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BEFORE THE
TEXAS RACING COMMISSION
AUSTIN, TEXAS

COMMISSION MEETING
SEPTEMBER 15, 2009

Reported by: SHERRI SANTMAN FISHER
Job #79638

1 BE IT REMEMBERED that the above entitled matter
 2 came on for hearing on the 15th day of September, 2009,
 3 beginning at 10:31 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
- GLORIA HICKS
- VICKI WEINBERG
- C. TOM CLOWE, JR.
- ANN O'CONNELL

1 CHAIRMAN PABLOS: The time is 10:31 and
2 at this time I'd like to call the Texas Racing
3 Commission meeting to order. Good morning, everyone.
4 Thank you for being here. It looks like we have a
5 solid agenda, so we're going to go ahead and get
6 started right on time and hopefully finish fairly
7 quickly.

8 So at this time I'd like to ask Carolyn
9 to call roll, please.

10 MS. WEISS: Commissioner Tom Clowe?

11 MR. CLOWE: Present.

12 MS. WEISS: Commissioner Ron Ederer?

13 COMMISSIONER EDERER: Here.

14 MS. WEISS: Commissioner Gloria Hicks?

15 COMMISSIONER HICKS: Here.

16 MS. WEISS: Commissioner Ann O'Connell?

17 MS. O'CONNELL: Here.

18 MS. WEISS: Commissioner Robert Schmidt?

19 COMMISSIONER SCHMIDT: Present.

20 MS. WEISS: Vice-Chairman Carter?

21 VICE-CHAIRMAN CARTER: Present.

22 MS. WEISS: And Chairman Pablos?

23 CHAIRMAN PABLOS: Here.

24 Do we have a quorum?

25 MS. WEISS: Yes, sir.

1 CHAIRMAN PABLOS: Thank you.

2 Mark, Carolyn, has anyone turned in any
3 testimony, any cards for public comment today?

4 MS. KING: There's one here.

5 MR. FENNER: I believe there's one
6 coming.

7 MS. SHUBECK: Good morning, Chairman,
8 Commissioners. I'm in a bit of a stall tactic here.
9 My attorney is in the restroom, but --

10 CHAIRMAN PABLOS: It can wait.

11 MS. SHUBECK: My name is Drew Shubeck.
12 I'm president and general manager of Lone Star Park
13 racetrack. And we would like to use this portion of
14 the Commission meeting to make a brief announcement.

15 CHAIRMAN PABLOS: Do you want to wait for
16 your attorney? We can do that.

17 MR. SHUBECK: Yeah, I think so. He's
18 walking right in the room now.

19 CHAIRMAN PABLOS: Excuse me, sir. Where
20 were you? I'm just kidding. Good morning.

21 MR. SCOGGINS: Good morning. I had to
22 finish my cup of coffee.

23 Members of the Commission, Mr. Chair, my
24 name is Gregg Scoggins. I'm with Magna Entertainment
25 Corp. I'm here to provide you an update with respect

1 to matters pertaining to Lone Star Park.

2 As all of you probably recall, I came
3 here earlier this year and discussed with you the
4 bankruptcy proceedings that MEC was in the process of
5 going through. And I wanted to -- as you also know,
6 there was an effort to or part of the plan was to sell
7 certain assets. Lone Star Park is one of those assets
8 that we have listed for sale.

9 Yesterday MEC entered into what's called
10 a stalking horse agreement with a subsidiary of the
11 Chickasaw Nation called Global Gaming Solutions, I
12 believe, is the last -- is the name. And that entity
13 has signed up as what's called the stalking horse for
14 purposes of setting a floor price for which Lone Star
15 would be placed up for auction at a later date.

16 The agreement has been placed on file
17 with the Bankruptcy Court in Delaware; and there will
18 be an auction held in October; and subject to the
19 conclusion of that auction, a request will be submitted
20 to this Commission for approval of that purchaser,
21 whether it be the Chickasaw entity or some other bidder
22 who may have an interest in purchasing Lone Star.

23 And they will submit that for Commission
24 approval. And then obviously once the Commission has
25 reviewed the prospective bidder and the buyer and has

1 deemed it appropriate, we hope there will be a transfer
2 of ownership from MEC to that new buyer.

3 One of the points I want to make sure to
4 stress is that by entering into a stalking horse
5 arrangement, what that does is it's kind of the lowest
6 bid on which all other bids must be submitted; and so
7 there's no guarantee one way or the other that the
8 current stalking horse bidder will, in fact, be the
9 ultimate buyer of Lone Star Park. It's just the first
10 offer. There will be an auction in which it and other
11 interested bidders will participate for purposes of
12 determining who the final winning bidder is.

13 With that, I would open it up to any
14 questions that you might have.

15 CHAIRMAN PABLOS: Thank you.

16 Commissioners, are there any questions?

17 COMMISSIONER SCHMIDT: Just to clarify,
18 this is just for Lone Star Park. This is not a bundle
19 of tracks.

20 MR. SCOGGINS: That's correct. This only
21 pertains to Lone Star Park.

22 CHAIRMAN PABLOS: Mark, do you have a
23 comment?

24 MR. FENNER: Gregg, will this affect Lone
25 Star Park's ability to go forward with the race date

1 request item later on?

2 MR. SCOGGINS: No, Mark, it will not.

3 One thing I do want to make sure that the
4 Commission is aware of, though, is as a part of the
5 arrangement that we have made for the stalking horse
6 bid, the bidder has asked that Lone Star be placed into
7 the bankruptcy proceedings as a party to those
8 proceedings so it will be going forward under
9 bankruptcy protection and so that it will continue to
10 act on a day-to-day basis as it has up until -- you
11 know, as of the date it filed for bankruptcy, which was
12 yesterday. It will continue to move forward as it has
13 in the past. It just places it under the protections
14 of the bankruptcy proceeding so that when the buyer,
15 whoever it may be, purchases Lone Star, they will buy
16 it in the context of a bankruptcy proceeding as opposed
17 to outside of that proceeding.

18 I hope that wasn't too confusing.

19 CHAIRMAN PABLOS: Commissioner Ederer?

20 COMMISSIONER EDERER: Lone Star expects
21 to continue operation as it has.

22 MR. SCOGGINS: Yes, sir, it does. There
23 is no change intended whatsoever with respect to Lone
24 Star's operations. The bankruptcy aspect is a
25 formality designed to set the table right for purposes

1 of any buyers who want to come in.

2 CHAIRMAN PABLOS: Any other questions or
3 comments?

4 Thank you very much. Thank you for the
5 update. Appreciate it.

6 MR. SCOGGINS: You're welcome.

7 CHAIRMAN PABLOS: Okay. We're going to
8 step now into -- is there anybody else signed up for
9 public comment, Mark?

10 MR. FENNER: No, sir.

11 CHAIRMAN PABLOS: We'll step into our
12 general business part of the meeting, budget and
13 finance update. Shelley, are you here? Can you please
14 give us the update? Good morning.

15 MS. HARRIS-CURTSINGER: Good morning,
16 Commissioners. Behind Tab III.A.1, you will find an
17 update of the agency's fiscal year 2009 budget status
18 as of July 31st, 2009, with 91.67 percent of
19 expenditures being reported. As of this accounting
20 cycle, the agency is 12.71 percent under operational
21 budget projections for fiscal year 2009. We are
22 currently closing out fiscal year 2009 and working on
23 the annual financial report which is due to the
24 oversight agencies by November 20th.

25 Also, in accordance with Section

1 309.8(e)(1) of the agency's rules, as the rule
2 requires, after the end of the fiscal year, the agency
3 will be reviewing the fee structure to determine if any
4 changes should be recommended. In conjunction with
5 closing out fiscal year 2009, we are also opening
6 fiscal year 2010. All of the inactive license fees
7 that were due September 1st have been received and we
8 are watching for the first out's payment for the fiscal
9 year which is due today.

10 We will be looking forward to working
11 with the finance committee and preparing the
12 operational budget for fiscal year 2010 which is
13 usually due to the LBB by early December.

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

16 CHAIRMAN PABLOS: Thank you.

17 Commissioners, are there any questions?

18 Okay. Thank you very much. Appreciate
19 it.

20 Item III-B, report on racetrack
21 inspections. Carol Olewin, please. Good morning.

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

25 The first group of inspections are for

1 Gillespie County Fair. These were the live racing
2 inspections. The next set is Gulf Coast. This was for
3 the simulcast operation inspections. The next set was
4 for Gulf Greyhound Park. These were midyear and
5 unannounced inspections. And next is Lone Star Park,
6 which were the mid-live-meet unannounced inspections.

7 On the next page is the Manor Downs.
8 This was a simulcast operations. Next were Retama
9 Park. These are pre-live-meet inspections.

10 Next are Sam Houston Race Park. These
11 were beginning of the live meet inspections. And we
12 have one outstanding unsatisfactory item dealing with
13 the fire marshal report. And Sam Houston Race Park
14 received conditional approval from the Harris County
15 fire marshal's office. There are still deficiencies in
16 the barn area.

17 And next is Valley Greyhound Park. These
18 were simulcast operations inspections. And one
19 training track inspection for Delta.

20 Are there any questions, Commissioners?

21 CHAIRMAN PABLOS: Okay. Thank you.

22 Are there any questions?

23 I have a question about Corpus Christi,
24 just your general sense of what's going on down there.
25 Can you just give us an update?

1 MS. OLEWIN: As far as inspection-wise,
2 everything is going well as far as compliance. Our
3 last inspection we did was on July 9th.

4 CHAIRMAN PABLOS: So you feel good about
5 the progress over there?

6 MS. OLEWIN: Yes. We haven't had any
7 problems or any complaints.

8 CHAIRMAN PABLOS: Excellent. Good.
9 That's good news. Great. Thank you very much.

10 Next item, III-C, a report and update by
11 the executive director and staff regarding legislative
12 and administrative matters, a report on racetrack
13 meets. Chuck Trout?

14 MR. TROUT: Good morning, Commissioners.
15 I'm Chuck Trout, director of racing oversight.

16 CHAIRMAN PABLOS: Chuck, I'm sorry. I
17 failed to recognize Charla Ann.

18 MS. KING: Before Chuck starts his
19 presentation, I wanted to take a moment to introduce
20 our most recently added staff member. I'm pleased to
21 introduce our new chief veterinarian, Ken Quirk,
22 today. As you recall, he assumed the chief
23 veterinarian duties on August 1st, replacing Dr. Marsh,
24 who decided to step down from the chief vet position
25 after 13 years of service. We are fortunate to have

1 Dr. Marsh continuing as a regulatory vet at Retama.

2 A native of Louisiana, Dr. Quirk joins
3 the Commission staff with excellent credentials. He
4 has 38 years of experience, including racetrack
5 practice, breeding and selling of racehorses, and
6 managing horse farms and racing stables. Most recently
7 Dr. Quirk worked for the Louisiana Racing Commission,
8 serving as State veterinarian at Delta Downs before
9 joining our staff as a regulatory vet at Lone Star
10 Park. Truly his experience will benefit our regulatory
11 effort.

12 I do want to make one thing clear.
13 Although he's from Louisiana and he did get his
14 undergraduate degree at LSU and his DVM from Auburn, he
15 did come to Texas to do his residency at A&M.

16 Dr. Quirk is a member of the Texas
17 Veterinary Medical Association, the American Veterinary
18 Medical Association, and the American Association of
19 Equine Practitioners.

20 Please join me in welcoming Dr. Quirk to
21 his first Commission meeting as the chief
22 veterinarian.

23 CHAIRMAN PABLOS: Dr. Quirk.

24 Thank you, Dr. Quirk. We welcome you.

25 And, Charla Ann, thank you.

1 I'm sorry, Chuck. I oversaw that little
2 item there. But please proceed, Chuck.

3 MR. TROUT: Yes, sir. Good morning,
4 Commissioners. Since the June 9th Commission meeting,
5 Lone Star Park, Sam Houston Race Park, and Gillespie
6 County Fair have all completed meets.

7 Lone Star Park's Thoroughbred meet that
8 ended on July the 26th saw a slightly more than eight
9 percent decline in attendance and a 13.8 percent
10 decline in wagering compared to its 2008 Thoroughbred
11 meet.

12 Because Sam Houston's 2008 Quarter Horse
13 meet was expanded to include some of Retama's Quarter
14 Horse dates, there is no meaningful comparison at the
15 meet level. However, in comparing the average daily
16 attendance and handle, they were down 13 percent and
17 9.25 percent respectively over the 2008 meet.

18 The Gillespie County Fair Association's
19 mixed meet that ended on August the 23rd saw an
20 increase of 10 percent in attendance but a decrease of
21 just over seven percent in wagering compared to the
22 previous year.

23 Retama Park opened its Thoroughbred meet
24 on August the 28th and has completed eight
25 performances. On the pre-meet inspection, staff

1 determined that Retama's turf track was unsafe because
2 of numerous areas where the turf had not been
3 maintained. As a result, 24 races that were scheduled
4 to be run on the turf have been moved to the dirt
5 track.

6 Our stewards, along with some of the
7 trainers and representatives of the Texas Horsemen's
8 Partnership, are continuing to inspect the turf course
9 each week. With needed repairs to the irrigation
10 system complete and the recent rains, they have noted
11 some improvement in the turf and we are hopeful the
12 track will recover enough to be used in the next couple
13 of weeks.

14 Overall, wagering for the year at Texas
15 horse tracks is down 20.59 percent.

16 Turning to the greyhound tracks, Gulf
17 Greyhound Park's 2009 meet continues with six
18 performances a week. Gulf's total handle for the year
19 is down approximately two percent while attendance is
20 down less than one percent compared to last year.
21 Valley Greyhound Park's wagering for the year is down
22 by less than one percent, while their attendance is up
23 almost 2.5 percent.

24 This concludes my report. Do you have
25 any questions?

1 CHAIRMAN PABLOS: Thank you.

2 Are there any questions of Chuck?

3 Hearing none, thank you, Chuck.

4 Appreciate your report. Thank you very much.

5 Item C-2, III-C-2, State legislation
6 enacted by the 81st Legislature during the first
7 special session and the application of the Sunset Act
8 under Texas Racing Act Section 18.01. I'd like to
9 recognize Charla Ann, please.

10 MS. KING: Thank you, Mr. Chairman. As
11 you know, the outcome of the special session was the
12 continuation of our agency until 2011 due to passage of
13 SB 2, a sunset schedule bill. The session was very
14 short and focused, starting on Wednesday, July 1st, and
15 ending in two days.

16 In addition to the Racing Commission, the
17 bill continued TXDOT, TDI, the Office of Public
18 Insurance Counsel, and the Texas State Affordable
19 Housing Corporation, all of which would have been
20 abolished without this legislative action. Also
21 extended to 2011 was the equine research account
22 advisory committee, whose sunset review was combined
23 with the Racing Commission's.

24 During the bills hearing in the House
25 State affairs committee, Representative Isett, the

1 chairman of the Sunset Commission, confirmed that the
2 five agencies that had been continued would undergo a
3 limited sunset review before the next legislative
4 session.

5 More specifically, SB 2 limits the Sunset
6 Commission's review to the appropriateness of
7 recommendations made by the Commission to the 81st
8 Legislature and authorizes the Sunset Commission to
9 include any recommendations that it considers
10 appropriate in its report to the 82nd Legislature.

11 In the coming months, it will be
12 important for industry stakeholders and the Racing
13 Commission to identify and discuss any additional
14 issues that could be raised through the sunset process
15 and that would be beneficial to both the industry and
16 the regulation.

17 For example, the use of interstate
18 compacts as a means to provide a consistent approach to
19 racing regulation across state lines was an issue that
20 was raised at our last meeting of the rules committee
21 and may be something that can be discussed with the
22 sunset process. We look forward to facilitating the
23 discussions and working proactively to prepare for the
24 limited sunset review.

25 Considering the size and the complexity

1 of the sunset staff's review schedule before next
2 session, their review schedule includes the Texas
3 Commission on Environmental Quality, the Railroad
4 Commission, the Public Utility Commission. We
5 anticipate that the sunset review would occur toward
6 the end of the review cycle, sometime in the last half
7 of 2010.

8 I can field any questions for you about
9 that at this time.

10 CHAIRMAN PABLOS: Thank you, Charla Ann.

11 Are there any questions, Commissioners?

12 Thank you very much.

13 The next item, C-3, a report on
14 interagency cooperation with the Office of the Attorney
15 General regarding child support. Mark Fenner, please.

16 MR. FENNER: Commissioners, we wanted to
17 let you know that we're entering into an interagency
18 contract with the Attorney General's office in order to
19 provide their child support division with license data
20 that they can use to identify delinquent child support
21 payers, those who hold licenses with the Racing
22 Commission.

23 The contract also calls for the
24 establishment of a process between the Attorney
25 General's office and the Commission to suspend or deny

1 the renewal of a Racing Commission license to someone
2 who is in arrears on their child support. This is
3 authorized under Chapter 232 of the Family Code.

4 Under the contract, the Commission is
5 going to be submitting its license information to the
6 Attorney General's office through an electronic data
7 exchange system. We will provide them with information
8 on all our licensees. They will review that and
9 identify those licensees who are six months or more
10 delinquent in child support. They will then notify us
11 electronically and it will be flagged in our system.

12 If somebody has a -- owes child support
13 of six months or more, then if they come in to renew
14 their license, the Commission will not renew the
15 license. Instead, we will refer them to the Attorney
16 General's office to resolve that back payments that are
17 due and we will not be able to renew that license until
18 we receive notification from the Attorney General's
19 office that it is okay to renew that license.

20 In extreme cases, the child support
21 division will be able to provide us with an order that
22 will actually suspend an active license, not just deny
23 the renewal of a license, but go out and actively
24 suspend an active license.

25 The contract calls for the Attorney

1 General's office and the Commission to work together to
2 establish that exchange interface and establish
3 procedures and to facilitate communication on
4 information of license status and denial of license
5 renewal processes. We'll be notifying the industry and
6 the Texas Horsemen's Partnership so everybody knows.
7 We have a similar process already in place regarding
8 guaranteed student loans.

9 CHAIRMAN PABLOS: Thank you, Mark.

10 Are there any questions of Mark on this?

11 Mark, I have a question. And really that
12 goes back to the resources that we have to handle
13 this. Could you speak to the time requirements and
14 resource requirements that this is going to entail with
15 respect to meeting the terms of the agreement?

16 MR. FENNER: Yes, sir. Fortunately, the
17 decision-making process about what kind of -- of
18 whether it's a valid notification through the Attorney
19 General's office and then a valid order, all that, is
20 not up to us. We just notify the licensee, once it has
21 come through the electronic data exchange, that they
22 have a problem with the Attorney General's office and
23 the Attorney General's office will then be responsible
24 for resolving any problems that they may have.

25 We are not required to have any hearings

1 before the stewards. There are no appeals to SOAH that
2 we're involved in. It's, at this point, a data
3 exchange between our IT department and their IT
4 department. And then there will be some resources
5 required from our licensing folks, of course, to let
6 people know that their license can't be renewed at this
7 point and they have to go talk to the Attorney
8 General's office. But fortunately, there's not a lot
9 of appeals or stewards' hearings involved.

10 CHAIRMAN PABLOS: Charla Ann, are you
11 comfortable with the resources that you have in order
12 to comply with this agreement?

13 MS. KING: Yes, we are, Mr. Chairman.
14 The field teams are going to have to work together.
15 I'm sure people will have questions about it. And the
16 licensing staff will have to work with the stewards to
17 make sure everybody is aware of what the requirements
18 are.

19 CHAIRMAN PABLOS: Any other questions?

20 Okay. Thank you very much for that
21 report.

22 Next, Charla Ann, would you please report
23 on the Racing Commissioners International?

24 MS. KING: Yes, sir. Commissioners, just
25 a brief report on the recent RCI model rules meeting

1 and board meeting that I attended at the end of July.

