternative approach to security bonds,
24 allowing the Commission to charge inactive license fees
25 that must be 50 percent greater than the annual fee for

1 active tracks. The Senate version eliminated the
2 security bond provisions in the act.

3 And the Senate version modified the
4 racetrack license review and renewal provisions that
5 had been in the original version. For example, the
6 engrossed version added language further distinguishing
7 between active and inactive tracks. They were working
8 on an approach that focused more on active tracks so
9 that the inactives would become active and be clearly
10 subject to revocation or refusal to renew.

11 SB 1013 was referred to the House
12 Licensing and Administrative Procedures Committee late
13 in the process. The bill was heard, left pending. The
14 bill was never voted out.

15 The most significant fallout from the
16 failed bill relates to our method of finance. Because
17 the method of finance was not changed to remove outs as
18 a source of revenue, the agency and the industry must
19 review the fee structure and consider alternatives.
20 Because of the failed bill, the agency will continue to
21 experience cash flow and timing problems until a more
22 reliable source of funding is adopted.

23 Of course, there is no way to know all
24 the factors that influenced the demise of our sunset
25 bill. However, what was abundantly clear was that the

1 members were extremely frustrated by the inability to
2 reach a consensus among stakeholders. This was
3 publicly acknowledged on the floor of the House by
4 Representative Thompson and in remarks made to the
5 media by both Chair Isett and Vice-Chair Hegar.

6 The sunset process gives multiple
7 opportunities for the stakeholders to provide input.
8 It appears to me that at least in our case, the process
9 was not sufficiently used to create that consensus
10 before it was too late.

11 At this point we wait, with other
12 affected agencies, to see what will happen next. We've
13 received official word from the Governor that all
14 options are under consideration and that we are to
15 continue our work as usual. I anticipate we will be
16 back in legislative special session in the coming
17 months. We will be ready when the time comes.

18 Thank you, Mr. Chairman. That concludes
19 my report.

20 CHAIRMAN PABLOS: Thank you.

21 Mark, do you have anything to add?

22 MR. FENNER: Well, the next agenda item
23 is the application of the Sunset Act. Is that what you
24 would like to talk about? Because I don't have
25 anything to add to her before --

1 CHAIRMAN PABLOS: Okay. Well, before we
2 do that, I do want to commend you, Charla Ann, and
3 staff, Megan and Jean, Mark. Everyone worked very hard
4 this session and I want to recognize that. They were
5 at the capitol at undoubtedly hours of the night, a
6 very frustrating roller coaster ride.

7 I am disappointed. I don't think it's
8 all lost. But we did invest a lot of time and energy
9 into this process, and for us to have to kind of pick
10 up the pieces and get back up again is frustrating
11 because we have other work to do. And so, you know,
12 I'd like to recognize your hard work and thank you for
13 that. And I know it wasn't easy.

14 So -- and also, the industry that
15 participated, I know that you had your objectives and I
16 want to make sure that we all move forward together to
17 make not only the industry a better industry but also
18 our regulatory process. So thank you for that. I
19 appreciate that.

20 Any comments, Commissioners?

21 Okay. Mark, let's move on to your
22 next -- to the next item, please.

23 MR. FENNER: Due to the failure of our
24 sunset bill as well as our failure to get into a
25 successfully passed sunset schedule adjustment bill, we

1 have to look at Section 18.01 of the Texas Racing Act
2 because, under 18.01, our Commission will be abolished
3 on September 1, 2009.

4 Now, when you look at 18.01 as a whole,
5 you have to notice that this is a wind-down provision
6 that's designed for a very capital-intensive industry
7 that makes large investments and that they may carry a
8 large amount of debts. That's why it contains an
9 exception within the 18.01. It says that we're
10 abolished on September 1 unless an association has
11 long-term liabilities and that such an association may
12 continue to operate while satisfying those liabilities
13 and the Commission is continued for the purpose of
14 regulating that association.

15 So in order to comply with the statute,
16 there's things for both staff and the Commission to
17 do. Now, we can begin by conducting an inventory of
18 the racetrack liabilities. And we'll start by
19 reviewing the audited financial statements. Our rules
20 require the tracks to submit these statements to the
21 Commission each year by June 15th. Once we receive
22 them and review them, we'll also follow up with the
23 tracks to review changes in their financial conditions
24 that have come about since the closing date of those
25 financial statements.

1 One of the key issues will be determining
2 which debts constitute long-term liabilities as opposed
3 to current liabilities. The tracks' financial
4 statements generally do group their liabilities into
5 these categories, but I'm sure we'll become more
6 educated about those definitions as we go through the
7 process.

8 The statute also focuses on allowing
9 tracks to continue to operate while satisfying their
10 debts. We'll have to be sure that you, as a
11 Commission, are comfortable with what that means. What
12 is the definition of an operating racetrack?

13 Under the act, under 18.01, the
14 racetracks must cease operations no later than one year
15 later after they've retired those outstanding
16 liabilities. Once the last track stops operating, the
17 Commission will notify the Secretary of State and be
18 abolished and the act expire on the following September
19 1.

20 Now, from your point of view as a
21 Commission, you'll have to decide what kind of
22 wind-down can occur and explore how much opportunity
23 you have to wind down in an orderly fashion. The
24 statute authorizes the Commission to establish specific
25 dates by which each racetrack must retire its debt, and

1 it's likely that most tracks have at least some
2 long-term debt.

3 The problem is that if those tracks
4 expire at irregular intervals, at a certain point no
5 track would be able to continue because there would be
6 no horsemen available to participate. Therefore, we're
7 going to try and present you with choices about how to
8 comply with the act in the event that there's no
9 special session or the Legislature chooses not to
10 continue the agency.

11 This is the conclusion of my report.
12 Since this is such an unexpected turn of events and it
13 happened only a week ago, there's no doubt that there's
14 some unanswered questions that will require extensive
15 policy discussion with both Commissioners and
16 stakeholders. As it stands right now, there's a lot of
17 work ahead for all of us.

18 CHAIRMAN PABLOS: Okay. Thank you,
19 Mark.

20 I think we ought to talk this through. I
21 think it's important for us to just begin our
22 discussion. My biggest concern was -- and the Governor
23 wrote me a letter and he allayed my concern, but I
24 wanted to make sure that staff recognizes that we are
25 going to continue to operate in normal fashion. We're

1 going to regulate as we've been regulating. And so
2 this agency will continue operating.

3 So that's the number one point I want to
4 make is I want staff to recognize that and understand
5 that. And if staff has any questions, I encourage you
6 to approach Charla Ann so that she and Mark can explain
7 to you our status as an agency.

8 Mark, the other point I want to discuss
9 with the Commission here is really, realistically,
10 we'll be able to continue to operate through next
11 session --

12 MR. FENNER: I would agree with that.

13 CHAIRMAN PABLOS: -- the way it stands,
14 correct? And so even if there is no special session
15 called by the Governor, there will still be an
16 opportunity for our sunset process to be picked up
17 again during the next session. Is that correct?

18 MR. FENNER: I agree with that.

19 CHAIRMAN PABLOS: Okay. And so that
20 makes me feel a lot better, knowing that we'll at least
21 be able to operate through next session.

22 With respect to beginning the process of
23 wind-down, are you recommending that we begin to simply
24 look at what these long-term liabilities might be and
25 that would be the first step? Or what is your

1 recommendation?

2 MR. FENNER: Yes, I do think that looking
3 at the long-term liabilities is the first step. I
4 think it's required by statute. But there's a lot of
5 policy issues here that we'll be looking to the
6 Commission for guidance on. And what with this having
7 happened only a week ago last Monday, there are more
8 unanswered questions that I have than answered ones.

9 CHAIRMAN PABLOS: Okay. So there's
10 really nothing to do within the next -- or in the
11 interim between today's meeting and our next meeting.
12 So are you saying that maybe for our August meeting
13 you'll have that for us? Or what are you thinking?