2 Several proposed rule changes were
3 discussed at the meeting, including licensing of
4 secondary pari-mutuel operators or what people refer to
5 a SPMO's, changes to steroid testing, requirements for
6 wearing safety vests, use of riding crops, and updates
7 to jockey mount fees. Some of these proposals were
8 referred to some other RCI committees for further
9 review; but at least two, the SPMO and the safety vest
10 rule, will be eligible for consideration at the next
11 rules committee meeting, so we'll be going forward with
12 that at the committee level.

13 As you'll recall, we hosted the RCI
14 greyhound model rules committee meeting here in June
15 and I presented the group's recommended rule changes to
16 the RCI board. Thanks again to Commissioner Hicks for
17 her participation at the greyhound committee. The
18 recommendations were adopted by the board; and I'm
19 proud to say that most of the changes which address
20 safety and oversight, injury reporting, and anabolic
21 steroids were modeled after Texas rules.

22 The greyhound committee will continue its
23 work next month in Abilene, Texas -- in Abilene,
24 Kansas, excuse me, in conjunction with the annual
25 meeting of the National Greyhound Association.

1 I appreciate that. I must say that you're doing a
2 great job at the national level and I know that
3 everyone is looking to Texas for your leadership and I
4 appreciate you providing that to the organization.

5 Are there any comments or questions of
6 Charla Ann?

7 Thank you, Charla Ann.

8 Okay. Our next item is Item D, a report
9 by safety and medication working group. I'd like to
10 recognize Vice-Chair Carter.

11 VICE-CHAIRMAN CARTER: I believe
12 Dr. Quirk was going to give this report, wasn't he?
13 I'll recognize Dr. Quirk.

14 MR. QUIRK: I'd like to reciprocate.

15 First of all, I want to thank you for the
16 job. It's good to have any job in this economy, but
17 this is indeed a privilege and pleasure to be here with
18 you. I want to commend the staff, too, for the very
19 fact that they established this working group approach
20 to these issues. I think it brings the stakeholders
21 together and allows for input from the various
22 interests on these topics and I think that's been
23 especially helpful.

24 It's trying times for the racing game,
25 it's fair to say. Wagering on racing nationally is

1 down about a billion dollars year on year this year
2 versus last, so Texas isn't isolated in that regard.
3 But -- and there are other issues just as we speak here
4 today. I don't know how many of you follow the
5 Keeneland sales, which, of course, are the biggest for
6 the Thoroughbred industry in the world, frankly. They
7 were down on gross by almost 50 percent yesterday,
8 opening day, which is one of their big days. So I
9 think it's -- there are a lot of things going on in
10 racing that should give us cause to pause, so to speak,
11 to redouble our efforts to find solutions to the many
12 problems that we face.

13 I'll get off the soapbox now and get onto
14 the working group issue. It is a commendable
15 procedure, in my view, to bring the stakeholders
16 together. Their input is very valuable. They do
17 identify certain parochial issues that I think are
18 important that need to be addressed and looked at in
19 maybe a broader context.

20 One of the things that we visited about
21 was the so-called white paper put out by the American
22 Association of Equine Practitioners. And the basic
23 tenet with that white paper was to put the horse
24 first. And as regulatory veterinarians, certainly
25 that's what we're about. The horse safety is our

1 principal issue, along with rider safety; and I think
2 those two, to a large degree, overlap and go hand in
3 hand.

4 The areas of focus in that white paper
5 basically centered upon prerace and post-race
6 veterinary inspections and how best to accomplish
7 those. We did look at some interest in pursuing the
8 post-mortem inspections of euthanized horses more
9 thoroughly. Unfortunately, that brings an expense
10 burden with it that we felt like would be difficult to
11 deal with presently.

12 There are a number of -- one of the -- we
13 sort of, as regulators, look upon ourselves as
14 obviously we're advocates for the horse but sort of the
15 last line of defense for horse safety, although I do
16 think there is a group behind us, and that's the
17 public, frankly, that are really scrutinizing these
18 issues. And we're going to have to be -- do a much
19 better job than we're currently doing. I do think
20 we're making some progress, but we're going to have to
21 step that up a level or two.

22 There are watchdog groups out there.
23 One, for example, is called Far Insperado Watch Track.
24 And it's amazing to me. They actually seem to have
25 more information about injury rates and occurrences

1 happening around the country than a lot of the
2 regulatory agencies get.

3 And in fact, yesterday, when we had a
4 discussion with the regulatory veterinarians
5 representing the major racing interests around the
6 country, it was clear that they were somewhat taken
7 aback by the numbers that came from that group. And
8 unfortunately, those numbers are probably accurate.

9 Beyond that, we got into certain issues
10 dealing with the anabolic steroid issue, the
11 corticosteroid issue, the intra-articular steroid
12 issue -- we've got a lot of steroids going -- and also
13 a big discussion really, and an important one, about
14 the use of the nonsteroidal antiinflammatories on a
15 prerace basis as that may affect our ability to
16 determine the soundness of a horse on a prerace
17 inspection.

18 There's going to be a big push to move
19 the 24-hour rule -- this isn't going to sell well with
20 the horsemen's group, I might say. But nonetheless,
21 there's going to be a big push to try to move that
22 withdrawal time back to at least 48 hours. The feeling
23 among the regulatory veterinary group was that there's
24 still a significant analgesic effect at the time that
25 we do our inspections, that it does to some degree

1 inhibit our ability to adequately do those
2 inspections.

3 This could go on for some time, but those
4 are the highlights of our working group. And if you
5 have any questions, I'd be more than happy to try to
6 answer them.

7 CHAIRMAN PABLOS: Thank you very much on
8 a very thorough summary.

9 Is there anybody that has a question?

10 Thank you, Doctor -- Dr. Carter?

11 VICE-CHAIRMAN CARTER: I'd just like to
12 echo Dr. Quirk's comment about the importance of these
13 working groups and the importance of people
14 participating in them. I think we had a good turnout,
15 a good participation from all factions, and I think
16 that way we can do things with some proper guidance.
17 And so I just applaud the participants for helping us
18 with these steps.

19 CHAIRMAN PABLOS: Thank you, Dr. Carter.

20 Any other comments?

21 Thank you very much.

22 We'll move on to Item E, report by the
23 rules committee. And that being said, Dr. Carter, I
24 agree. I think participation is key. And as all of
25 you know, the reason we've set up these working groups

1 and committees is to provide everyone an opportunity to
2 speak and to share their opinions and concerns, ideas.

3 And so the rules committee is no
4 different. We've been able to come together in a very
5 transparent way, in a way that allows all the
6 stakeholders to have a say-so. And so on July 14th we
7 had a chance to meet. We had Tom Latham and
8 Commissioner O'Connell present, including myself.

9 You know, on top of reviewing the rules
10 that we traditionally review on a periodic basis, we
11 focused on those issues that we weren't able to have
12 accomplished during our sunset review process. And so
13 the main focus with respect to sunset has to do with
14 the racetrack license review process that our licensing
15 committee had identified under the leadership of
16 Commissioner Clowe. Also we talked about the security
17 bond issue and the licensing of racing industry
18 occupations.

19 And so with respect to the racetrack
20 license review process, there was a general consensus
21 that we've got to look at that from the Commissioners.
22 There was some push-back from the industry. But what
23 I've asked the industry to do is to go back and come up
24 with some solutions to this so we can find a common
25 ground.

1 But I will tell you that the
2 Commissioners present at that committee meeting did
3 express interest in moving forward in reviewing the
4 process for license review. So I just want to let you
5 know that. And with respect to the bonding, we're
6 going to take that item up in our next meeting. And I
7 don't think we've set up a meeting time yet, but we'll
8 do that shortly.

9 As many of you know, Thomas Latham has
10 resigned from the Commission. He is going to run for a
11 State Representative seat. And so that being said, he
12 was forced to resign because of the ethics rules. And
13 so now it's Commissioner O'Connell and myself who are
14 on that committee. I invite anyone else up here to
15 participate if you'd like. I'm not going to appoint
16 anyone. I'd ask for someone to volunteer. This is a
17 very important committee and so your input is much
18 appreciated.

19 That being said, are there any questions
20 regarding this item, Commissioners?

21 Okay. That being said, we'll move on to
22 Item F, which is discussion, consideration, and
23 possible action on designation of new members on the
24 committee on rules. And so I've just talked about
25 that. We have Commissioner O'Connell and myself. And

1 I would ask -- it doesn't have to be now; but if you'd
2 let me know if you're interested in participating, I
3 would ask that you let me know.

4 Item G is similar, although it has to do
5 with our committee on finance. Commissioner Hicks has
6 done a great job with this item and also with greyhound
7 race dates. I want to thank you for all your good
8 work. It hasn't been easy, but it has been
9 transparent. And at the last meeting we made sure that
10 every single person in the room had an opportunity to
11 speak. And so again, it's -- it goes back to our
12 commitment to making sure that everyone is involved in
13 the process.

14 Again, with respect to this committee, I
15 would ask for volunteers to participate. At this time
16 we just have Commissioner Hicks. Commissioner
17 Weinberg, I know you've expressed some interest. You
18 don't have to let me know today; but if you're
19 interested, please advise me so we can include you in
20 that committee process.

21 Okay. Any questions regarding finance
22 committee?

23 Okay. Our next item, we'll go to Item
24 IV, proceedings on racetracks. What we'll do is we'll
25 take Item IV-A, B, and C together. At this time I'd

1 like to call on Mark Fenner to discuss this item.
2 We'll be discussing, consideration, and possible action
3 on request of Longhorn Downs/Austin Jockey Club for
4 approval of change of ownership. That is A. B is
5 request by Longhorn Downs for approval of change in
6 location. And C is order for security for compliance
7 of Longhorn Downs. Mark Fenner, please.

8 MR. FENNER: Commissioners, I'd like to
9 begin by giving you kind of an overview of what you'll
10 be deciding today.

11 You have before you a request by the
12 Austin Jockey Club for the change of ownership in
13 Longhorn Downs Corporation which holds the Class 2
14 horse racing license. You've also got a request in for
15 a change of location. And then there's an agenda item
16 that, if these items are approved, whether you would
17 like to require security from the proposed buyer.

18 As part of that process, I'll expect
19 you'll be hearing from the Austin Jockey Club. I'm
20 then going to walk you through the report and the
21 statutory requirements that are relevant. The
22 Department of Public Safety is available to answer any
23 questions you have about their report. I hope that
24 you'll hear from the proposed buyer. And then there
25 are some people here signed up for public comment.

1 CHAIRMAN PABLOS: Thank you, Mark.

2 Is Joe Archer here?

3 MR. ARCHER: Yes.

4 CHAIRMAN PABLOS: Mr. Archer, will you
5 please come up? Good morning.

6 MR. ARCHER: Good morning, Mr. Chairman.

7 CHAIRMAN PABLOS: How are you today?

8 MR. ARCHER: I'm fine.

9 CHAIRMAN PABLOS: Mr. Archer, today we're
10 here to consider your request for change of ownership.
11 Is that correct?

12 MR. ARCHER: Yes.

13 CHAIRMAN PABLOS: Do you have any
14 comments to share with us regarding this request?

15 MR. ARCHER: Well, only that Mr. Brown,
16 who is also here, may speak to it as well, but only
17 that, as the Commission knows, we entered into an
18 agreement for this sale some years ago. We understand
19 the Commission's position on setting this -- these
20 applications today. We have been -- or attempted to be
21 very supportive of our agreement that we have made with
22 Dallas City Limits. We have absolutely not interfered
23 in any way with the process. As a matter of fact, we
24 have not really been involved too much in the process.

25 We have no input in the application

1 that's here today. That is, the applications are the
2 work product of the purchaser and Dallas City Limits.
3 And they are in a much better position to answer your
4 questions based on the substance of those
5 applications.

6 CHAIRMAN PABLOS: Thank you very much,
7 sir. We'll do that.

8 Mark?

9 MR. FENNER: Commissioners, let me
10 briefly identify the statutory sections that are
11 relevant here. First of all, Section 6.13(b) requires
12 the provision of certain information for an association
13 that changes an ownership. 6.031 requires a background
14 check by the Department of Public Safety. 6.04(a)
15 requires that the Commission make certain findings in
16 order to issue a license. It also provides 11 other
17 factors that the Commission may optionally consider
18 during its deliberations. Then separately -- those are
19 all relating to the ownership change.

20 The location change is under Section
21 6.14, Subsection (d), which has three required
22 findings. One of those relates to the public
23 interest. And the public interest is also covered
24 under 6.04(a), which is part of the ownership change.

25 What I'd like to do is to walk kind of

1 quickly high level through the report that the staff
2 has prepared for you. And the standards for change are
3 identified on page one of 13. In your book it's
4 IV.A.1.

5 The next page, ownership. The ownership
6 of the proposed buyer is Dallas City Limits Property
7 Company. It is owned one percent by a general partner,
8 Orange Obsidian GP, that's owned by Dr. David Alameel;
9 94 percent by AtlanGroup, which is also owned by
10 Dr. Alameel with his wife, Martha Alameel; and then
11 five percent owned by YD Associates, a limited
12 liability company owned by Representative Yvonne
13 Davis.

14 There is one issue that was identified in
15 the Department of Public Safety's report about ongoing
16 litigation, but I'll let others speak to that later
17 on.

18 The location that the proposed buyer has
19 identified is a 165-acre site approximately 15 miles
20 south of Dallas and 20 miles southeast of Lone Star
21 Park. It's about two miles south of Lancaster and
22 about three miles east of I-35 East.

23 One issue about the location is that the
24 contract to purchase that 165-acre site expired on June
25 1, 2009, and it has not been renewed. This is relevant

1 under Section 6.04(a) of the statute which is a
2 mandatory finding that races at the proposed location
3 will be in the public interest. There's some question
4 now about where the proposed location is.

5 Effect on traffic flow. This is an
6 optional item for your consideration under 6.04(a).
7 The site is not directly accessible from a State
8 highway. The proposed buyer hopes that Loop 9 would
9 come along in the future and run immediately adjacent
10 to it. If it does, that would provide good access.
11 But Loop 9 is still in the study phase. There is no
12 guarantee that Loop 9 will be built at all or in that
13 location.

14 Compliance with zoning. This is a
15 mandatory requirement under 6.04(a). This particular
16 site is not currently zoned. The City of Lancaster, as
17 part of its three-year annexation plan, intends to
18 annex the site.

19 I discussed with the City of Lancaster
20 yesterday, their planning and development department,
21 about what would happen if this site were granted a
22 racetrack license. They told me that if the racetrack
23 were, in fact, built by the time they got to it, which
24 would probably be sometime in 2011 or '13, that they
25 would likely grandfather that in but if the site were

1 not actually built by the time the annexation and
2 zoning were reached that there were no guarantees that
3 this would be zoned in a manner that was appropriate
4 for a racetrack.

5 We found no issue with the requirement
6 that they would be compliant with the criminal laws.
7 We reviewed the management, tote, and concession
8 contracts. We found no problems there.

9 The applicant's liabilities and assets.
10 Let me move into the Department of Public Safety
11 investigation report because that kind of touches on
12 that. The Department of Public Safety did conduct a
13 complete background check and that has been on file
14 with us for 14 days. But they identified four items.

15 The first is, as of the date of the
16 report, the proposed sale of Dr. Alameel's dental
17 services company had not been finalized and they did
18 not submit any supporting documentation to the DPS
19 regarding the proposed sale. Without that
20 documentation and the Department of Public Safety's
21 ability to analyze it, that affects the department's
22 ability to determine whether the applicant or proposed
23 buyer has sufficient liabilities and assets to support
24 the construction of the -- and operation of the track.

25 They also identified that the litigation

1 does remain in place over the ownership of the
2 predecessor in interest of the buyer, which is Dallas
3 Founders at Trinity Crossing. They identified the fact
4 that the contract for the purchase of the land had
5 expired. They also identified as an issue that the
6 proposed buyer had not contacted the City of Lancaster
7 regarding the construction of the proposed facility and
8 that the public up there was really generally not aware
9 of the proposed racetrack.

10 In our review of the facilities plans, in
11 looking at the construction documents or the schematic
12 drawings that they provided to us, we did notice some
13 deficiencies, such as there wasn't a stewards tower as
14 part of the main tower -- the main building. However,
15 they did commit in the written documentation to
16 providing those things.

17 So there were some inconsistency between
18 the schematics and the written documentation regarding
19 the construction of the facility. In general, though,
20 the facilities for the race animals seems compliant
21 with the rules.

22 There does seem to be sufficient access
23 to support services and emergency services.

24 They intended to contract with
25 Retama's -- Retama Park's management group, REG, that's

1 led by Bryan Brown. Those do operate a Class 1
2 racetrack, so we have no -- we can't point to that as a
3 problem.

4 The time line for opening the facilities
5 would be for it to be operational within 18 months
6 and -- for simulcasting, and then be able to conduct
7 live racing within 38 months of the Commission's
8 approval.

9 When the staff looked at -- let me
10 skip -- I skipped one thing. Conflict with other
11 licensed race meetings. We may hear from Lone Star
12 Park that the creation of a racetrack 20 miles to their
13 southeast could interfere with the simulcasting and
14 live racing that goes on at Lone Star Park.

15 As far as their business plans, our staff
16 reviewed the business plans and particularly the
17 pari-mutuel projections. The calculations, I think,
18 were generally reasonable; but there was one assumption
19 underlying the heart of the entire business plan, and
20 that was that the simulcasting operations would
21 generate a handle that is equivalent to that of Lone
22 Star Park.

23 Lone Star Park, of course, is located
24 immediately adjacent to I-30, right between Fort Worth
25 and Dallas. This site is two miles south of Lancaster,

1 not immediately adjacent to any major highway. We
2 might ask you to judge whether or not you think that
3 that is a reasonable projection.

4 The impact on the horse breeding
5 industry. If the track were built and operated as
6 proposed by the buyer, it would have a positive impact
7 on horse breeding. As proposed by the buyer, it would
8 have a positive impact on the State and local economy.
9 We did receive letters of support from the Texas
10 Horsemen's Partnership, Dallas County Commissioner John
11 Wiley Price, and Mr. Hargrove, which is the owner of
12 the land. There's also a personal reference on behalf
13 of Ms. Davis from EN Consulting.

14 Behind all these materials I provided is
15 a copy of the order for security. It requires the
16 buyer, if the proposal is approved, to provide \$250,000
17 in security to ensure that they begin simulcasting and
18 live racing on the proposed time line.

19 Do you have any questions?

20 CHAIRMAN PABLOS: Are there any
21 questions, technical questions for clarification, of
22 Mark? No questions?

23 Okay. At this time I'd like to invite
24 Mr. Gregory Shamoun, please, to come up.

25 MR. SHAMOUN: Good morning. I'm sure you

1 all have heard about the transfer of ownership issue
2 for quite some time. I have not had the privilege to
3 address you all; and if I say anything offensive, it's
4 not intentional. Back in August of --

5 MR. CLOWE: Could you identify your role,
6 please, sir?

7 MR. SHAMOUN: My name is Gregory Shamoun
8 and I am an attorney that represents the proposed
9 purchaser of the stock in the entities.

10 MR. CLOWE: Thank you very much.

11 MR. SHAMOUN: You're welcome.

12 In August of 2005 my clients entered into
13 a contract to buy the ownership. Subsequent to that
14 there's been a change in the entity structure. There
15 has been litigation that has proceeded to judgments. I
16 think it's in the packet in the application. All of
17 you Commissioners may be familiar with it. The
18 judgment entered in two courts in the State of Texas
19 determined ownership of the entity.

20 It is a nonevent, ladies and gentlemen.
21 It is not an issue of who owns the entity in the
22 application. Yes, there is litigation that is going on
23 in Dallas, Texas, related to a claim of ownership. I
24 have personally spoken with Commissioner -- good
25 morning, Commissioner -- about the issue. And I

1 believe that issue should not be considered as an issue
2 with regards to what you are here to determine today.

3 Austin Jockey Club, after the two
4 judgments were entered in the State Court of Texas,
5 filed a -- or sent a letter to Mr. Fenner saying
6 "Please put us on the August '08 agenda for change of
7 ownership."

8 Prior to August, in June of 2008, the
9 judgments were entered declaring who owns Dallas City
10 Limits. My clients completed an application. At the
11 time they completed the application, they had under
12 contract with Mr. Hargrove 165 acres that Mr. Fenner
13 mentioned. We paid hundreds and hundreds of thousands
14 of dollars to keep that contract alive. We completed
15 the application.

16 We received from Mr. Fenner's office a
17 letter saying our application is complete. I can't
18 tell you how many conversations I've had with
19 Mr. Fenner. I just can't tell you. "Mr. Fenner, is
20 there anything else we need to do? Is there anything
21 else that is necessary? Just tell me. However
22 ministerial they are, whatever I needs to be dotted and
23 T crossed, just tell me."

24 Commissioner, you used the word
25 "transparency". Thank you. Just be transparent with

1 us.

2 CHAIRMAN PABLOS: I think we have been.

3 MR. SHAMOUN: I'll get to that in a
4 minute, sir.

5 Be transparent with us. Let me know what
6 we need to do. My client has invested over 15 million
7 dollars in this project. And, no, that's not your
8 all's problem; but we are going to find out why we
9 can't get ownership transferred and we're going to find
10 out why we can't get a location approved. And it's
11 been painstaking. It's been frustrating. It's been
12 expensive. It's -- we've had to exercise due
13 diligence. And we will continue to do so, today,
14 tomorrow, next week, a year from now.

15 Now, let's talk about what happened in
16 June of this year. In June of this year our contract
17 with Mr. Hargrove expired after we had paid him
18 hundreds of thousands of dollars since June of 2008.
19 Mr. Hargrove comes to us and he says, "I want a check.
20 Close. Six million dollars."

21 We can't even get on the agenda,
22 Commissioners. Mr. Archer's group tried to get us on
23 the agenda, tried to get ownership at least changed and
24 transferred. And Mr. Hargrove comes to us and says,
25 "We're not going to give you any more extensions. We

1 want you to close. Write us a check for six million
2 dollars."

3 Well, we didn't do that. Let me tell you
4 what we did do. We found 200 acres. And we've talked
5 about -- Mr. Fenner talked about Loop 9 and he talked
6 about not having access in Lancaster. We have a
7 contract for 200 acres. It is in Ellis County. We've
8 talked to the Ellis County Commissioners. Our contract
9 has gone hard. We've paid \$50,000 of nonrefundable
10 money. We have a 90-day due diligence.

11 I have the seller here. I brought the
12 seller here this morning. If there's any questions you
13 want to ask the seller about Loop 9, about traffic
14 counts, about dealing with the City of Midlothian and
15 talking to the Commissioners there about will they
16 accept this project, would it be good for the city,
17 would it be good for the people, would it be good for
18 the community, he is here. Please, I implore you to
19 ask him any questions you may have. I beg you to do
20 it. His name is Hal Thorne. He's lived in Midlothian
21 all his life.

22 Now, transparency, Mr. Pablos. You and I
23 have spoken twice on the phone.

24 CHAIRMAN PABLOS: Not multiple times.
25 Twice, right?

1 MR. SHAMOUN: Twice on the phone.

2 CHAIRMAN PABLOS: Thank you.

3 MR. SHAMOUN: That's more than once. And
4 when we spoke the first time, you informed me, "Do not
5 speak with anyone else at the Texas Racing Commission.
6 All communications are between you and me." True?

7 CHAIRMAN PABLOS: True.

8 MR. SHAMOUN: Okay. Second
9 conversation. I asked you, "If there is any I that's
10 not dotted or T that's crossed with regards to anything
11 that we need to do, no matter how minuscule, tell me."
12 And you said, "After I meet with my staff -- I'm new."
13 I think you said you were relatively new in the
14 process. "After I meet with my staff, if there is
15 anything that we need from you, I'll call you." True?

16 CHAIRMAN PABLOS: True.

17 MR. SHAMOUN: Did you call me?

18 CHAIRMAN PABLOS: There wasn't anything
19 we needed from you.

20 MR. SHAMOUN: Nothing?

21 CHAIRMAN PABLOS: Nothing. Everything
22 was complete. The process was complete. Now, let's
23 talk about transparency.

24 MR. SHAMOUN: Hang on a second.

25 CHAIRMAN PABLOS: No, no. Excuse me,

1 sir.

2 MR. SHAMOUN: Go ahead.

3 CHAIRMAN PABLOS: Here you're talking
4 about not being able to get on the agenda. I met with
5 your client when he implored me to move this process
6 along. And we did.

7 MR. SHAMOUN: While we were under
8 contract.

9 CHAIRMAN PABLOS: We did. We moved it
10 along.

11 MR. SHAMOUN: Yes, sir.

12 CHAIRMAN PABLOS: I agreed to do so.

13 MR. SHAMOUN: Yes, sir.

14 CHAIRMAN PABLOS: DPS now was performing
15 background investigations on your clients. Is that
16 true or not?

17 MR. SHAMOUN: I have no personal
18 knowledge of that.

19 CHAIRMAN PABLOS: What do you mean?
20 You're their attorney. You don't know whether DPS had
21 investigations proceeding?

22 MR. SHAMOUN: If you're telling me they
23 did, I trust you.

24 CHAIRMAN PABLOS: So this is the first
25 time that we could have possibly had your item brought

1 up to this Commission.

2 MR. SHAMOUN: Okay, sir.

3 CHAIRMAN PABLOS: Okay?

4 MR. SHAMOUN: Yes, sir.

5 CHAIRMAN PABLOS: The information was
6 submitted to DPS in March of this year. That made
7 their background investigation request of your clients
8 complete in order for them to begin -- it's all on the
9 record, sir. This is the first time -- and as I
10 promised to your client, this is the first time we
11 could have possibly brought this item for
12 consideration. And we're doing it.

13 Two weeks ago you sent a letter saying
14 you were ready. Yesterday you requested for me to
15 postpone this item. Sir, this is the first time we're
16 doing it. Out of one side of your mouth you're saying
17 to postpone. On the other side you're saying that we
18 haven't brought it up and that we're not being
19 transparent. So I just wanted to address that. Go
20 ahead and proceed.

21 MR. SHAMOUN: I'm not going to fight with
22 you, Commissioner.

23 CHAIRMAN PABLOS: I'm not fighting with
24 you. I am simply --

25 MR. SHAMOUN: You know what you told me.

1 And you know what you told me. And I'm a lot of
2 things, but I don't lie.

3 The point is, I ask you this. If you all
4 are going to vote today, I ask you, because of all of
5 the time that had lapsed -- we have a location under
6 contract. It's not very difficult to get what we have
7 already done transferred to the 200-acre site. It's a
8 better site. It's on a 145-acre lake. There's hotels
9 that are going to be developed by the seller. There's
10 an 18-hole golf course that's going to be developed by
11 the seller.

12 Loop 9 comes right off 287. It's already
13 planned. And as we all know, Loop 9 has been a moving
14 target for quite some time. Relying upon where Loop 9
15 is actually going to go, where it's actually -- and
16 when is it going to start has been a moving target.
17 It's been difficult. Ellis County, Midlothian, they're
18 with us on this project. They want this project.

19 Commissioner, if our application needs to
20 be amended, which it did, which it does, we are going
21 to ask for it to be amended. I asked for this to be
22 off the agenda. I respectfully understand the reason
23 why you said no and I got the letter.

24 I ask you -- I ask you, I implore you,
25 give us a little time. Give us 90 days with regards to

1 the location. As it relates to the transfer of
2 ownership, that has been requested for over a year
3 now. I do not believe respectfully, Mr. Fenner, that
4 you can't grant the transfer of ownership. It would
5 help with regards to the location to transfer the
6 ownership.

7 Thank you. Any questions? Yes, ma'am.

8 CHAIRMAN PABLOS: Are there any
9 questions?

10 MR. SHAMOUN: Yes, ma'am, Ms. Weinberg.

11 COMMISSIONER WEINBERG: I'm fairly
12 familiar with the Midlothian area and obviously this
13 will be closer to Lone Star. Do you have a mileage
14 difference from the Lone Star track to --

15 MR. SHAMOUN: The seller does.

16 COMMISSIONER WEINBERG: Because this does
17 make it closer to that.

18 MR. SHAMOUN: I don't think it's any
19 closer.

20 COMMISSIONER WEINBERG: I think it is.

21 MR. SHAMOUN: At 67 and 287. Okay.

22 COMMISSIONER WEINBERG: I believe it is.
23 But I was just curious with that. I mean, this is news
24 to me from our agenda of looking at the location in
25 Lancaster and then it being moved to Midlothian, so I

1 was just --

2 MR. SHAMOUN: I'm sure it is.

3 Any other questions?

4 CHAIRMAN PABLOS: Any other questions?

5 VICE-CHAIRMAN CARTER: I have a

6 question.

7 MR. SHAMOUN: Yes, sir, Doctor.

8 VICE-CHAIRMAN CARTER: How long have you

9 been employed working on this project, as the attorney

10 working on this transfer of ownership?

11 MR. SHAMOUN: A long time.

12 VICE-CHAIRMAN CARTER: A month?

13 MR. SHAMOUN: No.

14 VICE-CHAIRMAN CARTER: Six months? Six

15 years?

16 MR. SHAMOUN: Maybe a year.

17 VICE-CHAIRMAN CARTER: So you prepared

18 all the information that the DPS requested in their

19 background investigation?

20 MR. SHAMOUN: None. I prepared none of

21 that, sir.

22 VICE-CHAIRMAN CARTER: Okay. You were

23 aware of it? Were you aware of it, the request for the

24 information, that they must have gotten this

25 information to formulate the report that they generated

1 on June 8th?

2 MR. SHAMOUN: Doctor, it's my
3 understanding the information came directly with
4 communications with Dr. Alameel. It did not come
5 through my office, sir. I do know that they did know
6 that JD -- the facilities, the dental clinic, sold in
7 June. And I provided Mr. Fenner this morning
8 confirmation from the purchaser that in June the a
9 little under a hundred-million-dollar transaction
10 closed and funded. I don't know why they didn't have
11 that.

12 VICE-CHAIRMAN CARTER: Have you seen the
13 DPS report?

14 MR. SHAMOUN: I have, sir. It was
15 provided by the Commission -- I mean, by your office.

16 CHAIRMAN PABLOS: It was available on
17 June 9th. It was provided to you as a courtesy.

18 MR. SHAMOUN: Well, thank you, sir. I
19 appreciate it.

20 CHAIRMAN PABLOS: Any other questions?

21 MS. O'CONNELL: I have a question.

22 CHAIRMAN PABLOS: Yes.

23 MS. O'CONNELL: Your contract with the
24 Austin Jockey Club to transfer ownership, does it have
25 any stipulations in it that your organization is only

1 allowed to -- would only be allowed to conduct racing
2 in any certain counties?

3 MR. SHAMOUN: Yes, ma'am. It's Dallas
4 and contiguous counties.

5 CHAIRMAN PABLOS: Any other questions?

6 COMMISSIONER EDERER: Who else are we
7 going to hear from on this issue?

8 CHAIRMAN PABLOS: We have Hal Thorne. We
9 have Drew Shubeck, Dave Hooper, and Casey Hargrove.

10 COMMISSIONER EDERER: I don't have any
11 other questions now, but I'm sure I'm going to after I
12 hear from the others.

13 MR. SHAMOUN: If you do, just ask me to
14 come up and I will be responsive.

15 CHAIRMAN PABLOS: Thank you very much.

16 MR. SHAMOUN: Thank you.

17 CHAIRMAN PABLOS: Mr. Casey Hargrove?

18 MR. HARGROVE: Mr. Chairman,
19 Commissioners, Casey Hargrove. I'm a part owner and
20 represent the owners of the 165 acres in Lancaster.
21 And just to tell you, our position on this is the
22 annexation that is being initiated by the City of
23 Lancaster changes our position on the future of this
24 property. This is the time to go in for zoning with
25 the city, including if they were to do the racetrack.

1 But we need clarity on the future of this property.

2 And we gave them a one-year extension on
3 the original contract, but we communicated with them
4 many times before the expiration of this contract that
5 our position has changed. We're still open to them
6 purchasing the property at the mutually agreed-upon
7 purchase price that you all have on file. But we would
8 just request that it be conditional to purchase the
9 property because the city is looking to zone that
10 property in the near future and we need to know what
11 the future of that property is. And so that's our
12 position.

13 CHAIRMAN PABLOS: Thank you.

14 Any questions?

15 Thank you, Mr. Hargrove.

16 David Hooper?

17 MR. HOOPER: Mr. Chairman, members of the
18 Commission, I'm David Hooper, the executive director of
19 the Texas Thoroughbred Association. I just wanted to
20 state for the record the Texas Thoroughbred Association
21 has no position on the change of ownership, on
22 location, or anything else concerning this matter at
23 this time relative to -- because there's been no
24 dialogue whatsoever between the applicant and the board
25 of directors of the Texas Thoroughbred Association or

1 any representative of the Texas Thoroughbred
2 Association relative to location, change of -- or
3 proposed racing dates, or anything else. So we just
4 would reserve any judgment on this application at this
5 time.

6 CHAIRMAN PABLOS: Thank you very much.

7 Mr. Hal Thorne?

8 MR. THORNE: Mr. Chairman, members of the
9 Commission staff, my name is Hal Thorne. I reside --
10 my permanent address is 3550 Gifco Road in Midlothian,
11 Ellis County, Texas. I am the representative and one
12 of the principals in a group that owns approximately
13 2200 acres near the intersection of Highway 67 and
14 287. The land is a hundred percent in Ellis County.
15 We are just south of Joe Pool Lake. We have some --
16 some of our land fronts on Joe Pool Lake.

17 We've entered into a contract for the --
18 let me back up just a step, if I may. We've been
19 working with the applicant before you. And I don't
20 know anything about any of the history. I haven't been
21 involved in any of that other than I participated with
22 the group originally when the Racing Commission came
23 about. When Grand Prairie, Lone Star Park, got its
24 license, I participated as a consultant and principal.
25 I'm an attorney by trade, but I'm a businessman in real

1 estate development now. And this would probably be the
2 second time that I've appeared before this Commission,
3 the first being several years ago.

4 But for the past 90 days we've been
5 working with Mr. Shamoun and his client to do due
6 diligence on our site. We have a plan to propose
7 development -- a residential/commercial mixed-use
8 development that is somewhat on hold now because of the
9 general economy. We've gone through the process with
10 the City of Grand Prairie since a portion of our land
11 lies in Grand Prairie's ETJ and a portion of our land,
12 approximately 500 acres, lies in the City of
13 Midlothian.

14 Mr. Shamoun's client has identified a
15 site of 200 acres which is a hundred percent in the
16 City of Midlothian, Ellis County. We've agreed to a
17 contract. We executed that document. He's put up
18 firm, hard money. We've given him a 90-day due
19 diligence plus the opportunity in the contract to
20 extend the contract as long and as far as needed to get
21 his application before you all in the proper fashion
22 and to get his application hopefully heard favorably.

23 We, as the landowners, of course, relish
24 the idea and the thought of having a Class 2 racetrack
25 there in Ellis County. It would be just a tremendous

1 boost, a tremendous boon to that immediate area,
2 affecting all of the south metroplex area, all the way
3 down to Hill County, Hillsboro, Waco. And I'd submit
4 it would just be a great opportunity in the economic
5 environment that we're in now. It would be a morale
6 boost, et cetera. I'm sure you all know all that.

7 My role here today is just to be here as
8 the landowner to answer any questions you have. Loop 9
9 has been a moving target for the past 40 years.
10 Highway 161 was the original Loop 9. It's going in
11 finally and it's going in as a tollway. We've met with
12 representatives of TXDOT. They are taking an
13 approximately 750-foot-wide strip through our 2200
14 acres for the future Loop 9. And it will not affect
15 the location that the doctor has chosen. In fact, it
16 will act as a buffer between Joe Pool Lake and the
17 commercial development there along 287.

18 Highway 287 has just recently been
19 approved within the last 18 months as opening up, the
20 new bypass. It's four lanes divided highway.
21 There's -- I don't know what the traffic study is, but
22 it can probably handle 100,000, 120,000 cars a day very
23 easily. Highway 67 is going to be improved all the way
24 from Dallas down to Cleburne. It has been improved in
25 the past five, six years, seven years, and it will be

1 improved again.

2 The location, as far as mileage,
3 Ms. Weinberg, you asked. I don't know for sure. Where
4 we are is basically equidistant from the City of Dallas
5 and the City of Fort Worth. Lone Star Park -- and
6 we're roughly 26 -- 26 miles from downtown, 27 miles
7 from downtown Dallas, and about the same from downtown
8 Fort Worth. I would submit we're over 20 miles from
9 Lone Star Park. We could very easily Google it, if
10 that's necessary.

11 And I'll be glad to answer any
12 questions. I don't mean to make too much -- I know
13 your time is valuable and I don't mean to take too much
14 of your time.

15 CHAIRMAN PABLOS: Are there any
16 questions?

17 Thank you very much, Mr. Thorne.
18 Appreciate it.

19 Mr. Drew Shubeck?

20 MR. SHUBECK: Thank you, Chairman.
21 Again, I'm Drew Shubeck. I'm president and general
22 manager of Lone Star Park.

23 We didn't intend to comment too much on
24 the transfer of the license to the applicant. We just
25 really wanted to speak about the license relocation

1 because Lone Star Park is a more than interested party
2 in another pari-mutuel site coming to the DFW market.

3 I think everybody knows, especially with
4 our announcement today of the Chapter 11 bankruptcy
5 filing, that business levels have been dropping fast.
6 We anticipated some softness in the pari-mutuel handle
7 this year because of the downturn in the economy last
8 year, but I don't think anybody can anticipate what
9 you've already reported so far today.

10 Our simulcast-in handle is down over 13
11 percent. And really the trend is more alarming than
12 that. In August we were down 21 and a half percent.
13 In September I feel we're going to match the being down
14 over 20 percent because last week's trend was just
15 horrible for the month. So we're in trying business
16 times.

17 True, we have signed a letter agreement
18 for a stalking horse with the Chickasaw Nation
19 basically and we're going to see if we can go to
20 auction next month and have new ownership at Lone Star
21 Park.

22 And I know that most of the excitement
23 about purchasing the property really isn't about the
24 pari-mutuel business because everybody sees how trying
25 it is right now. It's about legislative things,

1 getting changes to the legislation, being able to do
2 more at the facility than just full-card simulcast and
3 live racing. And that's a shame.

4 I'm a horseman. I've been in the horse
5 racing business as an owner and breeder since 1977.
6 Recently -- I haven't had any horses recently because
7 I've got a wife and daughter, but I want to get back in
8 it someday because I love it. I'll get that daughter
9 through college and then I'll have my horse fund back
10 again.

11 But as I said, the local economy is
12 soft. People have less disposable cash. And there's
13 newer facilities that are really competition for the
14 entertainment dollar.

15 When I studied the application and I
16 looked at Dr. Alameel's submission, I just couldn't
17 think of that, at Lone Star Park itself, we're going to
18 have, you know, a loss of purse money to our horsemen.
19 We're going to have less money available in our
20 simulcast pavilion because there will be a bit of a
21 crossover, about 20 air miles to the south.