14 Charla Ann?

15 MS. KING: I think one approach would be
16 for us to -- we were getting information on the
17 financials anyway and so we need to focus on that
18 because that's required and so we can do that in the
19 interim and then report back at the next meeting about
20 that.

21 But in terms of any policy discussion
22 that would need to happen in advance of the next
23 Commission meeting, my suggestion would be for us to be
24 able to access the rules committee for that process
25 because we've got to make sure, in terms of timing,

1 letting people know, is there something that we need to
2 get on the books that would be beneficial in the long
3 run anyway that would assist us if we needed it later.

4 And so we could take that policy
5 discussion to the rules committee and then that would
6 be a recommendation coming through the Commissioners.
7 It's a place to have that discussion.

8 CHAIRMAN PABLOS: So am I understanding
9 that there is no need for any immediate action today on
10 our part? Is that correct?

11 MS. KING: That's correct. I think we
12 only want to -- there's one item on the agenda today
13 that we would want to keep in mind because it's a
14 longer-term decision in terms of race dates. But I
15 don't think that we need to take any action today, just
16 keeping in mind and trying to raise everyone's
17 awareness and understanding and then getting your good
18 questions to us so that we can have a well-rounded and
19 rich discussion about it, if need be.

20 And so it's that balancing act. It's
21 that we have a lot of work to do and we do feel
22 comfortable going forward, but not letting something go
23 undone that needed to be done in the case that we
24 needed it. So we appreciate all the guidance and
25 support and we'll be working on it and trying to keep

1 that communication going with the Commissioners.

2 CHAIRMAN PABLOS: Now, one last question
3 on my part is: During this time between now and, say,
4 through next session, are we going to continue to have
5 the authority to issue licenses and move forward in the
6 same manner, Mark?

7 MR. FENNER: That's a great policy
8 question I'll be looking to offer an answer to.

9 CHAIRMAN PABLOS: Very well. Thank you.
10 Commissioners, are there any comments or
11 questions? Yes, Commissioner Clowe, please.

12 MR. CLOWE: I'd like to ask a question
13 that dovetails with your question.

14 CHAIRMAN PABLOS: Yes, sir.

15 MR. CLOWE: Your interpretation is the
16 first I've heard, and you brought up individual tracks
17 being examined by the Commission --

18 MR. FENNER: Yes.

19 MR. CLOWE: -- in regard to long-term
20 liability. From the work that Commissioner Schmidt and
21 I did, we see license holders that are not in operation
22 who may not therefore have long-term liabilities. My
23 question, and it may call for a legal opinion, is:
24 Should the Commission, under the status that we're
25 assuming, move to cancel those licenses? Is that what

1 you said in your reading of the rule?

2 MR. FENNER: No, I wouldn't jump -- I
3 wouldn't go to canceling the licenses or trying to
4 revoke a license under here. I think that's a separate
5 question, though, of whether a track that is not
6 operating should be allowed to begin operating.

7 MR. CLOWE: Well, that's fine. Let's
8 focus on that situation and get your opinion on what
9 the proper role for the Commission is in regard to
10 those cases.

11 MR. FENNER: I will look forward to
12 giving you that opinion at this next meeting because I
13 am -- I'm still working through it.

14 MR. CLOWE: This is a whole new world for
15 us. And I think it dovetails with the Chair's
16 question. We're operating now, it looks like,
17 beginning under a different set of rules.

18 CHAIRMAN PABLOS: Charla Ann?

19 MS. KING: I could add one thing to that
20 in terms of what is readily apparent from the reading
21 of the language in 18.01, which is the language -- at
22 the end of the session, when it was becoming clear that
23 perhaps the safety net schedule bill would not pass,
24 folks started to look more carefully at 18.01. And
25 that included the Sunset Commission and their staff

1 members. And it's the first time that it's really been
2 tested. And so I think those who are at the
3 Legislature were looking to rely on 18.01 because I
4 believe people did. They started to say, "Oh, my,
5 maybe there's some improvements that could be made to
6 that language."

7 So I do think that that will be a helpful
8 process. We're going to assume the best and get to the
9 next session. My guess would be they will be
10 considering changes to 18.01 to clarify these kinds of
11 questions that we can clarify by rule perhaps. And
12 that's why I think it needs to go to the rules
13 committee. But it is silent in some regards and so we
14 have to -- we have to evaluate and study it carefully
15 and get input from others on these topics.

16 CHAIRMAN PABLOS: There's no doubt that
17 we're treading into new territory here and so we have
18 to be very vigilant in the steps we take.

19 Commissioner Clowe?

20 MR. CLOWE: It's my understanding there
21 are five agencies that did not have sunset bills
22 passed. We're one of five. Are we the only one of the
23 five that has 18.01 or are there other agencies in this
24 situation with us?

25 MS. KING: It is my understanding that we

1 are the only one who have a wind-down provision like
2 ours. The others do not.

3 MR. CLOWE: So that makes us even more
4 unique and we're going to have to do this work alone,
5 so to speak.

6 MS. KING: Yes, sir.

7 CHAIRMAN PABLOS: Yes, sir.

8 Any other questions or comments?

9 Yes, Commissioner Latham.

10 COMMISSIONER LATHAM: Yes. A question.

11 And this is for our next meeting, I suppose. The
12 significance of September the 1st, 2009. Is that going
13 to be a date that we change the course of our daily
14 operations towards to a wind-down? It's a little -- it
15 may be really a very fine point here, but you're
16 continuing to operate as you always have until 2009 or
17 September 1st. But then after that, you're in a
18 transition to a wind-down period. And so the question
19 I have is: Is that a benchmark that's going to change,
20 maybe subtly, the way we conduct our business every
21 day?

22 CHAIRMAN PABLOS: And I think that's the
23 policy decisions that Mark is talking about. Those are
24 the tough decisions that we're going to have to make
25 because, yes, we officially enter into a wind-down.

1 And that's where my question comes is, in a wind-down,
2 do we issue licenses? Do we issue, you know --

3 MR. FENNER: Race dates.

4 CHAIRMAN PABLOS: -- new race dates?

5 There are many points to consider being in the
6 wind-down, but I think that ultimately -- I believe
7 that the decision would be ours, correct, Mark?

8 MR. FENNER: Yes, sir.

9 MS. KING: Simulcast approvals come under
10 that also.

11 CHAIRMAN PABLOS: So we're in for a fun
12 time. Like I said, I'm very disappointed in the way
13 things turned out and that's what's creating all of
14 this. And, you know, we're limited on staff and I just
15 wish we could move on to other things, but we're going
16 to have to now focus on this and use our limited
17 resources to get us out of this hole. So we're going
18 to have a lot of work ahead of us.

19 Any other comments, concerns, questions,
20 Commissioners?

21 COMMISSIONER SCHMIDT: I just have one
22 much more general question of Charla Ann in terms of
23 the impact, the economy, and perhaps the negative
24 publicity the recent events have had on the general
25 patrons. Are the numbers you cited when you gave your

1 initial report on racing in terms of decreased
2 attendance and decrease in handle -- are those
3 consistent with other states or is Texas racing
4 suffering a little bit more than other states?

5 MS. KING: That's something I can look
6 into, Commissioner. They are suffering as well. We
7 are getting reports that attendance is down and
8 wagering is down and that in some of -- some of the --
9 in the south by west region, we've heard that in some
10 cases they're cutting back on some race dates as well
11 in response to some of this, that and supply of
12 horses.

13 But we could -- we can look more
14 carefully at that as the statistics are coming in,
15 though we might could ask the industry a little bit
16 about that, too. Ours seem significant. So, you know,
17 we seem to be the trend. The pattern has been that we
18 are more significantly affected.

19 COMMISSIONER SCHMIDT: My concern is that
20 as we introduce the term "wind-down," that's another
21 negative -- we need to be prepared, but as we introduce
22 a negative term to the patron and also to the
23 trainers -- I think the point that was made by
24 counselor is trainers plan their schedules and they
25 plan their fields. As one track winds down, perhaps

1 the Texas circuit becomes less desirable, the fields
2 become smaller, the quality of horses decreases, and it
3 becomes a self-perpetuating situation.