22 I'm pretty comfortable with where the
23 location is now and that's one of my problems as well.
24 We really didn't know where the location was until they
25 explained it several minutes ago, that it would be in

1 the Midlothian area, which is about 20 some miles to
2 the south, and with easy access to northern Grand
3 Prairie where Lone Star Park is located.

4 So we are concerned that customers would
5 choose to go to a simulcast building down in Midlothian
6 instead of traveling up to Grand Prairie. Any more of
7 a drop in simulcasting would have a devastating effect
8 to purses for our live meets, for both Thoroughbreds
9 and Quarter Horses. So we are concerned about that.

10 And again, I don't want to belabor it,
11 but we're also feeling the effects of the out-of-state
12 ADW companies. They're like an overlay. They're
13 grabbing business from us every day. And it seems like
14 it's concentrated in the big markets because I hear
15 from testimony today that the smaller locations, where
16 the dog tracks are located, they're really not down as
17 much. But it shows that the marketing in the big
18 markets is picking up people and they're going to the
19 ADW applications and it's really a shame.

20 You know, the location scares me. The
21 incompleteness of the application scares me a little
22 bit. But I know they can catch up on those things. I
23 mean, at the very least, I mean, I think we should have
24 more time to review a complete application. We should
25 have further talks with the groups to see if there is

1 something that we can do.

2 I mean, a little over a year ago we had
3 some really nice talks with Dr. Alameel and his company
4 about doing some things together, but we couldn't come
5 to terms at the time. But anybody that comes into our
6 market, we would like to have a positive relationship
7 with the company.

8 There are a couple of other licenses that
9 are looking at the DFW market as well. We have had
10 talks with them and we've had -- not to come to any
11 conclusions, but we feel before they would go forward
12 that we would have an agreement in place to do some
13 sort of business together.

14 We're a Class 1 track. We try to do
15 what's right for the horsemen in Texas, for the State
16 of Texas in a whole, but I don't feel with more Class 2
17 tracks in the market right now that we're going to be
18 able to do a good job.

19 And I would appreciate any questions from
20 the group.

21 CHAIRMAN PABLOS: Commissioner Clowe?

22 MR. CLOWE: Are you in a position to
23 disclose the amount of the stalking horse bid to this
24 Commission?

25 MR. SHUBECK: I know it's going to be a

1 public number and I think I can say at this time that
2 it's 27 million dollars right now. And that is the --
3 what we are feeling is going to be the opening bid for
4 the auction that's going to take place in approximately
5 one month.

6 MR. CLOWE: Thank you.

7 CHAIRMAN PABLOS: Any other questions?

8 COMMISSIONER EDERER: I have a question
9 for you, Drew. That was, I think, a very good
10 explanation of your position. But I have one question
11 and I'd like to hear your answer. You know, we hear so
12 often that competition breeds business and will
13 stimulate the economy and stimulate the area. It seems
14 to me, from listening to what you're saying and also a
15 review of what's happening in the industry, that may
16 not necessarily be the case in this situation. But I
17 would like for you to address that.

18 MR. SHUBECK: Right. I'd love to address
19 that. I mean, I feel from my experience in the
20 business for, you know, over 20 years that the
21 pari-mutuel business really is a small segment of the
22 population. I mean, you can say like one-tenth of one
23 percent of the general population has a tie-in with
24 wagering pari-mutually.

25 When you look at other forms of

1 entertainment -- and I'll take VLT's like that. It
2 might appeal to 50 times more. And again, instead of
3 one-tenth of one percent, it might be five or eight or
4 nine percent of people. So then when you do
5 advertising, you can get to a critical mass and
6 multiple locations, especially in the DFW market, would
7 all prosper.

8 But because it such has a narrow appeal,
9 if I spend, let's say, a million dollars and buy some
10 media in the market, I'm not really getting a return on
11 my investment. I am getting long-term return in that
12 I'm getting my brand out there. People know that Lone
13 Star Park is open. But I can't tie back, dollar for
14 dollar, what I'm going to receive in a benefit from a
15 market spend like that. And that's just because it's
16 just a niche product and there's just not that many
17 people as a gross portion of the population that are
18 interested in pari-mutuel handle alone.

19 Again, if we had more forms of
20 entertainment, if I had Texas Hold'em, if I had instant
21 racing, I had VLT's, multiple institutions could
22 survive in the DFW market and they would all prosper.

23 I hope I answered your question.

24 COMMISSIONER EDERER: Thank you.

25 CHAIRMAN PABLOS: Any other questions?

1 COMMISSIONER WEINBERG: I have a
2 question.

3 CHAIRMAN PABLOS: Yes, ma'am.

4 COMMISSIONER WEINBERG: In hearing your
5 latest numbers from this last month, do you know what
6 the adjacent states are doing number-wise?

7 MR. SHUBECK: Well, I know the Jockey
8 Club in New York City, they put out national numbers
9 from Equibase, which is basically the database for
10 pari-mutuel wagering. And our numbers are pretty much
11 trending nationally. When we say we're down about 13
12 percent for a given month, nationally they've been down
13 just about the same thing.

14 I would say from looking at one of our
15 sister racetracks in Oklahoma City, their pari-mutuel
16 numbers have been flat because they have the extra
17 advertising afforded them because they have VLT's at
18 the racetrack and their VLT numbers have been quite
19 strong. In fact, they're seeing a growth over last
20 year's actuals on the VLT side.

21 CHAIRMAN PABLOS: Any other questions,
22 Commissioners?

23 Thank you very much.

24 MR. SHUBECK: Thank you.

25 CHAIRMAN PABLOS: Okay. So we've heard

1 from everyone who signed up to speak.

2 Mark?

3 MR. FENNER: Yes, sir.

4 CHAIRMAN PABLOS: Can you please walk us
5 through the process and through the analysis so that we
6 can then --

7 MR. FENNER: Yes, sir.

8 CHAIRMAN PABLOS: -- come up with a
9 motion?

10 MR. FENNER: I think that's a good idea.
11 And I think that at this point it would be beneficial
12 to the Commission and to us that we have a good
13 discussion about these items that we'll be walking
14 through.

15 To begin with, Section 6.13(b) of the act
16 describes the types of information that have to be
17 provided in order to consider a change of ownership.
18 These types of information include whether the fee for
19 the background check has been paid. It has. The
20 identification of the proposed owners and ownership
21 structure, they've met that.

22 But the third one is the exact location
23 at which a race meeting is to be conducted. That's a
24 little problematic. In their proposal they identified
25 the site south of Lancaster. Now we hear today that

1 there's a different site. I could use some guidance
2 from the Commission as to how you feel about that. Is
3 this something -- I'll just lead you through. Maybe
4 you can wrap up these discussions later.

5 There's a requirement that there be
6 provided information, confirmation that the site
7 complies with the zoning. The location is not
8 currently zoned, but we know from the City of Lancaster
9 that they plan to annex it and zone it within the next
10 three years. The buyer has not contacted the city
11 about the zoning.

12 I'd like to point out in this context
13 that this is exactly the same situation where the
14 Austin Jockey Club lost its site shortly after 2000.
15 They came to the Commission and asked for a request to
16 change the location from a site in Round Mountain to a
17 site in East Austin. That site was not zoned. The
18 Commission approved it, knowing that it was still
19 eligible for consideration by the city. The city zoned
20 it for housing. And shortly after that the Austin
21 Jockey Club let its option on the property go. And
22 since that time the Austin Jockey Club has not had a
23 site on which to conduct racing.

24 The next item is whether the facility is
25 leased or owned. They propose to own it.

1 Identification of any other beneficial owner of shares,
2 there are no other beneficial owners of shares that
3 we've identified.

4 A detailed statement of assets and
5 liabilities of the applicant. That's a little
6 problematic in that the Department of Public Safety was
7 not able to confirm the sales contract for the
8 clinics.

9 The kind of racing to be conducted and
10 the dates requested. Those were adequately described.
11 Proof of residency. We were satisfied as to that.
12 Copies of any tote, management, and concession
13 contracts. Those were fine. And any other information
14 required by the Commission. That concludes the portion
15 about 6.13(b).

16 But then there's 6.031, which is the
17 background check requirement. It provides that the
18 Commission shall require a complete personal,
19 financial, and business background check of the
20 applicant and shall refuse to issue or renew a license
21 if, in the sole discretion of the Commission, the
22 background checks reveal anything which might be
23 detrimental to the public interest or the racing
24 industry. The Commission can't hold a hearing on any
25 part of an application until the DPS background check

1 has been on file for at least 14 days.

2 Well, the background check has been
3 completed. It has been now on file for 14 days. But
4 the Department of Public Safety has identified four
5 issues in its transmittal letter that are up for you to
6 consider and discuss whether or not you believe that
7 they would be detrimental to the public interest or the
8 racing industry.

9 The first is the lack of documentation of
10 the proposed sale of the clinics. The second issue is
11 the continuing litigation. The third is the fact that
12 the land contract for the 165-acre site is no longer in
13 place. And finally, the issue about Lancaster not
14 being aware of the proposed racetrack that would be
15 built near it.

16 The next section that I want to talk
17 about is 6.04, Subsection (a), which identifies two
18 types of different factors for your concern -- for you
19 to consider. First is there is some items that you
20 must find to be true and then there are 11 factors that
21 you may optionally consider in your deliberations.

22 The required findings are that the
23 conduct of the race meetings at the proposed track and
24 location will be in the public interest. There's two
25 issues with this. First of all, the proposed track and

1 location. The contract for the sale of the land is not
2 in place. They have told us today about a different
3 site.

4 And then the issue about whether it's in
5 the public interest. It's hard to determine whether
6 it's in the public interest if the City of Lancaster
7 and the community are not aware of it. But this is an
8 issue for you to decide.

9 The next required finding is that the
10 proposed track and location will comply with all zoning
11 laws. As we have discussed, it's not currently zoned.
12 They do plan on zoning it within the next three years.

13 There's a requirement that you find that
14 the proposed track and location complies with the act
15 and the rules. Again, there's no contract on the
16 site.

17 And finally, that the Commission finds by
18 clear and convincing evidence that the applicant will
19 comply with all criminal laws of this state. We found
20 no problem with that finding.

21 Then there are 11 factors that the
22 Commission may optionally consider under 6.04(a). Let
23 me just lead you through the four that I think you may
24 have some issues with. First is the applicant's
25 financial stability. The second one is the resources

1 for supplementing the purses for races for various
2 breeds. Both of those go to the financial resources.
3 Again, we've not been able to -- the Department of
4 Public Safety was not able to analyze the sales
5 contract.

6 The location of the proposed track is
7 something that you may consider. The contract to buy
8 the site has expired.

9 And then the effect of the proposed track
10 on the traffic flow. The Department of Transportation
11 was unable to determine whether additional turning
12 lanes would be required for State Highway 342. The
13 facility is not readily accessible from 342. You can
14 only get to it currently across some city streets.
15 Loop 9 is still under evaluation by the Texas
16 Department of Transportation.

17 Those are the factors that you need to
18 evaluate in determining whether to approve a change of
19 location -- of ownership that was requested by the
20 Austin Jockey Club. There are also factors for
21 considering the location change; but those are really
22 the public interest, that the conduct of race meetings
23 at the proposed track at the new location will be in
24 the public interest. And the public interest is the
25 same things we just talked about under 6.04(a) with the

1 11 optional factors, the financial resources, the
2 proposed traffic flow, the location of the proposed
3 track, those issues.

4 In closing my remarks on this, I would
5 like to point out that this is a request by the Austin
6 Jockey Club. I know we have a proposed buyer, Dallas
7 City Limits, who are making their case. But the Austin
8 Jockey Club remains the license holder. And I wonder
9 if it would be appropriate to give a little history
10 about where they were left before.

11 CHAIRMAN PABLOS: Yes.

12 MR. FENNER: Austin Jockey Club had come
13 to the Commission back in late 2004, November of 2004,
14 with a proposal to move the license to Pflugerville.
15 During that Commission meeting there was a great deal
16 of discussion about, first of all, the public interest
17 and also about the effect on the traffic flow.

18 At the conclusion of that meeting, the
19 Commission gave the following order to Austin Jockey
20 Club. They said you must come up with either a way to
21 solve the public interest problems with this site and
22 also the traffic -- the ingress and egress, they said,
23 to this site, or you must find a new suitable
24 location. That was November of 2004.

25 It was in 2005 that they brought to us

1 the proposal to sell the property -- or sell the
2 Longhorn Downs Corporation to Dallas City Limits. And
3 we've been undergoing this process the entire time.
4 But still, the onus is on Austin Jockey Club.

5 Are there any questions?

6 CHAIRMAN PABLOS: Any questions of Mark?
7 Commissioner Clowe?

8 MR. CLOWE: Counselor, what is the staff
9 recommendation?

10 MR. FENNER: If I may address that in
11 this way. We deliberately did not provide a staff
12 recommendation at this point. The rules say that the
13 executive director will provide a staff recommendation
14 if requested by the Commission. So at this point I
15 would look for a concurrence from the Commission that
16 that's what you want. However, on the other hand,
17 there's sufficient information here that you may wish
18 to elect to make a decision yourselves without having a
19 recommendation.

20 VICE-CHAIRMAN CARTER: Could I ask you a
21 different question? You might decline to answer this
22 as well. But from listening to your rundown of this
23 and reading the information and realizing what was
24 presented to us today, I look at this and feel that
25 this is an incomplete application and would not

1 qualify. Would you agree with that, with my
2 conclusion?

3 MR. FENNER: An incomplete application?

4 I would not agree that it is an -- at least at the time
5 that we reviewed it, it was a complete application.
6 The problem with the site contract expiring is
7 something that was unanticipated.

8 The information was there for us to
9 evaluate and for us to provide you a staff report. I'm
10 not sure I would say that it's an incomplete
11 application. Whether it is a -- there are deficiencies
12 that prevent you or make you decide that you don't want
13 to approve it, I think that that's a valid question and
14 I'm going to leave it to you all to make that
15 decision.

16 CHAIRMAN PABLOS: Just to add to that, we
17 are here as a result of the request by the licensee who
18 is bringing a proposed buyer. And so what we're here
19 to consider is whether that proposed buyer has
20 submitted the information that was required. And I
21 think that is correct, they did, but whether that
22 proposed buyer is qualified to accept that transfer.
23 And so that's really what we're considering today. And
24 from what Mark is saying is that there are deficiencies
25 in the proposed buyer's application.

1 Is that correct, Mark?

2 MR. FENNER: I would say that there are
3 things that cause me great concern and I would be
4 comfortable if the Commission were to classify it as a
5 deficiency, but I don't want to take the Commission's
6 decision away from it.

7 CHAIRMAN PABLOS: And one point I would
8 like to make is with respect to the pending
9 litigation. I'd like to set that aside because there
10 is pending litigation and so I'd like to consider the
11 other three items that DPS has identified.

12 At this time I would like to have Charla
13 Ann give us your assessment, Charla Ann, and if
14 there's -- yes, Commissioner.

15 COMMISSIONER EDERER: Excuse me. Before
16 we go to Charla Ann, I have just a very direct
17 question.

18 CHAIRMAN PABLOS: Go ahead.

19 COMMISSIONER EDERER: What happens if we
20 deny the request for a change of ownership?

21 MR. FENNER: If the Commission denies the
22 change of ownership request, then I expect that Charla
23 Ann will be meeting with the license holder shortly.
24 Would you like to --

25 COMMISSIONER EDERER: Can a new

1 application be submitted?

2 MR. FENNER: By who?

3 COMMISSIONER EDERER: By the owner.

4 MR. FENNER: By Dallas -- I mean, by
5 Austin Jockey Club?

6 COMMISSIONER EDERER: Yes. In other
7 words, a new application. Can it be submitted as the
8 application is now, cleaned up, submitted properly?

9 MS. KING: The current license holder
10 could request that.

11 MR. FENNER: Yes. The current license
12 holder could request --

13 COMMISSIONER EDERER: The current license
14 holder could turn around and come back tomorrow and
15 submit this exact same request submitted properly.

16 MR. FENNER: Yes.

17 COMMISSIONER EDERER: Assuming they
18 could. Is that correct?

19 MR. FENNER: Assuming that, yes, they
20 could.

21 CHAIRMAN PABLOS: And with the new
22 information.

23 COMMISSIONER EDERER: And with the proper
24 information.

25 MR. FENNER: Yes.

1 MR. CLOWE: I'd like to help you on it,
2 if I might.

3 COMMISSIONER EDERER: Yes, please.

4 CHAIRMAN PABLOS: Commissioner Clowe?

5 MR. CLOWE: I was a little puzzled by the
6 exchange about it being on the agenda and a request for
7 a postponement. I wasn't privy to any of those
8 conversations, but my understanding when the meeting
9 started was there had been a request for this to be
10 considered.

11 There is another option that is open to
12 this board at this time and that would be to pass this
13 item on the agenda. Counselor, you correct me if I'm
14 incorrect. But it could be passed, and whatever items
15 need to be cured could be dealt with and it could be
16 considered at a future meeting. I'm not recommending
17 that. But I just want that option to be put on the
18 table if it is a viable option.

19 MR. FENNER: Yes, sir, I would agree with
20 that. That is a viable option. It is something you
21 could -- the Commission could elect to do.

22 CHAIRMAN PABLOS: And with respect to
23 that, Mark, could you give us some background as to
24 what this Commission instructed Mr. Archer to do four
25 years ago with respect to bringing this forward?

1 MR. FENNER: Yes. In November of 2004
2 the Commission directed the licensee, Austin Jockey
3 Club, after the failure of the request to transfer the
4 license to Pflugerville, to either solve the problem
5 with the Pflugerville site, which was a traffic-related
6 problem and a public interest-related problem, or to
7 find a suitable new site. And they set a deadline, I
8 believe, of about nine months, which was to the middle
9 of 2005. And in fact, the Austin Jockey Club did not
10 bring the proposed buyer until December of 2005. So
11 they were late when they did that.

12 CHAIRMAN PABLOS: This issue is about the
13 Austin Jockey Club fulfilling its commitment to this
14 body with respect to its license and bringing forth a
15 qualified buyer. And so, Commissioner Clowe, with
16 respect to that, passing on this, I'd like to say that
17 I'd like to have this item considered today so that we
18 can move forward.

19 And, yes, the licensee would have the
20 option to come back with the new land proposals and
21 with whatever information has been submitted just
22 recently. Now, the information with respect to
23 Dr. Alameel's practice sale was just submitted to us
24 today with a -- I think I saw it here -- with a date of
25 9-14. That's the first time I see it. I have

1 absolutely no way in knowing what that means.

2 All of our documentation that is received
3 has to go through DPS anyway for verification. And so
4 for us to receive a letter today regarding the purchase
5 of Dr. Alameel's practice and then a contract for sale
6 on a new piece of land, we have, as a body, absolutely
7 no way of determining the validity of that. I'm not
8 questioning it, but that's why we go through a DPS
9 process, to make sure that DPS does its due diligence
10 on this.

11 And so with respect to the application
12 that is at hand, the request that is at hand, the
13 information -- the application has been complete. DPS
14 has completed its report. Staff has fully analyzed the
15 report. And it's been on the record for 14 days at
16 least. And so here we are today.

17 We need to act on this today. And if it
18 does get denied, the licensee will have the option to
19 come back to us tomorrow, Commissioner Ederer, with a
20 new request.

21 COMMISSIONER EDERER: And if we would do
22 that, that new request, I would hope, would certainly
23 clear up the legality -- the litigation that's
24 pending.

25 CHAIRMAN PABLOS: Right.

1 COMMISSIONER EDERER: The location
2 that's -- whatever location and all the other questions
3 that we have at this time.