4 MS. KING: I agree. We should be
5 cognizant of that.

6 CHAIRMAN PABLOS: Yeah. And as part of
7 our policy decision-making process, there are going to
8 have to be some assumptions that we're going to have to
9 make so that we can give the industry a certain comfort
10 feel, you know, certainly like the trainers and -- but
11 we'll address that when we get there.

12 And so I certainly look forward for next
13 meeting, Mark. We can begin the process based on the
14 rules committee meeting that we're going to have. So
15 for now, I think that's all we need to do, correct?

16 MR. FENNER: Yes.

17 CHAIRMAN PABLOS: Is that your opinion?

18 Okay. Any further comments, questions?

19 Very well. Thank you, Mark and Charla

20 Ann, for that report. I appreciate that.

21 Next we'll move into Item IV, proceedings
22 on racetracks. I'd like to recognize Bob Bork or
23 Andrea Young to report on the Laredo racetrack on the
24 status of construction in preparation for simulcast
25 operations.

1 Good morning.

2 MR. BORK: Good morning, Commissioners.

3 My name is Bob Bork. I'm here today as president of
4 Laredo Race Park.

5 In light of the last agenda item, it sort
6 of ties in a little bit with one of the problems that
7 we're going to discuss here today. And that's the
8 immediate problem created by the Legislature's failure
9 to reauthorize the Racing Act and this Commission.

10 What we want to do today I'll ask up
11 front and then give a lot of the background. We'd like
12 to ask the Commission to extend the date for beginning
13 our simulcast racing, which was July 15th, for six
14 months so that we can work out the uncertainties
15 created by this unexpected development of last week.
16 It sort of slowed us down a little bit.

17 We've been working hard for the past year
18 to open for simulcasting this summer. Our current
19 location that we have is a good site. However, over
20 the last year we've been working with Webb County to
21 pursue an alternative location in Laredo that would
22 even be better for a number of reasons.

23 This location is a county-owned golf
24 course located at the intersection of Laredo's two
25 major highways, right near the entertainment district

1 of Laredo, for anybody that's familiar with Laredo.

2 This site has a number of advantages.

3 First, it already has the existing
4 infrastructure of water, sewage, power. It's ready to
5 go. Second, it has an existing clubhouse that, with
6 some minor modifications, could be utilized for
7 simulcasting almost immediately.

8 Third, it has a -- the food and beverage
9 facilities are currently in place and it has a current
10 liquor license that is in place. The county
11 concessionaire that's currently operating the food and
12 beverage has agreed that he would be willing to stay in
13 place for the simulcasting period.

14 Further, the proximity to Laredo's
15 population centers and the airport -- it's actually
16 right adjacent to the airport -- will help draw
17 additional customers, particularly simulcast
18 customers.

19 Webb County is currently planning and may
20 have started a new golf course located in another part
21 of the city. While that is being constructed, they
22 have requested that they be allowed to continue using
23 the golf course while we're using the clubhouse and the
24 rest of the facility, which means that the golf course
25 and simulcasting would be operating simultaneously.

1 Over the past year I've spent much time
2 in Laredo pursuing this venture. I can't tell you how
3 many times I've been down there. I know that city like
4 the back of my hand now. Many obstacles have been
5 overcome in our dealings with the county officials.
6 Like any governmental agency, there's a board of
7 commissioners and you're dealing with two of them and
8 they go back to the others and it gets complicated. We
9 resolve one issue and we create another issue. A
10 simple issue was the concessionaire, working out the
11 deal with him.

12 Prior to the events at the Legislature
13 last week, I was really looking forward to finalizing
14 our deal with the county and seeking the Commission's
15 approval for a change of location. Since this is not
16 the original location, we'd have to ask for a change in
17 location to begin simulcasting there. As soon as we
18 can commence simulcasting, revenues generated will be
19 used to help pay for necessary improvements for live
20 racing.

21 However, the failure of the Legislature
22 to reauthorize the Racing Act and this Commission is an
23 unanticipated development that raises significant
24 problems for both Webb County and ourselves.

25 We've asked Webb County to make a

1 long-term commitment, up to 50 years, for a live racing
2 facility. The payments to Webb County would be based
3 on the handle for live racing. The uncertainty about
4 our ability to open a new facility and operate it over
5 the term of the lease necessarily raises serious
6 questions, and these need to be addressed before the
7 county can go forward.

8 Our own bank commitment was to provide
9 five million dollars in loans to Laredo Race Park, and
10 at this point I would believe that that is very
11 questionable in light of the fact that we might be out
12 of business in two years.

13 The Legislature's failure to reauthorize
14 the Racing Act creates considerable uncertainty for
15 Webb County, the potential lenders, and Laredo Race
16 Park's parent company. We need additional time to
17 address these issues.

18 We are mindful that a provision of the
19 Government Code allows the Racing Commission to
20 continue for at least a year but only to conclude its
21 business, similar to what Mark was talking about
22 before. It is unclear how that might apply to a
23 racetrack that is being built for racing after the
24 agency would, absent new action by the Legislature,
25 face sunset.

1 I'm told that the Commission and the
2 Racing Act will continue with respect to racetracks
3 with long-term liabilities, but that would not include
4 Laredo Race Park which does not have any long-term
5 loans at this point and in this environment may not be
6 able to get them.

7 Even if the county and the lenders would
8 agree, it would be economically irrational for us to
9 begin to make the investment necessary for simulcasting
10 this summer and live racing next year only to face the
11 risk that this investment would become worthless on
12 September 1st, 2010, or sooner.

13 We remain committed to bringing live
14 racing and simulcast racing to Laredo. We are trying.
15 We're working very hard on making sure this does
16 happen. We've invested our time and a lot of money
17 over the past five years in preparation to bring racing
18 to Laredo and are hopeful to be able to request a
19 change in location and be able to begin simulcasting
20 later this summer.

21 However, this inaction by the Legislature
22 makes it impossible to proceed until there is more
23 clarification of this issue. That's not the
24 Commission's fault. It's not our fault. It's just an
25 unfortunate development beyond our control.

1 We need additional time to resolve the
2 legal issues and determine how to go forward with a new
3 racetrack in Laredo in the face of the Legislature's
4 failure to reauthorize the Racing Act and this
5 Commission.

6 What we're doing today is requesting an
7 extension of six months in the time line for beginning
8 simulcast racing today from July 15th of 2009 to
9 January 15th of 2010. And we can continue to work --
10 and we commit to work with the Commission, Webb County,
11 and the Legislature to resolve this uncertainty and
12 bring simulcast and live racing to Laredo as soon as
13 possible.

14 Thank you very much. Any questions?

15 CHAIRMAN PABLOS: Thank you, Mr. Bork. I
16 have a question. You cite the Legislature's failure to
17 pass a continuation of the Racing Act, but I'd like to
18 know -- that just happened a few weeks ago or last
19 week.

20 MR. BORK: That's right.

21 CHAIRMAN PABLOS: And so when are you
22 supposed to begin simulcasting?

23 MR. BORK: July 15th.

24 CHAIRMAN PABLOS: July 15th. Okay. And
25 so can you walk me through the steps that you've taken

1 to -- prior to you knowing about the Legislature taking
2 this decision, as to what you were doing actively to
3 begin simulcasting?

4 MR. BORK: We've -- I've met personally
5 with the members of the Webb County Commissioners Court
6 and the County Judge, the County Attorney, on a number
7 of occasions. In fact, we were making very good
8 progress up to December 31st. Then they had a change
9 in elected officials, so that put us all the way back
10 to Step One.

11 Currently we are probably in the final
12 steps of finalizing an agreement for the property. I
13 mean, we're that close. After that, with a change in
14 location, we think that we could be started in a couple
15 of months. So if everything was equal, we would have
16 been able to start simulcasting later this summer at
17 the -- maybe early fall at the latest.

18 CHAIRMAN PABLOS: Okay. Mark, could you
19 speak to the security issue, please, and what this
20 means?

21 MR. FENNER: Well, Mr. Bork has asked the
22 Commission to adjust the security order. The security
23 order is not posted today, so we can't change the
24 security order today.

25 What happens, though, under the security

1 order is that if they fail to begin simulcasting on
2 July 15th, they will forfeit -- I forget the exact
3 amount, but it's approximately a thousand dollars a day
4 for each day that they fail to secure -- to conduct
5 simulcasting.

6 They put up a total of \$140,000 in
7 security, so that will last approximately three -- a
8 little bit more than three months and then the security
9 will be exhausted.

10 CHAIRMAN PABLOS: So we'll have plenty of
11 time to come back and decide on the security or on the
12 request. Is that correct, Mark?

13 MR. FENNER: Yes, you could take this up
14 at the August meeting. Now, we will have already
15 passed certain periods of time. But we can work
16 through some of these issues through the rules
17 committee or the race date working group, maybe have
18 some discussion on this. Do you --

19 CHAIRMAN PABLOS: Well, you know, I
20 certainly would want this body to be accommodating;
21 but, you know, I have to tell you, you know, for you to
22 cite what happened at the Legislature as a reason seems
23 a little disingenuous, with all due respect. I mean,
24 look, you've known about this July 15th deadline for a
25 while now and I kind of wish we would have taken this

1 up before so we could help you with the struggles that
2 you have. And again, I want to make sure that you
3 understand that, you know, we want to be
4 accommodating.

5 Commissioners, does anyone have any
6 comments or questions before we move forward?

7 MR. BORK: Could I just make a comment
8 further?

9 CHAIRMAN PABLOS: Yes, sir.

10 MR. BORK: The facts as they stand today
11 are really beyond our control. And while we weren't
12 going to make July 15th, we might have made it shortly
13 thereafter. So that's why we're asking for the six
14 months extension so that maybe everything can get
15 ironed out, there will no longer be an item that's
16 beyond our control, and we can continue.

17 We do want to work it. We are -- we have
18 actively tried. And like I've told you, I've been down
19 there a number of times working with the county. And
20 the county is very interested in it, too. They look at
21 this as a great opportunity.

22 So I don't want to get penalized for
23 something that's, A, beyond our control when we're
24 trying to fix it with the help of the Commission, that
25 maybe by the next Commission meeting or the meeting

1 after that, we will, in fact, be able to get started
2 again on finalizing the agreement down there.

3 CHAIRMAN PABLOS: Okay. So, Mark, let's
4 assume that we take this item up next meeting and this
5 body feels that they can approve the request. What
6 happens then? I mean, what are the steps? Obviously
7 the July 15th would have come and passed. The security
8 order would have kicked in?

9 MR. FENNER: The security order would
10 have kicked in. You have the ability, as a Commission,
11 to change it and not take the money if that is the will
12 of the Commission.

13 CHAIRMAN PABLOS: But not until next
14 meeting, right?

15 MR. FENNER: Yeah, not today.

16 CHAIRMAN PABLOS: Okay. Not today.

17 MR. FENNER: The order does not require
18 the executive director to pull down the money on any
19 particular date, so we do have some flexibility there.
20 But when we reach the August meeting, the order would
21 have taken place or the forfeiture would have begun and
22 it would be basically a decision by the Commission to
23 relieve them of that money that -- you know, the
24 forfeiture of the money that would have otherwise have
25 happened.

1 MR. BORK: I think that would give me the
2 opportunity to finalize our agreement with them and
3 come back also at the August meeting with the change in
4 location application.

5 CHAIRMAN PABLOS: Dr. Carter?

6 VICE-CHAIRMAN CARTER: How long have you
7 had this license?

8 MR. BORK: Two years.

9 VICE-CHAIRMAN CARTER: So you've had
10 it -- you've been working on this for two years and
11 something that happened in the last 10 days is the
12 reason that you've not got it done?

13 MR. BORK: Part of it, yes. Yes, sir. I
14 could give you a chain of events that -- our original
15 location, like I said, was a good location. We were
16 approached by the county and we pursued that
17 application, too, of moving the location.

18 It sounds like a simple process, but it's
19 not a simple process because you go and you go to the
20 Commissioners Court and you work out something and then
21 another commissioner has another problem. And like I
22 told you, on December 31st of last year or January 1st,
23 whichever one it was, they changed some of the
24 officials down there, particularly the County
25 Attorney. Well, that took us back to Step One.

1 Now, in hindsight, if I knew all this was
2 going to happen, we might have stayed with our original
3 location; but I wanted to move off of that if I saw
4 something that was better because the infrastructure
5 and everything was there. So we made this step and
6 then you start going down that road and not knowing
7 that there was going to be so many difficulties. So
8 the answer is, yeah, it took us that long.

9 VICE-CHAIRMAN CARTER: One other
10 question, if I may. Mr. Fenner?

11 MR. FENNER: Yes, sir.

12 VICE-CHAIRMAN CARTER: What have we done
13 previously with the security orders for the other
14 racetracks?

15 MR. FENNER: We acted on them. We
16 forfeited the money. The Laredo Downs, we took
17 \$140,000. Valle de los Tesoros, it was \$180,000. And
18 they're all gone. So we've acted and forfeited the
19 money that was put up as security.

20 MS. KING: And they did request relief in
21 writing, you know, documenting the reasons for the
22 request.

23 VICE-CHAIRMAN CARTER: I think they went
24 through some of the same struggles or cited some of the
25 same struggles, and I think that in consistency we

1 should probably be consistent with our actions.

2 CHAIRMAN PABLOS: And, Mr. Bork, what I
3 can commit to you is that during our next meeting I
4 will put this on the agenda for this board's -- for
5 this Commission's consideration of your request and at
6 that time we can take that up. So would that be okay
7 with you?

8 MR. BORK: I guess -- I suppose so. But
9 I'm not sure what's happening.

10 CHAIRMAN PABLOS: What's happening is
11 that during our next meeting we will consider your
12 request. We can't act on your request today because
13 it's not on the agenda as an action item. That's what
14 our general counsel is telling us. And so the next
15 possible date for us to do that is during our next
16 Commission meeting in August.

17 MR. BORK: So it's just on hold until
18 August 18th or something?

19 MR. CLOWE: Could we just give him a
20 little more explanation about the Administrative
21 Procedures Act?

22 CHAIRMAN PABLOS: Yes, sir.

23 Mark, would you please --

24 MR. CLOWE: If he's not acquainted with
25 that, he needs to understand the agenda and the

1 restrictions on action items.

2 MR. FENNER: Sure. It's the Texas Open
3 Meetings Act that creates a problem right now in that
4 the Commission can't act on an item unless it's been
5 posted on the agenda with the Secretary of State and
6 the Texas Register for at least eight days in advance
7 of the meeting. So --

8 MR. BORK: I understand that.

9 MR. FENNER: We have a report by you, but
10 it's not --

11 MR. BORK: I guess my question is: What
12 happens to the surety bond in the meantime?

13 CHAIRMAN PABLOS: Well, the way it's
14 going to pan out is that the security order is going to
15 kick in; and at our August meeting, depending on how
16 this body votes on your request, we'll be able to
17 determine what happens to that money. I mean, we can
18 vote to -- we can choose not to ask you for that money;
19 or the other way, as Dr. Carter was saying, as we've
20 done with the other tracks, is to request that that
21 money be paid. And so --

22 MR. CLOWE: I just want to make sure in
23 my own mind. Have we voted on that? Or isn't that an
24 automatic action? I'm asking for information. I'm
25 not --

1 CHAIRMAN PABLOS: You're referring to the
2 security order?

3 MR. CLOWE: Yes, sir.

4 CHAIRMAN PABLOS: Yeah, the security
5 order is in place.

6 MR. CLOWE: Right.

7 CHAIRMAN PABLOS: And it is scheduled to
8 kick in July 15th if there is no simulcast at the
9 facility.

10 MR. CLOWE: Right. But you said we'd
11 vote on it in our August meeting. Have we voted in the
12 past?

13 CHAIRMAN PABLOS: What I'm suggesting we
14 vote on is on his request to provide him an extension
15 of time. That's what I'm committing -- what I'm
16 committing to put on our next agenda is Mr. Bork's
17 request for an extension of time. And in that request,
18 I would assume that he would also request that we waive
19 the security money that's there. And so that's what
20 I'm suggesting that we vote on.