4 CHAIRMAN PABLOS: Absolutely. The
5 litigation, the pending litigation, you know, we have
6 court orders and all sorts of information that, to me,
7 is conflicting; but today I don't think that should
8 even be on the table. That is for the Court to
9 decide.

10 Today what we're here to determine is
11 whether the proposed buyer is qualified. And we have
12 heard from Mark that the proposed buyer does not have a
13 site. Particularly, the site that they had picked
14 before is no longer available and now they're bringing
15 a new site which needs to be completely analyzed by DPS
16 and TXDOT and the City of Midlothian. We don't know
17 what the zoning requirements are there. And so there's
18 so many unknowns with respect to the new land being
19 proposed.

20 With respect to Dr. Alameel's ability to
21 finance, all we have is this one-paragraph letter
22 telling us that they sold the practice. I mean, we
23 need DPS to tell us -- to verify this and to determine
24 whether Dr. Alameel does have the ability to finance.
25 I'm not questioning the ability to finance, but we

1 can't make a decision based on that.

2 And so my recommendation is that we act
3 on what is in front of us. And if this land is a good
4 piece of land and if Dr. Alameel has the ability to
5 finance, well, they can bring that forth in the form of
6 a new request from Mr. Archer.

7 MR. FENNER: May I clarify something
8 along those lines?

9 CHAIRMAN PABLOS: Please.

10 MR. FENNER: So if the Commission were to
11 do this, it would be -- are we -- are you putting the
12 responsibility back on the Austin Jockey Club to find a
13 solution and that it is reliant upon this proposed
14 buyer or is it completely independent of this proposed
15 buyer?

16 CHAIRMAN PABLOS: No. Four years ago
17 this body asked Austin Jockey Club to resolve this
18 issue, and Mr. Archer has not been able to resolve this
19 issue. Here we have, again, another situation where he
20 does not have a buyer with a piece of land. We don't
21 have a piece of land.

22 And so that's another issue that we need
23 to take up potentially at the next meeting is to take a
24 look at Mr. Archer's ability to find a qualified
25 buyer. And that is really up to Charla Ann. But

1 Charla Ann will likely meet with him and they can
2 discuss, you know, his proposed plan.

3 But that does not bar him from bringing
4 Dr. Alameel back with the new land, with the new
5 evidence of his ability to finance it. It doesn't bar
6 him from doing that. But I'm in no way saying that it
7 ought to be them exclusively. I mean, that's not for
8 me to determine. That's for the licensee to
9 determine.

10 But I will tell you the licensee does
11 have a problem in the fact that they have a license, a
12 20-year-old plus license, and they have no land. And
13 that's problematic.

14 MR. FENNER: Thank you for that
15 clarification.

16 CHAIRMAN PABLOS: Charla Ann, do you have
17 any comments?

18 MS. KING: Yes. I would agree
19 particularly with the last statement about the
20 problematic nature of the proposal, the deficiencies
21 that have been identified. I don't need to walk
22 through those again. I think the focus is on the
23 Austin Jockey Club and what they brought to the
24 Commission and what the Commission requested and the
25 condition of what it is that they brought to the

1 Commission.

2 An extensive amount of State resources
3 have been put into this process. The Department of
4 Public Safety worked diligently and very hard and
5 coordinated and tried very hard to get the information,
6 the types of information that was provided to you at
7 the 11th hour just now.

8 The staff -- our staff worked
9 extensively. You all know that we have a small staff.
10 We have limited resources. We have good experts. They
11 did an excellent job of reviewing all of the applicable
12 statute and rule requirements and compared the proposal
13 very objectively to those standards. And staff agrees,
14 the deficiencies that were identified by the Department
15 of Public Safety in their report do exist.

16 I have to say as the executive director
17 that, you know, this all started about the time that I
18 came on board and we've worked very, very hard to make
19 progress on this. And that progress, or lack thereof,
20 was also evaluated during the legislative session; and
21 I had several conversations throughout the session and
22 during the sunset process about licenses that have not
23 built facilities and the problems with that and the
24 issues that it raised with our sunset bill and the
25 failure of our sunset bill to pass.

1 I take this issue very seriously. I have
2 a responsibility that's been outlined in the statute
3 and the rules to evaluate this situation and then to do
4 what is best. And at this point in time I'm evaluating
5 all of the options, looking for the decision of the
6 Commission based on the information that was submitted
7 through a very objective and strict process. It was
8 characterized as painstaking by the party. It was very
9 complete. It's a very high standard to get a racetrack
10 license, and should be.

11 So with all that in mind, I'm waiting for
12 the decision of the Commission; and then at that point
13 I will be evaluating what the next options are. I have
14 a duty with the Austin Jockey Club license and a
15 responsibility to evaluate whether or not we believe
16 that it will be -- it will fulfill the commitments that
17 were made when it was issued, that they will have a
18 location and they will build a facility.

19 If in that evaluation we determine that
20 we do not believe that it will be built or that they
21 can find land and build it, it would be eligible for
22 referral to SOAH for revocation. And that's a
23 process -- that's the policy that is in the statute and
24 the rules and those -- that's what we're following.
25 And so we await your decision today.

1 CHAIRMAN PABLOS: Thank you.

2 Are there any comments?

3 COMMISSIONER SCHMIDT: Chairman, I have a

4 motion.

5 CHAIRMAN PABLOS: Yes, sir.

6 COMMISSIONER SCHMIDT: Based on the

7 information available to me and the absence of a

8 contract on the location, I move the application be

9 denied.

10 CHAIRMAN PABLOS: Okay. Mark, let's

11 clarify that. I think being that this is a request

12 from Austin Jockey Club, Dr. Schmidt, I think -- and

13 you can restate your motion. But this is a request for

14 approval of a transfer of ownership; and based on the

15 fact that the proposed buyer does not have a piece of

16 land, then you would say that the request for approval

17 be denied?

18 COMMISSIONER SCHMIDT: The request for

19 approval be denied, yes, sir.

20 MR. FENNER: May I --

21 CHAIRMAN PABLOS: Mark, please.

22 MR. FENNER: May I ask, is that the sole

23 reason you see for denying the request or are there

24 additional reasons?

25 COMMISSIONER SCHMIDT: I think there are

1 additional reasons I'd want to investigate, but I
2 think -- I drove here this morning having prepared for
3 a discussion about a property in Lancaster and this new
4 information is probably the principal reason at this
5 time.

6 MR. FENNER: Okay.

7 CHAIRMAN PABLOS: Okay. So will you
8 restate your motion just to be clear?

9 COMMISSIONER SCHMIDT: Counsel, you're
10 the attorney.

11 CHAIRMAN PABLOS: If you don't mind then,
12 please, Mark.

13 MR. FENNER: It's just a motion to deny
14 the Austin Jockey Club's request to transfer ownership
15 in Longhorn Downs to Dallas City Limits.

16 CHAIRMAN PABLOS: Do you want me to put
17 that --

18 COMMISSIONER SCHMIDT: That's my intent.

19 CHAIRMAN PABLOS: So we have a motion.

20 Do I have a second?

21 VICE-CHAIRMAN CARTER: Second.

22 MR. CLOWE: Second.

23 CHAIRMAN PABLOS: Okay. Is there any
24 further discussion?

25 MR. FENNER: If others of you have

1 additional reasons why you would support that motion, I
2 would encourage you to voice those.

3 CHAIRMAN PABLOS: What I would like -- go
4 ahead.

5 MR. CLOWE: Go ahead.

6 CHAIRMAN PABLOS: Well, what I would like
7 to say is that my reasoning is based on the three items
8 that DPS has identified and it does not include the
9 fact that there's pending litigation on the ownership
10 of the company itself.

11 MR. CLOWE: I'm not sure Commissioners
12 have to or should give reasons for their votes.

13 MR. FENNER: Yes, sir. I can understand
14 what you're saying.

15 MR. CLOWE: You know, if there's a motion
16 to deny the application, that speaks for itself. I
17 would say that I think the sense of the presentation
18 here this morning is this application is not complete
19 and, in my opinion, without identifying specifics,
20 there's certainly more than one item that is
21 undetermined. But I don't think a Commissioner should
22 be pressed to be specific on why they vote a certain
23 way because that's just too detailed and that's not
24 required.

25 MR. FENNER: You're correct, sir. So you

1 reserve all --

2 MR. CLOWE: Yes.

3 MR. FENNER: All grounds.

4 MR. CLOWE: If a Commissioner votes for a
5 motion, then that's the vote.

6 MR. FENNER: That's well said, sir.

7 Thank you.

8 CHAIRMAN PABLOS: Any other discussion?

9 Okay. So at this time I'd like to take a
10 vote. All those in favor please signify by saying
11 aye.

12 COMMISSIONERS: Aye.

13 CHAIRMAN PABLOS: Any opposed?

14 Okay. That motion carries. Thank you
15 very much. Let's move on.

16 Item IV-D, a request by LRP Group,
17 Limited, for approval of change of ownership. Okay.
18 I'd like to recognize Bill Moltz, please.

19 MR. MOLTZ: Good morning, Mr. Chairman,
20 Commissioners. This item is much more mundane than
21 what we've just been through. And Mr. Fenner had asked
22 me to briefly describe this change in ownership. It's
23 rather confusing in your package and I'll be the first
24 to admit that, so I want to be here to answer any
25 questions and to perhaps clarify it a little bit.

1 And the main thing that's confusing about
2 it is that there are three requests. And the reason
3 for that is time marches on. And one was submitted and
4 then things changed and another was submitted and
5 things changed again and a third one was submitted.
6 They build on each other.

7 The first request, which was submitted in
8 June, that is related to your annual ownership report
9 that is submitted pursuant to your rules. And in a
10 limited partnership as LRP, over the course of time
11 various capital requirements come up and people send in
12 their money or a portion of their money or they don't
13 send in their money. And under a partnership
14 agreement, that affects the ownership percentage.

15 So back in June when -- we have the
16 annual report and the accountants went back and, you
17 know, balanced all the books and it showed that there
18 were some pretty small changes in ownerships, where
19 folks didn't make their entire capital call and others
20 submitted that on their behalf, which changes the
21 ownership interests. And that was the June request,
22 these small shifts in ownership.

23 Then in July one of the partners,
24 Mr. Gordon Johnson, for reasons that are up to him,
25 elected to transfer his ownership percent to another

1 one of the partners, which is Muy Buena Suerte. That's
2 pretty straightforward. It's one partner giving his
3 interest -- not giving it, but transferring his
4 interest to the other one.

5 And then in August there was another
6 capital call, not coincidentally before an inactive
7 track fee was due. And again, there was a capital
8 call. Some folks didn't make the whole thing. Some
9 made it in their behalf. And then on top of that, five
10 of the partners, Bryan Brown, Christopher Hall, Thomas
11 Johnson, Lisa Medrano, and Robert Pollock, elected to
12 assign their interest to another one of the partners,
13 which is again Muy Buena Suerte.

14 So really what we have here is some of
15 the partners assigning their interest to another
16 existing partner and then a bunch of little small
17 changes due to just the workings of a limited
18 partnership. It just happened over time and that's why
19 there's three.

20 And Mr. Fenner had requested -- and I can
21 provide you with just a -- if you'd like -- may I
22 approach? This, Mark, is the exact same thing that I
23 just e-mailed to you the other day.

24 MR. FENNER: Thank you.

25 MR. MOLTZ: There's nothing new here. It

1 just simplifies it a little bit. It sort of
2 summarizes -- I'll wait until you get it.

3 What this is, it just summarizes the
4 changes. For those -- you'll notice that there are
5 about six -- five or six at the top whose small
6 interests went to zero and those were all picked up by
7 the one at the top, Muy Buena Suerte. There are two
8 that had some changes, Mr. Wolff and Mr. Abrams.
9 They're pretty small changes, but those were due to
10 basically the internal workings. There was no separate
11 transaction or no transfer of ownership other than due
12 to the capital workings. And then everybody else down
13 there didn't change at all.

14 So those are the changes that we're
15 requesting approval for. There's nothing significant
16 really in there. It's the internal workings of the
17 partnership.

18 If there are any specific questions, I
19 can get into as much detail as you want. I suspect you
20 probably don't want more detail. But I will answer any
21 questions you may have.

22 CHAIRMAN PABLOS: Are there any
23 questions? Commissioner Clowe, please.

24 MR. CLOWE: Counselor, does this fall
25 within the statute and does not require DPS examination

1 or any other investigations?

2 MR. MOLTZ: Well, we did submit --

3 MR. CLOWE: I'm asking our counsel.

4 MR. MOLTZ: Oh, your counsel. Okay. I'm
5 sorry.

6 MR. FENNER: You were looking at him.

7 I visited with the Department of Public
8 Safety about this. All of these people have previously
9 undergone background checks. Most of them -- the folks
10 who are increasing here are the Muy Buena Suerte. All
11 of them underwent a background check in connection with
12 the Corpus Christi greyhound racetrack approval at the
13 April meeting; so after consultation with the
14 department, we agreed that no additional background
15 check would be required for these -- for this change.
16 There's no additional parties being brought in who were
17 not already part of it.

18 MR. CLOWE: Thank you.

19 CHAIRMAN PABLOS: Are there any other
20 questions of Mr. Moltz?

21 Mark Fenner, please.

22 MR. FENNER: Commissioners, after
23 reviewing the materials provided, we have no problem
24 with it and recommend approval.

25 COMMISSIONER EDERER: I have a motion.

1 CHAIRMAN PABLOS: We have a motion to
2 approve. Is there a second?

3 COMMISSIONER WEINBERG: I'll second.

4 CHAIRMAN PABLOS: Any further
5 discussion?

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

8 COMMISSIONERS: Aye.

9 CHAIRMAN PABLOS: Any opposed?

10 That motion carries.

11 Thank you very much, Mr. Moltz.

12 Next we have a request by Valle de los
13 Tesoros for approval of change of ownership. I'd like
14 to recognize Bill Moltz again. Sorry. I didn't see
15 your name on that.

16 MR. MOLTZ: Okay. This is very similar,
17 but it's actually less complex. And I have a chart
18 similar to the other one, but I'm not sure that you
19 need it.

20 In the Tesoros Race Park there were no
21 changes of these internal types due to capital
22 workings. That -- four of the individuals who opted to
23 relinquish or transfer their interests in LRP also had
24 interests in Tesoros Race Park which they transferred
25 to Hidalgo Muy Buena Suerte. This is just a one-step

1 deal where these four folks assign their interest to --
2 four existing partners assign their interest to another
3 existing partner. It's one step, much more
4 straightforward, but similar with respect to those four
5 individuals. They transferred their ownership in LRP
6 and also in Valle de los Tesoros.

7 CHAIRMAN PABLOS: Mark?

8 Excuse me. Any questions of Mr. Moltz?

9 Okay. Mark Fenner, please.

10 MR. FENNER: Commissioners, this is very
11 similar to the prior agenda item. No additional
12 partners are being brought in. The folks who are
13 gaining an additional percentage have recently
14 undergone background checks. So the staff recommends
15 approval.

16 CHAIRMAN PABLOS: Staff recommends
17 approval. Do I have a motion to approve?

18 VICE-CHAIRMAN CARTER: So move.

19 COMMISSIONER EDERER: Second.

20 CHAIRMAN PABLOS: Motion seconded.

21 Any further discussion?

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

24 COMMISSIONERS: Aye.

25 CHAIRMAN PABLOS: Any opposed?

1 That motion carries.

2 I'm wondering if it is the wish of the
3 Commission to take a 10-minute break or should we move
4 forward? Is there any request for a break?

5 MR. CLOWE: Let's take a break.

6 CHAIRMAN PABLOS: Let's take a break.

7 We'll take a 10-minute break. The time is 12:24.

8 Actually we'll reconvene in 15 minutes. That way we
9 have plenty of time.

10 (Recess from 12:24 p.m. to 12:41 p.m.)

11 CHAIRMAN PABLOS: Okay. Let's talk about
12 race dates for greyhound racetracks. I'll call this
13 meeting to order. Okay, folks. Let's take Item F, G,
14 and H together, F being the allocation of live race
15 dates for greyhound racetracks under Commission Rule
16 303.41 for the period beginning January 1, 2010, and
17 ending August 31st, 2011. That's Item F. Item G is a
18 request by Valley Race Park to modify its two
19 thousand -- excuse me, 2009 live racing schedule, and
20 Item H, a request by Gulf Coast Racing, which is Corpus
21 Christi, to modify its 2010 live racing schedule.

22 I'd like to recognize Diane Whiteley,
23 please.

24 MS. WHITELEY: Good morning,
25 Commissioners. That was a good break. I'm Diane

1 Whiteley, executive director of the Texas Greyhound
2 Association.

3 When the legislative session ended this
4 year -- and you heard about that earlier with sunset
5 legislation. But when it ended this year, there was no
6 relief for the racing industry as far as any additional
7 or alternative gaming. You combine that with an
8 economic recession. The TGA knew that we were going to
9 face some real challenges in the greyhound industry
10 over the next couple of years and we needed to look
11 really hard at what we could do to keep greyhound
12 racing alive in Texas.

13 The first thing we did was we took stock
14 of our situation. Corpus Christi Greyhound Track had
15 closed at the end of 2007. It was scheduled to reopen
16 for simulcast only in 2009. And it had 43 days for
17 2010. We knew -- and there's testimony to that at the
18 Commission meeting. But we knew we'd have difficulty
19 getting enough dogs to participate in the Corpus
20 Christi 2010 meet. That is due to the nature of our
21 industry and our kennel system, also reduced
22 breedings.

23 Valley Race Park has a short meet, has a
24 four-and-a-half-month meet. We always struggle to make
25 sure that they're going to have enough Texas-owned

1 kennels. They've always been able to make it and I
2 have confidence in them, but it's always been a
3 struggle for them.

4 However, they had not even applied for
5 2010 race dates in 2009 -- or excuse me, in 2008. They
6 had not applied for 2010 race dates, so all they were
7 scheduled to run were some days at the end of 2009. So
8 we felt it was highly doubtful that they would be
9 running live in 2010.

10 Gulf Greyhound Park stays pretty
11 consistent at six performances a week. We knew they
12 were losing money, but they have been doing a lot of
13 promotions and a lot of new things down there so we had
14 hopes that they could hang on. The purses, however,
15 were steadily declining. At the start of this year,
16 they had 14 kennels booked and we knew three were
17 getting close to leaving and they did subsequently
18 leave in June. So now they're down to 11 kennels.

19 From a breeder's perspective, the TGA
20 registered, in 2001, 6,000 puppies, Texas-bred puppies;
21 but in 2008 it only registered 2,000. That's a 4,000
22 drop in a seven-year period, which is really
23 significant for us.

24 Since legislation did not pass, there's
25 no new money in the industry. And without -- so

1 without some changes, there's no incentive for the
2 breeders. There's no incentive for the breeders to
3 even keep breeding, much less try to increase their
4 breedings, and that is what we're charged with is to
5 improve and enhance the breeding opportunities and
6 greyhound racing in Texas.

7 So we looked at our business model.
8 There's two things that we look at in our business
9 model. One is purses. The other one is racing
10 opportunities. The purses can be really big; but if
11 there's very few opportunities to win those purses,
12 then that's not good for our industry. If we have a
13 lot of opportunities to run but yet the purses are
14 really low, that doesn't help us either. So it has to
15 be a balance between purses and racing opportunities.

16 I had sent you out earlier kind of a
17 primer on greyhound racing and I hope you got the
18 opportunity to take a look at it because our business
19 is different from the horse racing business and we
20 operate under a kennel system. But in your packet
21 today you have, put together by Sammy, a flowchart of
22 the greyhound business model.