21 MR. CLOWE: And that begs the question
22 about what the doctor brought up on precedent. Have
23 others requested and have we voted on that in the
24 past? Or has it been just automatic?

25 MR. FENNER: Would you restate the

1 question? I'm sorry. I was consulting her.

2 MR. CLOWE: I'm asking for information.

3 The Chair has brought up the issue that it could be on
4 the agenda to receive a request for suspension of the
5 forfeiture.

6 MR. FENNER: Yes, sir.

7 MR. CLOWE: My question is: Have we done
8 that in the past as a precedence or has the money come
9 in as a matter of practice?

10 MR. FENNER: The money has -- well, we've
11 only done this with the Valle de los Tesoros and the
12 Laredo Downs tracks. There's two precedents that we're
13 looking to. And in each of those case, while there was
14 a request for consideration, it was denied by the
15 executive director.

16 MR. CLOWE: By staff.

17 MR. FENNER: By staff, with the
18 acknowledgment or direction to the applicant that if it
19 were to be approved, it would go to the Commission.
20 She would not grant a --

21 MR. CLOWE: So it could be appealed to
22 the Commission.

23 MR. FENNER: She would follow the order
24 unless the Commission were to order her to change the
25 order or were to change the order.

1 MR. CLOWE: And the Commission did not
2 consider and did not do so.

3 MR. FENNER: Yes.

4 MR. CLOWE: Just --

5 CHAIRMAN PABLOS: Thank you.

6 MR. CLOWE: I want to get it clear in my
7 mind because we could have --

8 CHAIRMAN PABLOS: We need to all put our
9 heads together to --

10 MR. CLOWE: -- the others come back and
11 said, "Well, you did that for them. You've got to do
12 it for us."

13 CHAIRMAN PABLOS: Right. And
14 Dr. Carter's point of being consistent is well taken
15 and I can certainly commit to that.

16 Commissioner?

17 COMMISSIONER EDERER: There was no
18 request. Is that correct?

19 MR. FENNER: For this one?

20 COMMISSIONER EDERER: No, no, no. For
21 the prior.

22 MR. FENNER: The prior. No, there was a
23 written request that the executive director act under
24 what was called the -- under the force majeure clause
25 to relieve them of the responsibility, and she declined

1 to do so.

2 COMMISSIONER EDERER: And the executive
3 director declined and it never came to the Commission.

4 MR. FENNER: It never came to the
5 Commission.

6 COMMISSIONER EDERER: There was no
7 request by them to bring it to the Commission.

8 MR. BORK: Hopefully by August --

9 CHAIRMAN PABLOS: There was not.

10 MR. BORK: -- we can get it resolved.

11 COMMISSIONER EDERER: I have a question
12 for Mr. Bork. Now, as I understand where we're sitting
13 at the present time, come July 15th, you're going to be
14 fined approximately a thousand dollars a day, give or
15 take some change, until the next meeting of the
16 Commission. And at that point in time the Commission
17 will then take up your request for an extension of six
18 months.

19 If, in fact, the Commission grants that
20 extension for six months, then the Commission will have
21 to decide whether or not we're going to keep that money
22 or does that -- all right. So the Commission can give
23 you back your money. It's already in our pocket, come
24 the 15th, until the 18th of August, theoretically. Is
25 that correct?

1 CHAIRMAN PABLOS: Well, we could choose
2 not to pull down on that money until the next meeting;
3 and depending on what happens at that meeting, then we
4 can take action based on that.

5 COMMISSIONER EDERER: All right. Now,
6 what are you going to do in the process? In other
7 words, what do we have to look forward to in your
8 presentation on August the 15th? As I understand what
9 you have said, you are negotiating with the County
10 Commissioners and you expect to get some sort of an
11 agreement with the County Commissioners to go forward
12 with starting simulcasting as soon as you -- what?

13 MR. BORK: Well, I think that would be
14 subject also to the -- to what happens with the Sunset
15 Act. I mean, the county is not going to give us rights
16 to simulcast if we're not going to be able to simulcast
17 because of the Sunset Act.

18 COMMISSIONER EDERER: So then if we don't
19 have a special session, what you're saying is that on
20 the 18th, when you come back, you're going to have
21 nothing further than you've told us right now.

22 MR. BORK: Other than that's the reason
23 why I asked for the six months, that hopefully in that
24 six-month period they would have the special session to
25 resolve all this issue.

1 COMMISSIONER EDERER: But if they don't,
2 we're going to be in the exact same position.

3 MR. BORK: Yes.

4 COMMISSIONER EDERER: All right.

5 MR. BORK: I think so.

6 COMMISSIONER EDERER: Now, if, in fact,
7 there is a special session and the sunset -- we don't
8 have this problem anymore, as I understand it, and you
9 get your six months extension, now, what you're telling
10 us is that you do believe and you intend to have an
11 agreement with the County Commissioners to open
12 simulcast --

13 MR. BORK: Yes.

14 COMMISSIONER EDERER: -- at the golf
15 course and it will operate simultaneously with the golf
16 course.

17 MR. BORK: They're in the process of
18 building a new course right now.

19 COMMISSIONER EDERER: And when is that
20 supposed to be finished? I haven't heard anything
21 about that.

22 MR. BORK: Within a year.

23 COMMISSIONER EDERER: And at that point
24 in time then you would start construction on a
25 racetrack on the present golf course?

1 MR. BORK: Yes.

2 COMMISSIONER EDERER: That's what your
3 intention is.

4 MR. BORK: Yes.

5 COMMISSIONER EDERER: And that's the
6 agreement you're going to have with the County
7 Commissioners.

8 MR. BORK: Yes. Because that's the way
9 they get their rental is going to be on percentages of
10 the handle.

11 COMMISSIONER EDERER: I understand.
12 Well, I look forward to the next meeting and your
13 report.

14 CHAIRMAN PABLOS: Commissioner Archer?

15 MR. ARCHER: I have a question and a
16 comment. Mr. Bork, is your prior site still
17 available? Have you --

18 MR. BORK: Yes, it is.

19 MR. ARCHER: So you still have -- you
20 have access to the site that you had before you started
21 negotiating with the county on the golf course.

22 MR. BORK: Yes. We still have an option
23 on that property.

24 MR. ARCHER: The second thing is my
25 recollection is -- and, Mark, you can refresh my memory

1 or the Commission's memory, if you would. When the
2 order was voted upon, there's an agreed order for the
3 racetrack, correct? To get the license.

4 MR. FENNER: Uh-huh.

5 MR. ARCHER: So the order was we will
6 give you this license, but here's the order. You have
7 to agree to start simulcasting by a date certain,
8 correct?

9 MR. FENNER: Yeah. It was -- yes.

10 MR. ARCHER: I want to be sure everybody
11 understands that. The order will have to be changed in
12 order for them to get an extension.

13 MR. FENNER: Yes, absolutely.

14 MR. ARCHER: Thank you.

15 CHAIRMAN PABLOS: Commissioners, any
16 other comments, questions?

17 VICE-CHAIRMAN CARTER: One question,
18 Mr. Bork. You might have said this. Are you buying
19 this golf course or leasing it?

20 MR. BORK: Leasing it.

21 VICE-CHAIRMAN CARTER: Thank you.

22 CHAIRMAN PABLOS: Okay. Mr. Bork, we'll
23 have this item on the next agenda. Since you're
24 bringing us your request to consider an extension for
25 six months, we'll take that up during our next

1 meeting.

2 MR. BORK: Thank you.

3 CHAIRMAN PABLOS: Thank you very much.

4 Thank you, Commissioners, for your
5 input.

6 Our next item is Item IV-B, a report by
7 Gulf Coast Racing, Corpus Christi Greyhound Racetrack
8 formerly known as, on the status of reopening. I'd
9 like to recognize Sally Briggs, who is the general
10 manager of Gulf Coast Racing.

11 Good morning.

12 MS. BRIGGS: Good morning,
13 Commissioners. I'm very excited to be here today to
14 represent Gulf Coast Racing and hope this will be a
15 little positive note to the meeting.

16 You should have this packet in front of
17 you. This is our new logo and our new name, which I'm
18 very excited about. The second page is our website
19 which will be up probably hopefully by Friday; if not
20 then, by early next week.

21 The next pages just show a lot of the
22 renovations and repairs that have been made around the
23 facility. The fountain in front of the main building
24 has been painted and repaired and is in working order.
25 All of the palm trees and other trees around the

1 building have been trimmed. We have new grass and
2 plants planted in the patio area.

3 The bottom picture on the first page of
4 pictures is a patio area that we are going to designate
5 for nonsmoking. The City of Corpus Christi has passed
6 an act that has just come into effect that prevents
7 smoking from any public facilities other than bingo
8 halls.

9 And I did meet with a few of the City
10 Councilmen about this because, traditionally, most
11 gamblers do smoke; but we would have to have a separate
12 room, a completely separate room, with a very extensive
13 ventilation system in it to allow smoking in the
14 building. So we will have many tables out here with
15 umbrellas on them for our smoking gamblers to go to.

16 We will use the clubhouse side of the
17 building right now for simulcast. Our overflow will be
18 down into the clubhouse where we have -- we'll have
19 tables -- TV's on each of the tables. We are in the
20 process right now -- Sport View Technologies is at the
21 track and they have put up 23 32-inch flat screen TV's
22 in the clubhouse lounge and in Breezy's lounge.
23 They've put up 24 42-inch plasma TV's and two 58-inch
24 TV's.

25 One of the pages shows the bar area. We

1 have six TV's behind the bar. We have two columns with
2 TV's on them and Sport View's equipment for receiving
3 all of the signals that we'll be taking.

4 The next -- the next page is an article.
5 The Corpus Christi Caller Times city editor called us
6 this past week and wanted to come out and see the track
7 and see what we were doing. So they did come out and
8 do a report on the track.

9 I have listed for you some of the
10 projects that have been completed and the current
11 projects. Due to the condition of the equipment in the
12 main kitchen, we've made a decision to serve food out
13 of the concession in the clubhouse lounge.

14 There's two large areas behind the
15 concession where we will prepare food. We will have
16 hamburgers, hot dogs, salads, chef salads, sub
17 sandwiches, chips, chili, nachos, soups, pretzels, soft
18 serve ice cream, cookies, all kinds of things like that
19 from a concession standpoint.

20 There were 10 employees that Flagler
21 retained that have been working on this facility since
22 they were closed in December of '07. I have retained
23 all of these employees and they all are working very
24 hard in helping us to get the facility ready for
25 opening.

1 We are waiting on Sport View to finish
2 the TV installation this week. We also are installing
3 a very sophisticated surveillance system with 16
4 cameras throughout the building. There will be a color
5 monitor in the security director's office and in the
6 general manager's office where they can observe each
7 one of these cameras.

8 If you have any questions about any of
9 the things that are listed, I'll be more than happy to
10 answer them.

11 United Tote, I have been in contact with
12 them; and pending your approval of their contract today
13 at this meeting, they will be coming in Monday to start
14 installing their system for betting.

15 The Commission staff has been very, very
16 helpful to us in trying to open earlier than we thought
17 we were going to be able to. I have on this report
18 July 1st. We are very diligently trying to have our
19 opening the weekend of July the 1st and hope that that
20 will take place. We have received many inquiries about
21 when we will be open and we're doing a lot of different
22 marketing.

23 We have been advertising with the Texas
24 Workforce Commission and also in the newspaper, and we
25 have received about -- as of yesterday, about a hundred

1 applicants. And so we're excited about being able to
2 hire.

3 We will be open Wednesday through
4 Sunday. We'll open at 11:00 every morning and close as
5 soon as the last track finishes, which usually is about
6 10:30 or 11:00. On Friday, Saturday, and Sunday, we
7 will be showing about anywhere from 25 to 35 horse and
8 dog track performances for our gamblers to bet on.

9 Any questions you have, I'll be very
10 happy to try to answer them.

11 CHAIRMAN PABLOS: Thank you. And thank
12 you for all your effort. It's music to my ears when I
13 hear that you're hiring people. So that's wonderful.

14 MS. BRIGGS: It's amazing the number of
15 applications. I would say probably that about 60 to 70
16 percent of the applications say "laid off" on whenever
17 people are filling them out. So it's very good that we
18 will be able to help in that area.

19 CHAIRMAN PABLOS: Commissioners, any
20 questions of Ms. Briggs?

21 I have one last observation here. And
22 that is, your new logo, within the State of Texas I see
23 a horse there. Is there any significance to that?

24 MS. BRIGGS: Simulcast. We want people
25 to know that we will be carrying horse simulcasts

1 also. I think previously this facility did not carry
2 very many horse signals at all and so we're very
3 excited that we will be carrying quite a few.

4 CHAIRMAN PABLOS: Great. Thank you very
5 much. Appreciate it.

6 MS. BRIGGS: Thank you.

7 CHAIRMAN PABLOS: Okay. Moving on to
8 Item C, our next item is a request by Gulf Coast Racing
9 for approval of its tote contract with United Tote
10 Company.

11 Mark Fenner?

12 MR. FENNER: Commissioners, in your
13 Commissioner-only packet, you should find a copy of the
14 tote contract between Gulf Coast Racing and United
15 Tote. Staff has reviewed the contract and found that
16 it's in compliance with the act and with the rules and
17 recommends that it be approved.

18 CHAIRMAN PABLOS: Great. We have -- do
19 we have anyone signed up to speak on this item?

20 So we have a staff recommendation to
21 approve. At this time I'd like to entertain a motion
22 for approval.

23 COMMISSIONER EDERER: Motion that it be
24 approved.

25 MR. CLOWE: Second.

1 CHAIRMAN PABLOS: Motion, seconded by
2 Clowe.

3 Do we have any discussion? Actually we
4 can't really get into the details of the contract,
5 right?

6 MR. FENNER: Right.

7 CHAIRMAN PABLOS: Okay. So based on
8 staff's recommendation, we have a motion and a second.
9 So at this time I'd like to take this up for a vote.
10 All those in favor please signify by saying aye.

11 COMMISSIONERS: Aye.

12 CHAIRMAN PABLOS: Any opposed?

13 Okay. That motion carries. Thank you.

14 Item D, a request by Retama Park for a
15 change in live race dates for 2009 Thoroughbred
16 meeting. I'd like to recognize Bryan Brown.

17 Good afternoon, Bryan.

18 MR. BROWN: Good afternoon, Mr. Chairman
19 and Commissioners, and welcome, Commissioner Weinberg
20 and Latham. It's good to have you here on our ship.
21 I'm not sure what's happening to it, but it's good to
22 have you here anyway.

23 CHAIRMAN PABLOS: It's afloat.

24 MR. BROWN: We had originally requested
25 this agenda item not knowing exactly where we would

1 come out on it. Subsequent to submitting the request,
2 we met with representatives from the Texas Thoroughbred
3 Association and the Thoroughbred HBPA. We have
4 determined that we will be able to run, at this point
5 in time, the number of race dates that we were
6 allocated, which is 32.

7 We will substantially cut back our stakes
8 schedule. We're looking at a stakes schedule that
9 would involve just the Texas Stallion Stakes, our two
10 signature races, the El Joven and La Senorita, and then
11 possibly the Hall of Fame Stakes.

12 We have some issues to work out on our
13 exact purse account balances; but pending that, it
14 looks like we'll be able to run roughly equivalent to
15 the average per-race purses that we ran in last fall.
16 And that will be -- that will leave us with about eight
17 or nine races per day, which is less than we did in the
18 fall.