23 Greyhound breeders raise the puppies.
24 They either then sell them to other greyhound owners or
25 they keep them themselves and run them. We know what

1 it costs to raise a greyhound. It's roughly between
2 two and three thousand dollars a puppy. So we know
3 that cost.

4 Then you look at the kennels. The
5 kennels contract with the racetrack to -- and they
6 agree to supply a certain number of dogs to run at the
7 track. They get those greyhounds by leasing them from
8 greyhound owners. So the kennels do not make any money
9 from any day money or training money. It is all based
10 on purse. So this whole model, our whole business
11 model, is driven by purse. So if the purses are low,
12 no one makes any money.

13 We know what it takes to raise a
14 greyhound. We know how much it costs to run a kennel.
15 So we know what we have to be running for in minimum
16 purses. And what we're looking at in Texas was we had
17 adequate opportunities to run, but our purses were
18 low. So we tried to figure out, is there something
19 that we can do, a different way of looking at this
20 business model, to where we can not only keep greyhound
21 racing alive but perhaps even encourage some people to
22 breed greyhounds.

23 So we looked at the 2009 current purses.
24 That's the next flowchart that you have. The horse
25 tracks simulcast greyhound -- interstate greyhound

1 signals, so that would be Lone Star Park simulcasting a
2 Palm Beach, for example. Every week the race -- the
3 horse racetracks send to the TGA what's called our
4 cross-species money and that's 5.5 percent of the
5 handle that's wagered on interstate greyhound signals
6 at the horse tracks.

7 The TGA then takes an administrative
8 fee. We're allowed 20 percent under the law, but we
9 only take 15. And we take that amount and then we
10 divide it amongst the greyhound tracks to be included
11 in their weekly purses. It's a significant source of
12 their money. 49 percent of their purse money is from
13 our cross-species allocation. Right now we're just
14 allocating it to Gulf Greyhound Park and some to
15 Valley. And when Valley is dark, Valley gets less than
16 when it's running live. That's our current
17 allocation. And we have that approved by you all every
18 year.

19 From the purse then, 35 percent goes to
20 the owner of the greyhound; 65 percent goes to the
21 kennel owner. And that's paid out weekly. So we're
22 always current with what our purses are. We only make
23 as much as handle -- as is handled that week.

24 So then we looked at 2010, what the
25 traditional flow of purses were, and that's the next

1 flowchart. We knew that with Gulf Coast Racing set to
2 run 43 days that we would need to allocate some of our
3 cross-species money to Gulf Coast Racing. We still
4 have to allocate, of course, to Gulf Greyhound, which
5 is operating six performances a week, and to Valley
6 Race Park.

7 So we looked at this model and we had to
8 make a really, really hard decision for us because we
9 like live racing and we want live racing and our kennel
10 systems are set up for live racing. But we recognized
11 that when we start allocating again to all three
12 tracks, we would then have three tracks that were
13 running but none of them running very well, meaning
14 that it was not even going to reach the break-even
15 point to where a kennel owner or a greyhound owner
16 could recover their expenses.

17 So we got to looking at this allocation
18 and the simulcast purses. So based on projections that
19 we did and various economic models that we did, we
20 thought we would look at proposing a very different way
21 of doing this. And that is on the next flowchart,
22 which is a TGA proposed flow of purse funds.

23 On the left you still see the horse
24 tracks and they still commit 5.5 percent of their
25 interstate handle on greyhounds to the TGA. The TGA

1 then allocates it. But rather than allocate it to all
2 three of these tracks, what if we just allocated it to
3 one? How would that work? And if we allocated that to
4 one, which one were we going to allocate it to?

5 And the decision came down to, well, we
6 would allocate it to Gulf Greyhound because they have
7 consistently been running six performances a week.
8 They have a solid group of kennels running there
9 year-round. And that has been our flagship track.

10 So we thought -- so the president of the
11 TGA and I went down to the Racing Commission and talked
12 with Sammy and Chuck Trout and Mark Fenner and said,
13 "We have to do something different. What we have been
14 doing is not going to be successful anymore. We have
15 to look at doing something for at least the next two
16 years to enhance the live racing and the purses in
17 Texas."

18 And so we started looking at ways that we
19 could allocate some of this purse money to other
20 tracks. And our proposal then came up is that Gulf
21 Coast Racing would apply for a minimum numbers of days
22 and it would continue to simulcast but would send all
23 of its simulcast purses on a weekly basis to Gulf
24 Greyhound Park. Valley Race Park would not run its
25 live meet and it would continue to simulcast and send

1 its simulcast purses to Gulf Greyhound Park.

2 That way, Gulf Greyhound -- Gulf
3 Greyhound Park is being fed by its own live signal, its
4 simulcast signal, a hundred percent of the
5 cross-species, but also the live purse -- or excuse me,
6 the simulcast purses from Gulf Coast Racing and the
7 simulcast from Valley Racing.

8 What that would do would put the purse
9 value at Gulf Greyhound to a level that would make it
10 as an incentive for greyhound breeders to stay in the
11 business, continue breeding, would attract more people
12 into the business, particularly when you add that to
13 our Texas-bred -- our accredited Texas-bred
14 allocations.

15 So we talked to all three of the tracks
16 and we talked to the Racing Commission. And the staff
17 set up our working groups. And we had four working
18 group meetings. Some were contentious. All were
19 informative. We had a good attendance. We had good
20 discussions. We circulated on our TGA website the
21 working group notices so that everyone had access to
22 it. We e-mailed all our members. We mailed it to the
23 members that didn't have e-mail so that everyone knew
24 what was going on. Our board voted on it and supports
25 this allocation. And the racetracks support this

1 allocation.

2 Now, this allocation is all subject to a
3 contract between us; and we do have a contract that we
4 are in agreement if the Commission grants them the live
5 racing dates that they are asking for, that we have --
6 we do have agreement with the racetracks. And I think
7 we have -- I would say we don't have a hundred percent
8 support amongst our membership, but I would say we're
9 in the high 90's.

10 It's a different way of doing things.
11 It's very much of a change for us because we -- like I
12 said, we like live racing. But I think it's something
13 that we have to do and make a change for the next two
14 years time period to make sure that greyhound racing
15 can survive until 2011.

16 I'm open for any questions.

17 CHAIRMAN PABLOS: Thank you.

18 Commissioners, any questions?

19 VICE-CHAIRMAN CARTER: I have a couple.
20 How many racing days less will this new plan do versus
21 when we had all three tracks going?

22 MS. WHITELEY: Under the current
23 allocation, Corpus Christi, or Gulf Coast Racing, is
24 scheduled for 43 live days in 2010. Gulf Greyhound
25 Park is willing to pick up those 43 days and run on

1 Tuesdays in 2010. So there's a wash there. So what we
2 would be losing are the 2010 Valley days. So I don't
3 know how many days that is. I don't have my schedule
4 here. So we are losing our Valley live race days.

5 VICE-CHAIRMAN CARTER: And a little while
6 ago, when Mr. Trout gave his report, it sounded like
7 Valley was pretty much unchanged by the economic
8 downturn. You said attendance unchanged and wagering
9 was up at Valley Race Park.

10 MS. WHITELEY: Uh-huh. Yes, sir.

11 VICE-CHAIRMAN CARTER: So they're going
12 to stop racing when they're doing okay?

13 MS. WHITELEY: The live racing? The live
14 racing. Part of that is you look at the makeup of the
15 kennels, and this is what we had to look through, too,
16 is that they need under the Texas -- under State law,
17 they have to have -- 50 percent have to be owned by
18 Texas owners, the kennels. So we draw half of our
19 kennels from out of state.

20 It gets real difficult for us to -- I
21 can't say support, because that's not the right word,
22 because we like the guys a lot. But we're allocating
23 so much money going to out-of-state when we're trying
24 to help the Texas breeders. So by doing this, it will
25 stay in state and that's important to us.

1 VICE-CHAIRMAN CARTER: Limit the
2 competition.

3 MS. WHITELEY: Not really, no. I'll tell
4 you what it will do is increase the competition
5 because -- it will increase the competition because
6 that will make Gulf Greyhound Park the highest
7 non-casino track in the United States and that will
8 attract the best greyhounds in the country that are not
9 at the casino tracks.

10 So the first thing that will happen is
11 that the kennels at Gulf -- and say we have our 11
12 right now. Two of the kennels that were at Valley, two
13 of the Texas kennels that are at Valley, will be going
14 to Gulf or have the opportunity to go to Gulf. So
15 we're looking at those kennels picking up additional
16 greyhounds throughout the country, as well as Texas, to
17 run at Gulf because the money is better.

18 So ultimately, will we increase -- we
19 will increase the quality of our dogs. So it's not
20 decreasing the competition because we will be
21 increasing the quality of our dogs.

22 VICE-CHAIRMAN CARTER: Thank you.

23 CHAIRMAN PABLOS: Any other questions?

24 COMMISSIONER SCHMIDT: I just have one
25 small comment. Ms. Whiteley, when I first reviewed

1 this, I was actually very skeptical, particularly after
2 our most recent license transfer. I just want to
3 compliment you and your staff for this information and
4 working us through this. And I think your solution
5 actually is a very insightful one in this environment.

6 MS. WHITELEY: Thank you. It's a
7 difficult one for us because it is so different. And
8 it required a lot of work. And it required a lot of
9 work between all three of the racetracks, the Racing
10 Commission staff, and the members of the Texas
11 Greyhound Association.

12 I am very, very proud of this work
13 because it is so different. Our attitude has always
14 been we want to run as many races as possible. And we
15 are looking at it and saying for a while this is not a
16 good idea. And so it's been real difficult for some of
17 our members to accept this as well; but the majority
18 now, after looking through it and understanding it, do
19 recognize that. And I'm just real -- I'm really proud
20 of our efforts on this as a group. We really put this
21 together.

22 COMMISSIONER SCHMIDT: I did have one
23 question, though. You said casino versus non-casino
24 tracks. If this plan is implemented as planned, is the
25 daily purse structure 50 percent that of a casino

1 track, 75 percent that of a casino track? Do you have
2 an estimate there?

3 MS. WHITELEY: I would estimate -- it
4 depends on the casino track. Say the very top track,
5 which would be in West Virginia. When this is
6 implemented, fully implemented, in 2010, that would
7 put -- and I use a point value because that's how we
8 compute our purses, on a point value. We were looking
9 at a point value between 95 and 105 dollars a point.
10 Compare that to a Wheeling West Virginia at 200 a
11 point. But yet compare it to a Bluffs Run that is
12 around 120 a point without their Iowa-bred money.
13 We're very competitive. So it's a way to offer good
14 purses and keep good racing going in Texas.

15 CHAIRMAN PABLOS: Thank you.

16 Sally Briggs, please?

17 MS. BRIGGS: Good afternoon,
18 Commissioners. I'm Sally Briggs. And I'm here
19 representing Gulf Coast Racing right now.

20 As you know, Gulf Coast Racing had 43
21 days awarded by Flagler and then the new group that
22 bought Gulf Coast or that formed Gulf Coast Racing then
23 took that over and absorbed those 43 race dates.
24 Because we are fearful of the shortage of greyhounds,
25 we would like to run those 43 days at Gulf Greyhound

1 Park and we have added -- I think if you'll look at
2 your -- behind Gulf Greyhound's 2010 calendar, at
3 Mr. Jackson's request I put those on the Gulf Greyhound
4 Park calendar, I believe, starting January the 5th, is
5 the first Tuesday that we would run, 43 Tuesday
6 performances throughout the year.

7 I would like to commend Diane, who
8 brought together the tracks and the kennel people, as
9 well as Ms. Hicks, who's been very instrumental in all
10 of this and helping us work out all the problems to try
11 to bring this together to the benefit of everyone.
12 Mr. Jackson and the staff has also worked very closely
13 with us for us to evaluate this and make sure that it
14 will work.

15 CHAIRMAN PABLOS: Great. Any questions,
16 Commissioners?

17 Thank you, Ms. Briggs.

18 Andrea Young, please?

19 MS. YOUNG: Good afternoon,
20 Commissioners. I'm here on this issue representing
21 Valley Race Park. We're in full support of the plan
22 that's been laid out here today by Diane and just now
23 before me by Sally. This will require us to eliminate,
24 I think, as we're -- all items are together, right?
25 Eliminate 15 days that are currently on our calendar

1 for November and December of this year. It is void of
2 any requested dates from Valley Race Park in 2010. And
3 we have a request in in July of 2011 for five days.

4 It's our intent to really create
5 something special in Harlingen with those dates. We've
6 referred to it as a Festival of Racing throughout this
7 process. It's our intent, if this is approved today,
8 to work with the Harlingen Chamber of Commerce, the
9 mayor's office, the Hispanic Chamber of Commerce in
10 Harlingen, all number of people in places that we have
11 really good relationships to develop really a
12 multipurpose event highlighting and focusing on racing,
13 but more of a festival and a celebration of racing in
14 Harlingen. So we're excited about that.

15 This plan provides us a lot of short-term
16 relief at Valley Race Park, which we desperately need.
17 That relief is really important because Valley is
18 actually owned by Sam Houston Race Park in Houston; and
19 as things have deteriorated, you know, kind of across
20 the state and at Sam Houston in particular, you know,
21 the cash outlays to Valley Race Park have become more
22 of a big item on our radar.

23 So all in all, you know, we feel like
24 this is a great plan for the TGA and its membership and
25 for Valley Race Park.

1 If you have any questions, I'm happy to
2 answer those.

3 CHAIRMAN PABLOS: Any questions,
4 Commissioners?

5 Thank you, Ms. Young.

6 MS. YOUNG: Thank you.

7 CHAIRMAN PABLOS: Commissioner Hicks, do
8 you have any comments or questions or --

9 COMMISSIONER HICKS: Yes. I would like
10 to say that I've really enjoyed being the designated
11 greyhound person for the Commission. I got to go to
12 some of the working group meetings and I met some very
13 honorable, wonderful people. My biggest concern was
14 people losing their kennels, losing their jobs, and
15 closing up businesses that have been there for many,
16 many years, from grandfathers to fathers to sons.

17 I did see the plan that Diane brought
18 forward; and at first, I was skeptical because I was so
19 afraid that all of these people would not be included
20 in some sort of a solution. The economy is not good.
21 It's not good for racing. It's not good for all of us
22 in any business. So something had to be done.

23 And I really think that this plan will
24 work. And Sally Briggs did tell me that she was going
25 to offer the two Texas greyhound kennels that were at

1 Valley a spot at Gulf. And that made me feel good,
2 because the rest of them really are not Texas. So I
3 wasn't as concerned about them. And I guess we should
4 be, but I'm really concerned about our Texas.

5 And one thing I know that Diane didn't
6 mention, she is going part-time for the expenses of the
7 Texas Greyhound Association, so there will not be as
8 much outlay there.

9 And I mean, everybody worked together. I
10 was so impressed. At our last meeting, Chairman Pablos
11 came. He had everyone in the room speak. And there
12 were over 40 people there, so it took awhile. But I
13 think that most of the people really realize that this
14 needs to happen and I am very impressed with it and I
15 would recommend to the Commission that we do accept
16 this plan.

17 CHAIRMAN PABLOS: Thank you,
18 Commissioner. Appreciate that.

19 Sammy, do you have any comments? You've
20 been an integral part of this.

21 MR. JACKSON: Mr. Chairman, I would just
22 say that this plan proposed by TGA has been thoroughly
23 vetted. I would say I don't think any stone has left
24 been unturned. I would say I've spent more time
25 talking to greyhound industry people than my own family

1 over the last four months. And I've got to know all of
2 you well. Thank you.

3 But I do think that, in theory, the plan
4 that's proposed by the TGA will do what they're
5 attempting to do, and that is to focus the purse money
6 at a specific location to raise the value so that it's
7 profitable for those who participate at that location
8 to earn a living that is realistic and will make a
9 return on investment for those who are running there.
10 And that is the goal.

11 And if the Commission pleases to support
12 that, I think by adopting or approving the race date
13 calendars underneath Tab IV-F.30 for 2010 and Tab
14 IV-F.78 for 2011, that will become a vision for the
15 future.

16 CHAIRMAN PABLOS: Wonderful. I have 13
17 people signed up to speak. And what I'd like to
18 propose is -- everyone here who signed up to speak is
19 signing up to speak in favor. There isn't a single one
20 opposed. And so what I'd like to do is I'd like to
21 read out the name; and if you find it necessary to come
22 up and speak, you're welcome; but please consider the
23 fact that we have a long agenda. I will read your name
24 into the record. So let's get started, if that's
25 okay.

1 continue to focus on getting the dogs off the farms
2 once they have been retired.

3 Any questions?

4 CHAIRMAN PABLOS: Questions?

5 Thank you, ma'am. Appreciate it.

6 MS. CALDWELL: Thank you.

7 CHAIRMAN PABLOS: That is very
8 important.

9 John Dalton is here to speak in favor.

10 Mr. Dalton, are you --

11 MR. DALTON: I'm in favor of the proposal
12 unless there's anything specific that you would like to
13 ask.

14 CHAIRMAN PABLOS: No, no. I think that
15 will suffice. You're in favor. Thank you.

16 Marty Tanner is here to speak in favor.

17 Mr. Tanner? Are you okay? Thank you very much.

18 Appreciate that.

19 Edward Gardner, here to speak in favor.

20 All right. Thank you.

21 James C. Brymer, here to speak in favor.

22 Do you wish to say something, sir? Come on up,
23 please.

24 MR. BRYMER: How are you all today? My
25 name is James Brymer. There's one thing that we

1 haven't spoke about just yet. We spoke about
2 adoption. We spoke about racetracks. Okay? I'm on
3 the low end of this food chain. I raise the puppies
4 that these guys all get to race and that you all get to
5 watch. I hardly ever get off the farm.

6 If we run three low-grade tracks, then
7 I'm going to be raising dogs for less Texas tracks. I
8 want to keep my business in Texas and I want to create
9 a good foundation for Texas-bred dogs. We've got to
10 get the quality of dogs with the quality track that we
11 have. And believe me, I was blowed away when I went
12 down there and saw this racetrack. It is one of the
13 greatest looking places in the country for dogs. I
14 couldn't believe it.

15 We can get the people. If the monies are
16 right, we can get the quality dogs. And we will
17 eliminate a whole bunch of little-bitty problems that
18 are creating a bunch of bigger problems right now.

19 So my take here is not the racing
20 kennels. It's not the tracks. This is for the
21 breeders. If we create a good positive place for our
22 quality dogs to go race, then the breeders will come
23 back and they will breed and that will increase the
24 dividends throughout the whole greyhound industry in
25 the State of Texas and will make a more positive

1 outlook in the future.

2 Thank you.

3 CHAIRMAN PABLOS: Thank you very much,
4 Mr. Brymer.

5 And just for the record, Mr. Brymer is a
6 District 2 representative for the TGA.

7 John Libedatore? Are you here, sir, to
8 speak in favor? Thank you.

9 Darlene Biehle? Darlene, you're here to
10 speak in favor. Thank you, ma'am.

11 Joe Frey, here to speak in favor. Thank
12 you.

13 Kenneth Biehle, here to speak in favor.

14 Phyllis Shuffield. Thank you very much,
15 ma'am. Here to speak in favor.

16 Janele Peck? Thank you, ma'am. Here to
17 speak in favor.

18 And David Peck, here to speak in favor.

19 Thank you all very much.

20 Okay. So we've heard from all the
21 interest holders. As you can see, this has been a very
22 transparent process and we've had input from everyone
23 involved.

24 Commissioner Hicks, I want to
25 congratulate you and thank you for your leadership. I

1 think that, without it, we wouldn't have this cohesive
2 action. And so I'm very appreciative of that. Thank
3 you very much, and also to everyone involved. The last
4 meeting I attended was a great meeting and I'm just
5 very happy to see everybody working together. It's
6 nice to see some other creativity and here it is.
7 We're getting creative.