19 So the good news is we're not looking at
20 cutting back dates. We're not looking at cutting back
21 per-race purses at this time. This all could change if
22 handle drops significantly over the next couple of
23 months. We were up in handle in May, fortunately. I
24 would imagine we'll be down a little bit in June.

25 But we continually monitor the effects of

1 handle on purses, and at this point in time we're not
2 asking the -- asking you for any change in our meet,
3 but we did want to report that it will be a bit
4 different in terms of the number of races that we'll
5 run each day and significantly different in terms of
6 the stakes schedule.

7 And for your benefit, the stakes schedule
8 typically involves purse money that could either go
9 into these stakes races or could go into our more
10 typical what we call overnight races, which is claiming
11 races, allowance races, and other types of races,
12 maiden races.

13 We determined through our meetings with
14 the Texas Thoroughbred Association and the HBPA that
15 the purse money that we have allocated is better served
16 with the overnight races than more of the stakes races
17 that we've traditionally run because that will serve
18 more needs of more horsemen and horsewomen and keep
19 more horses in the state and at Retama Park.

20 I'd be happy to answer any questions.

21 CHAIRMAN PABLOS: Thank you.

22 Any questions? Commissioner Schmidt?

23 COMMISSIONER SCHMIDT: Just to clarify,
24 Bryan. I think I understand you; but basically what
25 you're saying is by reducing your stakes races, you're

1 still going to be able to support a purse structure,
2 you think, in the range of 80,000 per day?

3 MR. BROWN: That's correct.

4 COMMISSIONER SCHMIDT: You're going to
5 divert the money from the larger stakes to overnight
6 races.

7 MR. BROWN: That is correct. We'll
8 significantly change our Hall of Fame day. We had
9 anywhere from six to eight stakes races planned on that
10 day. Now we'll probably have one stakes race that
11 day.

12 CHAIRMAN PABLOS: Any other questions,
13 comments?

14 Thank you, Bryan. Appreciate it.

15 MR. BROWN: Thank you very much.

16 CHAIRMAN PABLOS: Okay. The next item is
17 Item E, designation by the Commission of an application
18 period for race dates under Commission Rule 303.41.

19 Charla Ann, please?

20 MS. KING: Mr. Chairman, members, I
21 recommend that the Racing Commission designate an
22 application period for race dates with the exception of
23 four tracks currently granted race dates expiring
24 December 31st, '09. We've granted some race dates for
25 Lone Star Park, Gulf Coast Racing, Gillespie County

1 Fair & Festivals, and Laredo Race Park for August 10 --
2 through August 2010. We did that last time. So those
3 have already been granted. But we need to open the
4 application period for 30 days for calendar year 2010.

5 And then I'd also recommend that we allow
6 an association or a group of associations to request
7 additional dates, January 1 through August 31st, 2011,
8 like we did last time. And what this does is it keeps
9 us going into the next fiscal year and allows people to
10 coordinate, in the event that they can do that. And
11 since last year, this time around we did have some
12 takers on that to get their race dates on the
13 calendar. That's a good thing. It helps people plan
14 ahead for the horsemen and for the racetracks.

15 So I recommend designating the
16 application period to start for 30 days starting
17 today. Is it today? Tomorrow? Tomorrow. Excuse me.
18 Starting tomorrow.

19 CHAIRMAN PABLOS: Okay. Anyone signed up
20 to speak or not?

21 Any clarifying comment, questions of
22 Charla Ann, comments, Commissioners?

23 Hearing none, then what I'd like to do is
24 entertain a motion to designate the dates that Charla
25 Ann has stated. Do I have a motion?

1 MR. CLOWE: So move.

2 CHAIRMAN PABLOS: Moved by Clowe, second
3 by Schmidt.

4 Any comments?

5 Okay. At this time I'd like to take this
6 up for a vote. All those in favor please signify by
7 saying aye.

8 COMMISSIONERS: Aye.

9 CHAIRMAN PABLOS: Any opposed?

10 That motion carries. Thank you.

11 Proceedings on rulemaking. Mark Fenner,
12 please?

13 MR. FENNER: Commissioners, what I'd like
14 to suggest is that we take up all the rule proposals
15 under V-A. These are the proposals to be published in
16 the Texas Register for public comment, take them up
17 together and allow you to vote on them at one time. If
18 you have any -- if we identify any problems as we go
19 along, we'll make modifications.

20 CHAIRMAN PABLOS: That will be fine.

21 MR. FENNER: All right. The first
22 proposal is to amend Section 309.355, the grading
23 system.

24 By the way, each of these proposals, both
25 in the proposal section and in the adoption section,

1 were discussed at the rules committee meeting last week
2 and have been vetted by the rules committee and I think
3 we've worked them out pretty much in advance here.

4 CHAIRMAN PABLOS: Thank you.

5 MR. FENNER: These rule proposals were
6 originally suggested by the Texas Greyhound
7 Association. 309.355 makes some changes to the grading
8 rules. It allows tracks to keep more greyhounds on the
9 active list. It also allows a racing secretary to
10 advance a second through fourth place greyhound in a
11 maiden or a Grade J race to a Grade D or Grade C
12 level. The current rule only allows to advance to a
13 Grade C, so that's the change. The tracks and the TGA
14 were in favor of it.

15 The change to 309.363 requires the
16 associations to publish the Texas-bred emblem in the
17 program to denote any accredited Texas-bred greyhounds
18 that are racing. They're already doing this at Gulf
19 Greyhound.

20 309.307, this is a change that requires a
21 noisemaking squawker be added to the lure that's
22 activated when the brake is applied which assists in
23 stopping and recalling the greyhounds at the end of
24 each race.

25 Rule 315.43, this would be a new rule

1 that specifies the basic responsibilities for a track
2 superintendent.

3 315.44, a new rule, it specifies the
4 basic responsibilities of the brakeman who controls the
5 speed of the lure in the greyhound race.

6 Do you have any questions about any of
7 these rule proposals?

8 CHAIRMAN PABLOS: I have a question
9 regarding the last two with respect to the
10 responsibilities. Are we adding or taking away any
11 responsibilities with these rule proposals, Mark?

12 MR. FENNER: These have not previously
13 been required or identified as racing officials in the
14 rules, so it is a new requirement.

15 CHAIRMAN PABLOS: Okay. Is there anyone
16 signed up to speak on any of these?

17 Okay. Commissioners, we have in front of
18 us these rule proposals to be published. We've heard
19 from staff. Do I have a motion to publish the proposed
20 amendments as described in this agenda item in the
21 Texas Register for public comments?

22 MR. ARCHER: So move.

23 CHAIRMAN PABLOS: Moved by Archer. A
24 second?

25 COMMISSIONER SCHMIDT: Second.

1 CHAIRMAN PABLOS: Seconded by Schmidt.

2 Any further comment?

3 Okay. All those in favor please signify
4 by saying aye.

5 COMMISSIONERS: Aye.

6 CHAIRMAN PABLOS: Any opposed?

7 Okay. That carries. Thank you.

8 Mark, rule adoptions, please.

9 MR. FENNER: The rule adoptions. These
10 were also discussed at the rules committee meeting.

11 The first one is an amendment to Section
12 309.8, the racetrack license fees. This is the rule
13 that was adopted on an emergency basis at the February
14 Commission meeting and now we need to adopt it through
15 the regular process if it's to be retained.

16 And what it does is it generates an
17 additional \$25,000 in fees on each of the inactive
18 licenses. When we did it in February, it generated
19 \$150,000 of additional fees. Because Corpus is
20 becoming active, that means that when we go into the
21 future, we're looking at probably 125,000. There will
22 be five inactive licenses, it looks like, at this
23 point. There are no changes to the rule as it was
24 published in the Texas Register.

25 The next one that's eligible for adoption

1 is changes to -- or a new rule, 309.11. This is fees
2 for requests to approve a transfer of pecuniary
3 interests. This charges the fees when people want to
4 sell -- buy or sell interests in a racetrack.

5 This proposal has been changed to clarify
6 that each transfer requires a separate payment of the
7 appropriate fee. It also reduces the cost for
8 transfers of interests of less than one percent. It
9 reduces the cost to \$25. We have quite a few where
10 it's just a very small fraction of a percentage.

11 There's a new proposal for 309.12, fees
12 for requests to approve changes of location. And there
13 are no changes to the proposal as it was published in
14 the Texas Register.

15 There is an amendment to Section 311.5.
16 This is the occupational license fees. There's only
17 one change. There's a technical correction. That is,
18 the fee for association staff is being adjusted from
19 \$50 to \$75. It was just an oversight when we did it
20 the first time and does not require a reposting or
21 anything, so it's ready for adoption.

22 An amendment to Section 311.104,
23 trainers. This would charge a single 50-dollar fee for
24 administering both the written and practical exams to
25 become a trainer. There's only one change. It's a

1 technical correction on line 20 of the proposal,
2 changing it from the first failure -- or the -- well,
3 it's on line 20 of the proposal. There's no other
4 changes.

5 And then an amendment to 315.1, required
6 officials. Currently we have three judges for each of
7 the greyhound tracks sitting on the board. However, we
8 believe that the -- we can make do with two, so we'd
9 like to change this so that instead of requiring three
10 at a minimum, it says at least two. It would still be
11 our goal to have three judges as much as possible, but
12 we would like to have the additional flexibility to
13 have two on sometimes so that we could help restrain
14 the costs.

15 Does anybody have any questions about any
16 of these?

17 CHAIRMAN PABLOS: Commissioner Archer and
18 Dr. Carter, do you have any comments on any of these
19 based on what you saw during your committee meetings?

20 MR. ARCHER: Not really. I mean, they
21 were discussed and they were all recommended for
22 approval.

23 CHAIRMAN PABLOS: Wonderful. Good.
24 Well, I just wanted to make sure that, you know, our
25 process is working. And I want to thank the committee

1 for taking these up. And this is proof that we have
2 set up a structure where we incorporate everyone's
3 input. And so now we're at a point where we can adopt
4 these rules knowing that they've been vetted properly,
5 that everyone has had an opportunity to have their
6 input. And so, again, I thank you for doing that.

7 Is there anyone signed up for this?

8 Okay. Well, at this time I'd like to
9 entertain a motion to adopt the amendments as described
10 in this agenda. Do I have a motion?

11 COMMISSIONER WEINBERG: I'll move.

12 CHAIRMAN PABLOS: Moved by Weinberg.

13 Second? Seconded by Ederer.

14 Any additional discussion?

15 Okay. At this time I would like to vote,
16 have a vote. All those in favor please signify by
17 saying aye.

18 COMMISSIONERS: Aye.

19 CHAIRMAN PABLOS: Any opposed?

20 Okay. That motion carries.

21 Today we are not going to have an
22 executive session.

23 As part of our new business, again, I'd
24 like to thank our new Commissioners for being here.

25 Thank you for your service. You'll see that we

1 actually do have fun at the Racing Commission. And so
2 as you can see today, we've had a lively discussion.
3 So I thank you for that.

4 Going back to one of our items where we
5 talked about the Austin Jockey Club, I failed --
6 Commissioner Clowe, I failed to thank Commander Gene
7 Hawkins for all of his good work in helping us get some
8 of these background investigations in order. He's been
9 great working with. DPS has been very helpful. And I
10 just wanted to make sure that you understood that Gene
11 Hawkins has been doing great work for us.

12 MR. CLOWE: Thank you, Mr. Chairman.
13 Commander Hawkins is in the audience and he has been
14 diligent in the pursuit of this report.

15 CHAIRMAN PABLOS: Great. Thank you.

16 Also, Charla Ann, I'd like to recognize
17 you for a moment. You have an announcement to make,
18 please.

19 MS. KING: I do. I have two items. One
20 thing I would like to do is to introduce to the
21 Commissioners the new acting director of the Texas
22 Horsemen's Partnership. I think we provided notice to
23 you that the previous executive director, Tommy
24 Azopardi, has moved on to some greener pastures and has
25 been replaced at this point.

1 Their acting director is Marsha
2 Roundtree, a long-term member of the Horsemen's
3 Partnership. She's been over there for more than 15
4 years, knows the partnership very well, has worked very
5 closely with Sammy Jackson. She's excellent. We like
6 to work with her. I'd like Marsha to please stand so
7 that you can see who she is.

8 Thank you, Marsha. Nice to see you.

9 Then the second item is related to one of
10 the Commissioners. Commissioners, I know everyone here
11 joins me in congratulating Jimmy Archer on his upcoming
12 retirement from the State of Texas effective at the end
13 of the month.

14 Jimmy, an attorney, serves as the chief
15 of criminal investigations for the comptroller. And I
16 know they're going to miss him, but we are really going
17 to miss him. That's because Jimmy has served as the
18 institutional memory of the Commission with his 17
19 years of service with the Racing Commission.

20 Starting in 1992 during Comptroller John
21 Sharp's tenure, Jimmy served as the comptroller's
22 liaison to the Commission. He did that job so well
23 that in 1997 Comptroller Sharp completely turned the
24 reins over to Jimmy, naming him his official designee
25 on the Racing Commission.

1 Jimmy's invaluable service on the
2 Commission has continued even as the comptrollers have
3 changed, serving as Carole Keeton Rylander's designee
4 for four years and continuing to serve under
5 Comptroller Susan Combs. Perhaps most remarkable,
6 during his service to the Commission under these
7 comptrollers, he has served with 33 different
8 Commissioners. Over the years, Commissioners and staff
9 alike have turned to Jimmy for his sage advice. He can
10 always be counted on to be succinct, direct, and to the
11 point.

12 Again, Jimmy, I know that I'm speaking on
13 behalf of the Commission, the staff, and for most of
14 the people in this room. We thank you for your
15 dedicated service to the State and wish you the very
16 best in wherever your retirement leads you.

17 So thank you, Jimmy, and we have
18 something for you.

19 MR. ARCHER: Thank you. I have to say
20 one thing. I tried to outlast you, but I couldn't make
21 it.

22 CHAIRMAN PABLOS: Jimmy, 17 years, wow.
23 Well, listen, on behalf of the Racing Commission staff
24 and the Commissioners, I'd like to present you with
25 this small token of our appreciation. We are going to

1 miss you. And at this moment I'd like to ask you to
2 recognize Ann, who might -- she's going to be stepping
3 in for you? Is that what it is?

4 MR. ARCHER: Yes.

5 CHAIRMAN PABLOS: That will be great.

6 MR. ARCHER: This is Ann O'Connell. Ann
7 is the special counsel to the comptroller and the
8 director of criminal investigations. She will be
9 taking over as the designee after June 30th of this
10 year -- or this month, rather. And, you know, I hand
11 it to you with no trepidation. It's a great group of
12 people to work with. And, Chair, I thank you for your
13 support.

14 CHAIRMAN PABLOS: Thank you very much.
15 Appreciate it.

16 MR. ARCHER: And I would like to say that
17 it's been an honor and a privilege to serve with the
18 comptroller's office over the last 25 and a half years
19 and a special treat for me to be involved with the
20 Racing Commission for the last 17 years.

21 It's changed a whole lot in that time.
22 When I first started with the Commission, there were no
23 tracks open, except maybe Manor. And, you know, we've
24 been through bankruptcies and famines and floods and
25 everything else you can imagine in the last 17 years

1 and it really has been a heck of a ride and I thank you
2 very much for everybody's support and good wishes.

3 Thank you.

4 CHAIRMAN PABLOS: Thank you very much.

5 Okay. Well, it is 12:18 and at this time
6 I'd like to adjourn today's meeting of the Texas Racing
7 Commission. Thanks everybody for making the time to
8 come out. I appreciate it.

9 (Proceedings concluded at 12:18 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 16th day of June, 2009.

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