8 And I appreciate -- Sammy, I appreciate
9 you working through all the process and details. That
10 worked out well.

11 Charla Ann, thank you very much.

12 So we have in front of us a proposal to
13 approve the 2010 race dates for Gulf Coast Racing, Gulf
14 Greyhound Park, and Valley Race Park. Do I have a
15 motion?

16 VICE-CHAIRMAN CARTER: Could I ask one
17 question before we vote on this?

18 CHAIRMAN PABLOS: Yes, sir.

19 VICE-CHAIRMAN CARTER: Sammy, one thing
20 that I meant to ask you but we got off of it a little
21 quickly, does this new organization scheme have any
22 ripple effect on our administration and fees generated
23 by the Commission? And if so, have those been
24 addressed? Have you all worked out a way to address
25 those?

1 MR. JACKSON: Well, we have provided the
2 calendars to Shelley and her staff in reviewing our fee
3 schedules for this upcoming year. I don't know the
4 full impact yet.

5 As far as moving in 2010 and 2011, my
6 actual feeling is I think this plan is going to be
7 beneficial to the Racing Commission because we're going
8 to be lowering operation costs by not running as many
9 live dates at two other facilities that we had budgeted
10 for because -- and at the same time keeping the current
11 annual license fee as it is because there's no proposed
12 change there.

13 As far as 2009, there is a request to
14 remove dates where there was fees that were included
15 within our budget. You know, that, too, has to be
16 assessed as well. Shelley may have some figures on
17 that, as to what that dollar value would be. But that
18 would be the impact is in that area.

19 VICE-CHAIRMAN CARTER: I remember in the
20 past, when we discussed these, if we start cutting
21 racing days and we start taking things out of the
22 calendar, it has a negative ripple effect on the
23 Commission and I think we ought to have ways to deal
24 with those and I'm not sure what those ways are. But
25 you all might have some suggestions.

1 MS. KING: The last time that this issue
2 was raised by the Commission -- it's been awhile. But
3 when folks were coming in a pattern to request that
4 dates be dropped, the Commission posed the question to
5 the industry that the live race day fees, for example,
6 would be continued to be paid, particularly if there
7 wasn't a lot of notice. And we do have -- some of
8 those dates are on the calendar and are coming fairly
9 soon. Shelley can give us an idea what the impact --
10 revenue impact would be.

11 MS. HARRIS-CURTSINGER: What I looked at
12 this morning was just to look at so far this year what
13 the impact has been without any changes that you all
14 might approve today. And most of this dealt with the
15 hurricane and also with the changing the race dates
16 from Sam Houston to Retama for the Quarter Horse meet.
17 We have seen an impact of \$62,300 in fees that have not
18 been collected. So that number would go up if
19 additional dates were granted to not be run unless an
20 arrangement was made for them to go ahead and pay those
21 fees.

22 That's why we gave information to the
23 Commissioners early in the year that we had asked for
24 all the division directors to look at cutting their
25 budgets, which they have done, and that's why we are 12

1 percent under budget at this point in time for our
2 operational budget.

3 You also have to understand that when you
4 look at your budget that I provide to you at each
5 Commission meeting, that is the budget that we took
6 from the fees in the previous years for the LAR and for
7 this particular fiscal year. That's not even the total
8 appropriations that we have been allocated by the
9 Legislature. That's from taking the fees that we know
10 are going to be collected and assessing what staff we
11 have to put at each of those tracks for live racing and
12 we come up with a budget that this Commission and this
13 agency can support.

14 So as Charla Ann mentioned, when there
15 are changes to that, there is an impact. And that's
16 what we have seen so far this year.

17 CHAIRMAN PABLOS: Any other questions?
18 Okay. Yes, Commissioner Clowe.

19 MR. CLOWE: Is this within the statute
20 and the rules of the Commission to consider this and,
21 if a motion is made, approve it?

22 MR. FENNER: Well, let me make sure. I
23 think I understand your question is probably about the
24 limited number of days for live racing that are being
25 granted in light of the simulcasting.

1 Yes, sir, the Texas Racing Act provides
2 that you can only conduct simulcast racing at a
3 facility that has been granted live race dates. But
4 that section of the Racing Act doesn't specify a
5 minimum. Now, when you go to the greyhound allocation
6 of dates, it does provide that a greyhound race meet
7 must have at least five charity days. So that's why
8 the proposal developed by the TGA is for five days.
9 But they would be granted live race dates under this
10 proposal and so it does meet the minimum standards of
11 the Racing Act.

12 MR. CLOWE: Thank you.

13 CHAIRMAN PABLOS: Thank you, Commissioner
14 Clowe, for clarifying that.

15 Anyone else?

16 Okay. So we have the item in front of
17 us. I'd like to entertain a motion to approve the 2010
18 race date schedules requested by Gulf Coast Racing,
19 Gulf Greyhound Park, and Valley Race Park. Do I have a
20 motion?

21 COMMISSIONER WEINBERG: I'll make a
22 motion.

23 COMMISSIONER EDERER: Second it.

24 CHAIRMAN PABLOS: Seconded by Ederer.

25 Any further comment on this?

1 Okay. So we'll take this up for a vote.

2 All those in favor please signify by saying aye.

3 COMMISSIONERS: Aye.

4 CHAIRMAN PABLOS: Any opposed?

5 Okay. That motion carries.

6 Next we'll vote on -- actually I'll
7 entertain a motion to approve the 2011 race date
8 schedule requested by Gulf Coast Racing and Valley Race
9 Park. Is there a motion?

10 MR. CLOWE: So move.

11 CHAIRMAN PABLOS: I have a motion by
12 Clowe. Is there a second?

13 COMMISSIONER SCHMIDT: Second.

14 CHAIRMAN PABLOS: Seconded by Schmidt.

15 Any further discussion?

16 We'll be taking a vote. All those in
17 favor please signify by saying aye.

18 COMMISSIONERS: Aye.

19 CHAIRMAN PABLOS: Any opposed?

20 Okay. That motion carries.

21 Next I'll entertain a motion to approve
22 the request by Valley Race Park to modify its 2009 live
23 racing schedule.

24 COMMISSIONER WEINBERG: I move.

25 CHAIRMAN PABLOS: We have a motion by

1 Weinberg.

2 COMMISSIONER EDERER: Second.

3 CHAIRMAN PABLOS: Seconded by Ederer.

4 Any discussion?

5 Taking a vote, all those in favor please

6 signify by saying aye.

7 COMMISSIONERS: Aye.

8 CHAIRMAN PABLOS: Any opposed?

9 That motion carries.

10 We have one last one. I'd like to

11 entertain a motion to approve the request by Gulf Coast

12 Racing, which is Corpus Christi, to modify its 2010

13 live racing schedule. Do I have a motion?

14 MR. CLOWE: So move.

15 CHAIRMAN PABLOS: Moved by Clowe.

16 Second?

17 COMMISSIONER EDERER: Second.

18 CHAIRMAN PABLOS: Seconded by Ederer.

19 Any further discussion?

20 Okay. In voting, please signify by

21 saying aye if you're in favor.

22 COMMISSIONERS: Aye.

23 CHAIRMAN PABLOS: Any opposed?

24 That motion carries.

25 Okay. Thank you.

1 The next item is Item I, allocation by
2 the Texas Greyhound Association of interstate
3 cross-species purse money. Diane Whiteley, please?

4 MS. WHITELEY: This request is to modify
5 our allocation of cross-species money. That is the
6 money -- that is the purse money that's received from
7 the horse tracks for simulcasting interstate greyhound
8 signals that goes through the TGA.

9 What we would ask is that beginning in
10 September that we would allocate a hundred percent of
11 that money to Gulf Greyhound Park. Currently it's
12 being allocated to Valley Race Park and Gulf Greyhound
13 Park. So we're just adding, as part of our proposal,
14 to change the allocation for the rest of the year.

15 CHAIRMAN PABLOS: Okay. Sammy, do you
16 have some comments on this, please?

17 MR. JACKSON: Staff has reviewed the
18 proposal. And, Mr. Chairman, in view of the
19 Commission's approval of the last two agenda items, we
20 support it. This is in compliance with the rules that
21 authorize this transaction.

22 CHAIRMAN PABLOS: Commissioners, are
23 there any technical questions for clarification?

24 Okay. Thank you, Diane. Appreciate it.

25 Okay. At this time, given what's been

1 we have some items to discuss, but I don't think it
2 will take too long.

3 MR. CLOWE: We, I know, would want to
4 defer to the ladies; but if they feel strong, I'd
5 suggest we consider pressing on.

6 CHAIRMAN PABLOS: Well, you can defer to
7 me, too, because sometimes I feel a little weak, but --
8 well, it's everyone. I mean, I'd like to press ahead;
9 and if anyone feels that they need to take a break, I
10 would ask they please let me know. Is that okay?
11 Maybe we can just punch through and move forward. Is
12 that okay with everyone? Okay. Great.

13 So let's move on to Items J, K, and L.
14 Item J, allocation of live race dates for horse
15 racetracks under Commission Rule 303.41 for the period
16 beginning January 1, 2010, and ending August 31st,
17 2011, including staff-recommended race dates; Item K, a
18 request by Lone Star Park to modify its 2009 live
19 racing schedule; and Item L, a request by Sam Houston
20 Race Park to modify its 2009 live racing schedule.

21 I'd like to recognize Commissioner Ederer
22 to -- if you're available or if you'd like to talk
23 about the meetings that we've had regarding these
24 items.

25 COMMISSIONER EDERER: Well, the meetings

1 were held. Everyone had input. There was --

2 CHAIRMAN PABLOS: Was there transparency,
3 sir?

4 COMMISSIONER EDERER: Yes, there
5 certainly was transparency.

6 CHAIRMAN PABLOS: Good.

7 COMMISSIONER EDERER: There was some
8 discussion from the Quarter Horsemen. They were very
9 concerned because there were not sufficient dates, in
10 their opinion, initially. And I understand now that
11 has been worked through. There's been some changes in
12 dates and some acceptance by Sam Houston, I know,
13 picking up some days and I believe Lone Star also
14 picked up some days and now I believe everyone is in
15 agreement.

16 CHAIRMAN PABLOS: Thank you. I didn't
17 mean to put you on the spot, but I thought it important
18 to at least talk about the context and the background
19 of what got us here today.

20 COMMISSIONER EDERER: It was very
21 transparent.

22 CHAIRMAN PABLOS: Very transparent.
23 Good. That's the point. And very inclusive. I think
24 everyone had an opportunity to weigh in.

25 COMMISSIONER EDERER: That's right.

1 CHAIRMAN PABLOS: So I thank you for
2 that.

3 Let's start with Drew Shubeck, Lone Star
4 Park. Drew?

5 MR. SHUBECK: Thank you, Chairman. We've
6 been at this a long time now. We've been talking race
7 dates, I believe, since June. And I think we finally
8 got an agreement between the breeds and the
9 racetracks.

10 To start off, for Lone Star Park, where
11 we are right now, April 8th, which is a Thursday, until
12 July 18th, for a total of 60 days. That's five less
13 than in 2009. We're projecting an average daily purse
14 of \$150,000. That's down from 166,000 this past meet
15 that we just concluded.

16 What we're going to do, though, to make
17 overnights at least equal with this year, we're going
18 to be working with the Texas horsemen and we're
19 probably going to be cutting our stakes races a minimum
20 of \$700,000. So what we paid in stakes this year will
21 be diminished by about 700,000. All that money will be
22 thrown into overnights. So the condition book that we
23 put out for the 2010 meet will look just like it did
24 this year.

25 On the Quarter Horse side, where we are

1 right now is opening night September 17th, 2010, and
2 closing on November 13th, 2010. The difference in --
3 that's a week later than with the application that you
4 have before you and we're also adding three Wednesdays,
5 October 27th, November 3rd, and Wednesday, November
6 10th, for a total of 29 days. The original
7 application, I believe, had 26.

8 So for purses for Quarter Horses, we're
9 anticipating that it would be very similar to this
10 year. We have a little bit of an overpay we're working
11 through with Quarter Horses. We feel that by the end
12 of this meet we'll have it under control. We've worked
13 very hard with the Quarter Horse people that are in the
14 audience today. We've cut some stakes races. We've
15 lowered overnights for the season. And we'll be at the
16 podium -- or I can talk about it right now. We're
17 asking to drop three Wednesdays to make the purse
18 overpay manageable.

19 That's really all I have. I think that's
20 everything in a nutshell. I'm open to questions,
21 though.

22 CHAIRMAN PABLOS: We like nutshells.
23 That's great.

24 Anyone else for Mr. Shubeck?

25 Thank you very much. Appreciate it.

1 MR. SHUBECK: Thank you.

2 CHAIRMAN PABLOS: Andrea Young, Eric
3 Johnston?

4 MS. YOUNG: Our race day request for Sam
5 Houston Race Park, we feel everyone is now in agreement
6 on this. It took a little work, particularly on the
7 Quarter Horse side as Commissioner Ederer noted. What
8 this will -- first off, we're really excited to have
9 Thoroughbred racing again at the park, so this will be
10 our first race meeting on the Thoroughbred side since
11 Hurricane Ike.

12 We plan to run a 60-day meet which will
13 start the day after Thanksgiving. Those November and
14 December dates have already been granted in the last
15 cycle of Commission dates and then, you know, 45
16 additional dates January 1 through April 3rd.

17 One of the items you will be voting on is
18 a reduction in 2009 dates. We're moving three days
19 that were granted in the last cycle. That's just to
20 make the overall meet work when we add the new dates
21 and then the 60 days. So that's really a formality, in
22 our opinion, more than anything.

23 We will run the -- or we are proposing to
24 run the Retama dates again on the Quarter Horse side at
25 Sam Houston, which will now result in us starting April

1 30th, 2010, and running through August 14th, 2010, for
2 a total of 45 dates between the two meets. And then
3 we've also applied for our subsequent Thoroughbred meet
4 beginning November 26, 2010, and running through April
5 2nd, 2011, for a total of 60 days.

6 If you have any questions, I'd be happy
7 to answer them.

8 CHAIRMAN PABLOS: Thank you.

9 Commissioners, any questions?

10 Thank you, Ms. Young.

11 MS. YOUNG: Thank you.

12 CHAIRMAN PABLOS: Appreciate it.

13 Bryan Brown with Retama Park, please?

14 MR. BROWN: Good afternoon, Mr. Chairman
15 and Commissioners. I'm Bryan Brown with Retama Park.

16 We have applied for a 30-day Thoroughbred
17 meet beginning on August 27th and extending through
18 November 6th of 2010. We've also applied for a two-day
19 Thoroughbred meet for 2011, August 26 and 27th. The
20 reason we only applied for those two days is because
21 that's the only period we could go through through
22 September 1st and we would anticipate coming back in
23 2010 and applying for the balance of the meet which
24 would be more traditionally what we've run through
25 November.

1 We have also come to an agreement with
2 the horsemen, the breed associations, and Sam Houston
3 Race Park to transfer our Quarter Horse days to Sam
4 Houston, together with purse monies that would have
5 accrued through the same time period that we would have
6 been running. And that agreement is signed, I believe,
7 by all parties now.

8 I'd be happy to answer any questions and
9 I appreciate your time.

10 CHAIRMAN PABLOS: Thank you, Mr. Brown.

11 Any questions?

12 MR. BROWN: Thank you.

13 CHAIRMAN PABLOS: Thank you very much.

14 Lee DeLong with Gillespie County Fair?

15 MR. DeLONG: Do you all have any
16 questions?

17 CHAIRMAN PABLOS: Why don't you come on
18 up here and let's talk.

19 MR. ROEDER: Good afternoon,
20 Commissioners. I'm Brian Roeder, general manager of
21 Gillespie County Fair. Really there's no change in our
22 race dates for the upcoming years. The only thing that
23 is changing, with the overlap with Retama, our
24 traditional fair date is always the fourth Saturday in
25 August, so next year it moves us back another week from

1 what would normally be. So we have a little bit of an
2 overlap there by what was requested.

3 But other than that, do you all have any
4 questions?

5 CHAIRMAN PABLOS: Any questions?
6 Commissioner Clowe?

7 MR. CLOWE: How much rain did you all get
8 last weekend?

9 MR. ROEDER: Anywhere from three to eight
10 inches.

11 MR. CLOWE: Great.

12 MR. ROEDER: It depends on where you
13 were.

14 MR. CLOWE: Great.

15 CHAIRMAN PABLOS: That's our recharge, so
16 I love it. Thank you. Okay. Good. Thank you very
17 much. Appreciate it.

18 Okay. Howard Phillips, please?

19 MR. PHILLIPS: Commissioners, I'm Howard
20 Phillips representing Manor Downs. In our request, you
21 see that we've formally requested seven weekends of
22 live racing beginning the first weekend in March with
23 approximately 25 races a weekend. This is a reduction
24 from our previous request; but as stated in our
25 request, this will allow us to maintain our current

1 purse levels, which I think is important to the
2 horsemen, and we hope that it will allow us to maintain
3 those same purse levels for 2011. It's uncertain at
4 this time because of simulcast handles and the way
5 they're declining.

6 We've met with horsemen; and as
7 Commissioner Ederer said, it was very transparent, very
8 open. We've had additional meetings with Racing
9 Commission staff. And I want to thank Sammy Jackson
10 and staff for facilitating those meetings because we
11 worked out the agreement on the 14 days and the seven
12 weekends.

13 I'll be glad to answer any questions.

14 CHAIRMAN PABLOS: Any questions,
15 Commissioners?

16 Thank you very much, Mr. Phillips.

17 MR. PHILLIPS: Thank you.

18 CHAIRMAN PABLOS: Ms. Young, would you
19 like to talk about Laredo Race Park?

20 MS. YOUNG: Sure. I'm trying to tie any
21 previous records held for trying to talk on as many
22 properties as possible in one day. I'm not a good
23 historian, but I'm hoping I'm up there.

24 On behalf of Laredo Race Park, we've
25 submitted an eight-day request in 2011 in the month of

1 August, August 5th through August 27th. That is really
2 a mixed -- proposed to be a mixed meet. It's
3 strategically designed to really help with some of the
4 timing problems we're now having as purse levels have
5 declined in the state, especially on the Quarter Horse
6 side, for the window of opportunity that we kind of see
7 coming, that that will be a nice time of year for us to
8 run that meet.

9 There are obviously, I'm sure, lots of
10 questions about Laredo Race Park and what's going on
11 and all those sorts of things. We have been in touch
12 with the chairman and as well with staff. We recently
13 went through an RFP process with Webb County on the
14 proposed golf course location that was discussed, I
15 think, at one of the recent meetings here.

16 We were actually selected during that RFP
17 process, so that is a positive development. And we are
18 now in the process of negotiating a lease agreement
19 with Webb County that we anticipate could be on their
20 next -- their next meeting of their Commissioners right
21 now is scheduled for September 28th. If, for whatever
22 reason, we can't make that date, they meet every two
23 weeks, so we meet certainly shortly after that. We
24 hope to have a really healthy good update at the next
25 Commission meeting once we get through that process.

1 If you guys have any questions, I'm happy
2 to answer them.

3 CHAIRMAN PABLOS: Thank you.

4 Are there any questions of Ms. Young?

5 Thank you very much.

6 MS. YOUNG: Thank you.

7 CHAIRMAN PABLOS: Drew Alexander?

8 Mr. Alexander, are you here, with Saddle Brook?

9 Okay. I'd like to recognize Marsha

10 Rountree with the Texas Horsemen's Partnership,

11 please.

12 MS. ROUNTREE: Good afternoon,

13 Commissioners, Chairman.

14 CHAIRMAN PABLOS: How are you?

15 MS. ROUNTREE: I'm Marsha Rountree and

16 I'm the acting executive director of the Texas

17 Horsemen's Partnership. And I would also like to thank

18 Sammy and your staff and the Commissioners that were

19 present for facilitating meetings that we had on race

20 dates this year.

21 It was a lengthy process, absolutely

22 transparent, and the Texas Horsemen's Partnership

23 agrees with and supports the 2010 requested race date

24 calendar as amended on September 10th. We've got

25 signed agreements moving the money from Retama Park to

1 Sam Houston, along with those Quarter Horse race days,
2 and they're all signed and we're glad it's over. And
3 if that's a calendar you support, that's what we want.

4 CHAIRMAN PABLOS: Thank you very much.

5 Any questions, Commissioners?

6 Okay. Thank you, Ms. Rountree.

7 Appreciate that.

8 Dave Hooper?

9 MR. HOOPER: Mr. Chairman, members of the
10 Commission, once again, I'm David Hooper, the executive
11 director of the Texas Thoroughbred Association.

12 The TTA is supportive of the dates as
13 requested. We're particularly pleased that Lone Star
14 Park, which originally had planned to run -- come in
15 with a request for 56 days, has expanded their calendar
16 to be four days longer at 60 days and also that Lone
17 Star, which was faced with having to cut back on its
18 stakes schedule this past year in order to address the
19 economic climate -- and that included some Texas-bred
20 stakes that were canceled -- has restored those
21 stakes.

22 Sam Houston, unfortunately, we're
23 losing -- and speaking on behalf of owners and
24 breeders, who find stakes races for Texas-breds very
25 important on their calendar, Sam Houston, compared with

1 the number of Texas-bred stakes that they scheduled in
2 the 2007-2008 meet, has dropped as many as three
3 Texas-bred stakes from its stakes calendar. And
4 Retama, with 30 days of racing -- this fall with 32 and
5 next year with 30, has dropped four Texas-bred stakes
6 that were normally run on the night of the Texas Horse
7 Racing Hall of Fame.

8 But, you know, we can't have our cake and
9 eat it, too. We'd love to have those stakes races, but
10 I want to commend the three Class 1 tracks in
11 particular because the one stakes program that has
12 really had some sizzle in the state these days is the
13 Texas Stallion Stakes Series and it's a million-dollar
14 program with eight races divided by sex, a
15 125,000-dollar purse for each one. And the tracks
16 responded to our request to try and keep the Texas
17 Stallion Stakes program in place and they were able to
18 do that and I want to thank them for that.

19 I'll be happy to answer any questions.

20 CHAIRMAN PABLOS: Thank you very much.
21 Appreciate it.

22 Rob Werstler, please?

23 MR. WERSTLER: Good afternoon,
24 Mr. Chairman, Commissioners. My name is Rob Werstler.
25 I'm executive director of the Texas Quarter Horse

1 Association.

2 The TQHA is in agreement with the amended
3 2010 Quarter Horse race dates. It seems like I'm
4 always bringing up the rear when I come up here to do
5 my thank you, so I seem disingenuous. But I would like
6 to thank staff as well, also the racetracks,
7 managements at Lone Star Park, Sam Houston Race Park,
8 Retama, and Manor, and also representatives from the
9 Texas Horsemen's Partnership. Everybody gave a little
10 bit. It was a lengthy process. But everybody was
11 professional. There wasn't any bloodshed. We came to
12 what I think is a very workable racetrack Quarter Horse
13 calendar for 2010.

14 Any questions?

15 CHAIRMAN PABLOS: Any questions?

16 MR. WERSTLER: Thank you.

17 CHAIRMAN PABLOS: Thank you for your
18 comments.

19 MR. WERSTLER: Would you like me to
20 comment on the Lone Star Park dropping three race days
21 this year or do you want to call me back up? I know
22 Drew mentioned it when he was up here. Do you want to
23 just call me back up?

24 CHAIRMAN PABLOS: Go ahead right now.

25 MR. WERSTLER: We're in agreement. We'll

1 support that as well. Thank you.

2 CHAIRMAN PABLOS: Great. Thank you.

3 Is Mr. Ed Wilson here with the Arabian
4 horse association? We want to make sure we hear from
5 everyone.

6 MR. WILSON: Ed Wilson, president of the
7 Texas Arabian Breeders Association. And we agree with
8 the race dates.

9 Questions?

10 CHAIRMAN PABLOS: Any questions?

11 Thank you very much, Mr. Wilson.

12 Bruce Grider, are you here? The Paint
13 horse association.

14 MR. GRIDER: I didn't know I was on the
15 list.

16 CHAIRMAN PABLOS: We want to hear from
17 everyone. We want to make sure we know what you're
18 thinking.

19 MR. GRIDER: Well, we agree with the race
20 dates as proposed. It seems like everybody gave a
21 little and came up with a good proposal. Thank you.

22 CHAIRMAN PABLOS: Thank you very much.

23 Okay. I think that was everyone who was
24 signed up to speak and from whom I'd like to -- I
25 wanted to hear.

1 So, Sammy, can you just give us
2 background on what you're thinking on this item, your
3 process, and what staff's recommendation is, please?

4 MR. JACKSON: Yes, sir, Mr. Chair. I
5 would say that as we spoke earlier about the greyhound
6 race date, here again, this was a thoroughly vetted
7 process. We had several meetings. They began actually
8 at the date of our last Commission meeting in June. We
9 left the Commission meeting and went straight to a
10 horse race date working group meeting that was
11 conducted by the racetracks here in Austin over at the
12 Texas Thoroughbred Association. And we have followed
13 them up with at least three more meetings after that.

14 I know that you and Commissioner Ederer
15 partaked in one of the final formal meetings where we
16 sat down with everybody at the meeting table. And
17 there was a series of working out of the final issues
18 with Quarter Horse race dates after that via the
19 racetracks and the TQHA and the Texas Horsemen's
20 Partnership, with staff serving as a resource witness
21 through that process, and then finally meeting this
22 past Friday in our last working group session with
23 Manor Downs and their staff to resolve the issues on
24 their requested dates. I know a conclusion has come to
25 that satisfactory to both TQHA and the Horsemen's

1 Partnership on those issues.

2 So with that, staff completely supports
3 the requested 2010 horse race date calendar amended as
4 of September 10th, which is in your -- has been
5 provided to you in the packet underneath Section
6 IV-J.2a, and we support the requested 2011 race date
7 requests in your packet underneath Tab IV-J.82.1.

8 As you've heard testified here today at
9 the podium, all of the industry stakeholders are in
10 support of these calendars now and that is not
11 something that occurs very often here on race dates.

12 CHAIRMAN PABLOS: Absolutely. And that's
13 certainly something that is great to see. I want to
14 congratulate everyone for coming together. To me, I
15 haven't seen this kind of collaboration and so I want
16 to thank you.

17 Commissioner Ederer, I want to thank you
18 for your leadership. I think that played a big role in
19 bringing everyone together and making sure that we find
20 common ground. And so we're stepping into new
21 territory, where I think everybody is getting along.
22 And so I appreciate that.

23 Are there any comments from -- yes, sir.

24 VICE-CHAIRMAN CARTER: I have a question
25 of anyone and everyone on the staff about these race

1 dates.

2 MR. JACKSON: Yes, sir.

3 VICE-CHAIRMAN CARTER: And at the bottom
4 of this sheet that I'm looking at that's got the
5 schedule on it, it says Laredo Downs, Saddle Brook,
6 Valle de los Tesoros did not request any race dates for
7 2010. And it appears Laredo Race Park did not request
8 any race dates for 2010.

9 And am I wrong in remembering that that
10 was a condition upon granting of these licenses that
11 they would have race dates?

12 MR. JACKSON: That is correct. You're
13 right. And that's how it's supposed to go. I know we
14 have sent communique to -- every track, whether you
15 have a facility built or not, got the same
16 communication on the race date working group process.
17 They were sent the memos to come and participate. They
18 were sent the applications to submit.

19 I would like to acknowledge that on
20 Laredo Race Park, they actually have two days granted
21 via their application process in 2010, so there was no
22 need for them to request additional dates on that
23 issue.

24 VICE-CHAIRMAN CARTER: So they're okay.

25 MR. JACKSON: They're okay. And they did

1 follow up with a request for 2011. So they're fine.

2 However, Laredo Downs and Valle de los
3 Tesoros did not request nor did they participate in the
4 process at any of the meetings. So they were basically
5 silent and void of the process by their choice.

6 I believe Charla Ann has sent a letter
7 requesting information on that from those two
8 applicants.

9 MS. KING: Actually we sent
10 correspondence to all three, including Laredo Race
11 Park, because indications with the communication with
12 Laredo Race Park is that they were going to request
13 additional dates for '10 and they did not. They had
14 indicated that they were going to request a total of
15 nine. They have two at this point in time. They said
16 they were going to request an additional seven.

17 We didn't hear from them, so we contacted
18 them to ask them, along with the other two South Texas
19 tracks, what are your intentions, what's your business
20 plan, what's happening for '10 and '11. And their
21 responses are due back September 23rd, I believe.

22 VICE-CHAIRMAN CARTER: So what do we do?
23 I mean, that was a -- wasn't that a condition of
24 licensure? And can we give them until next month? Or
25 what do we do?

1 MS. KING: That would be fine. We could
2 request that they come forward at the next meeting to
3 present their plan and/or we could keep the application
4 opportunity going so that they could apply for race
5 dates and they could be requested to submit their dates
6 at the next meeting. You've got some options.

7 VICE-CHAIRMAN CARTER: So we couldn't
8 finalize this if we did that, though, right?

9 MR. JACKSON: I think what you could do,
10 Mr. Vice-Chair, is that you could vote today to grant
11 the dates for those who have requested and been before
12 you today and then also on a separate motion vote to
13 table race date discussions on any other track, even
14 though they haven't presented today, and leave it
15 hanging until the next meeting if that's so choose what
16 you'd like to do, in which case at the next meeting we
17 could take that back up, ask them to come forward, and
18 at that point in time you could ask staff to have a
19 recommendation in the event that they don't have a
20 proposal, in which case you can choose to grant days
21 even without a request.

22 CHAIRMAN PABLOS: I think that's
23 reasonable. It has to be addressed. And our next
24 meeting comes up much faster than our regular meetings
25 and so we might have a little bit over a month to do

1 that.

2 Commissioner Clowe, do you have a
3 comment?

4 MR. CLOWE: I certainly agree with that
5 and I'd like to add that all license holders be put
6 into that group.

7 CHAIRMAN PABLOS: All license holders who
8 haven't submitted dates.

9 MR. CLOWE: That's right. So that they
10 could be reviewed and either granted race dates or some
11 other action be taken and that it be posted on the
12 agenda as an action item.

13 CHAIRMAN PABLOS: Okay. So we'll take
14 that item --

15 MS. KING: Can we have a clarification?
16 Is that for 2010 and '11?

17 MR. CLOWE: Yes.

18 CHAIRMAN PABLOS: I'm fine with that. So
19 let's do this. Let's go through what we have in front
20 of us today and then that will be the last motion that
21 we make that we vote on and then I'm in agreement with
22 everything.

23 Okay. Any last comments on what has been
24 presented to us today?

25 Okay. So let's get started with --

1 MR. CLOWE: Mr. Chairman?

2 CHAIRMAN PABLOS: Yes, sir.

3 MR. CLOWE: Would you accept one motion
4 to approve all proposed race dates as Sammy outlined?

5 CHAIRMAN PABLOS: I'll entertain that
6 motion.

7 Mark, is that acceptable?

8 MR. FENNER: This will cover the 2010
9 race date schedule, the 2011 race date schedule as
10 discussed, the request by Lone Star Park to modify its
11 2009 live racing schedule, and the request by Sam
12 Houston Race Park to modify its 2009 live racing
13 schedule.

14 MR. CLOWE: That's correct.

15 CHAIRMAN PABLOS: I'll accept that.

16 MR. CLOWE: So move.

17 CHAIRMAN PABLOS: Do I have a second?

18 COMMISSIONER WEINBERG: Second.

19 CHAIRMAN PABLOS: Seconded by Weinberg, I
20 heard over here.

21 Any other comments?

22 Okay. All those in favor please signify
23 by saying aye.

24 COMMISSIONERS: Aye.

25 CHAIRMAN PABLOS: Any opposed?

1 That motion carries.

2 Now we'll take the -- I'll entertain a
3 motion to table consideration of all, I guess, race --

4 MR. FENNER: I'm working through it
5 here.

6 CHAIRMAN PABLOS: Okay. Why don't you
7 propose a motion, Mark. That would be --

8 MR. FENNER: Let me have just a moment.

9 CHAIRMAN PABLOS: Take your time.

10 MR. FENNER: Thank you.

11 MR. CLOWE: Do you think they need to be
12 specifically named, Mark?

13 MR. FENNER: Well --

14 MR. CLOWE: Could you say all license
15 holders?

16 MR. FENNER: Well, we know who they are.
17 We know we're talking about Laredo Race Park for 2010,
18 we're talking about Laredo Downs and Valle de los
19 Tesoros for 2010 and '11, Saddle Brook for 2010, and
20 Austin Jockey Club. So a motion to table the
21 allocation of live race dates for the period beginning
22 January 1, 2010, and ending August 31, 2011 -- I've got
23 to try that again. I'm sorry.

24 CHAIRMAN PABLOS: Take your time.

25 MR. FENNER: Table -- a motion to table

1 the allocation of live race dates for horse racetracks
2 for the period beginning January 1, 2010, and ending
3 December 31, 2010, for Laredo Race Park, Laredo Downs,
4 Valle de los Tesoros, Saddle Brook Park, and Austin
5 Jockey Club. That's the first motion. We have to do a
6 second one for 2011.

7 CHAIRMAN PABLOS: Let's take that up and
8 we'll vote on it and we'll do it that way. That way
9 it's very clear. Is that okay with you?

10 MR. CLOWE: So move.

11 COMMISSIONER SCHMIDT: Second.

12 CHAIRMAN PABLOS: We have a motion by
13 Clowe, second by Schmidt.

14 Any discussion?

15 All those in favor can signify by saying
16 aye.

17 COMMISSIONERS: Aye.

18 CHAIRMAN PABLOS: Any opposed?

19 Okay. Mark, go ahead for the second one,
20 please. Take your time.

21 MR. FENNER: Okay. A motion to table the
22 allocation of live race dates for horse racetracks for
23 the period beginning January 1, 2011, and ending August
24 31, 2011, for Laredo Downs, Valle de los Tesoros,
25 Austin Jockey Club. That's it.

1 CHAIRMAN PABLOS: Do I have a motion?

2 MR. CLOWE: So move.

3 CHAIRMAN PABLOS: Is there a second? A

4 motion by Clowe. Second?

5 COMMISSIONER SCHMIDT: Second.

6 CHAIRMAN PABLOS: Second by Schmidt.

7 Any discussion?

8 All those in favor please signify by

9 saying aye.

10 COMMISSIONERS: Aye.

11 CHAIRMAN PABLOS: Any opposed?

12 Okay. That motion carries.

13 Thank you, Commissioners. That's very

14 good input, Commissioner Clowe.

15 MR. CLOWE: Mr. Chairman, I don't think

16 we need a motion, but there should be a request for

17 those racetracks or those license holders that their

18 race dates have been voted to be tabled in this meeting

19 be put on the agenda as an action item for our next

20 meeting.

21 CHAIRMAN PABLOS: Absolutely. I accept

22 that request.

23 MR. CLOWE: We need to have it as an

24 action item so we can look at that and take action.

25 CHAIRMAN PABLOS: Mark, will you please

1 place that on the agenda for next time, please?

2 MR. FENNER: Yes, sir.

3 CHAIRMAN PABLOS: Thank you, Commissioner
4 Clowe.

5 Okay. We're almost there. The last --
6 the next item is Item M, allocation of Texas-bred
7 incentive program funds under Commission Rule
8 321.505(b) for Valle de los Tesoros, Laredo Downs,
9 Laredo Race Park.

10 Sammy Jackson, please, what is the
11 staff's recommendation?

12 MR. JACKSON: Mr. Chairman, under Tabs
13 IV-M.2, M.3, M.4, M.5, and M.6, you will find a memo
14 from myself to general counsel, Mark Fenner, and also a
15 signed agreement submitted by the four recognized breed
16 registries who are addressed underneath Commission Rule
17 321.505(b) when it comes to the allocation of
18 Texas-bred incentive program funds.

19 The agency has collected some security
20 bond money in regards to Valle de los Tesoros and
21 Laredo Downs not being ready to run and start
22 simulcasting when they have been approved to do so by
23 their application. Those funds and those security
24 bonds as part of those collections were designated for
25 the accredited Texas-bred incentive program funds.

1 We have since collected those funds and
2 they have been put into suspense in the agency's
3 treasury account. And our fiscal year has now closed,
4 so we need to allocate these funds back to these breed
5 registries so that they can utilize them to help with
6 racing opportunities that are forthcoming on the
7 calendars that you just recently approved a moment
8 ago.

9 So in doing that, we need these
10 agreed-upon splits that you have before you for
11 consideration and approval. I can tell you that all
12 the necessary parties have signed off on an agreement
13 and it has been presented in compliance with 321.505(b)
14 and the staff recommends approval.

15 CHAIRMAN PABLOS: Okay. I have Rob
16 Werstler signed up to speak, please.

17 MR. WERSTLER: Good afternoon. Again,
18 I'm just here basically to answer any questions, but to
19 state that we are in -- we have a signed agreement in
20 the packet and we are in agreement with it.

21 CHAIRMAN PABLOS: Are there any questions
22 of Mr. Werstler?

23 Thank you very much.

24 MR. WERSTLER: And we appreciate the
25 money.

1 CHAIRMAN PABLOS: Any technical questions
2 for clarifications from Sammy?

3 Okay. So in front of us, I'd like to
4 entertain a motion to approve the allocation of
5 Texas-bred incentive program funds for Valle de los
6 Tesoros, Laredo Downs, and Laredo Race Park as
7 described in the packet. Do I have a motion?

8 COMMISSIONER WEINBERG: I make the
9 motion.

10 COMMISSIONER EDERER: Second.

11 CHAIRMAN PABLOS: A motion by Weinberg,
12 seconded by Ederer.

13 Any discussion?

14 All those in favor please signify by
15 saying aye.

16 COMMISSIONERS: Aye.

17 CHAIRMAN PABLOS: Any opposed?

18 Okay. That motion carries.

19 Mark, let's talk about proceedings on
20 rulemaking, Item IV-A, please.

21 MR. FENNER: Yes, sir. We have rule
22 proposals. These were each discussed at the rules
23 committee meeting on July 14th, 2009. There are nine
24 proposals and I'll just walk you briefly through the
25 text of what they say. If you have some technical

1 questions, John Ferrara would be able to assist from a
2 practical perspective of understanding racing.

3 The first is a proposal to amend Rule
4 311.104, trainers. This requires trainer candidates to
5 submit two character references and to interview with
6 the board of stewards or judges before becoming
7 licensed as trainers.

8 It also changes the examination fee
9 from -- currently a 50-dollar nonrefundable testing fee
10 is assessed for administering the tests. This would
11 establish an additional 50-dollar nonrefundable testing
12 fee for those who failed either of the two tests on
13 their initial attempt, then failed again on their
14 second attempt, and yet wanted to be retested a third
15 time.

16 Also, an applicant who fails the written
17 examination for a second or any subsequent time, they
18 may not reschedule the written exam for 180 days after
19 the last failure.

20 The next change is a proposal to amend
21 313.41, racing secretary. The proposal would provide
22 additional flexibility to a racetrack's racing
23 secretary so that the secretary would have until the
24 end of each day, rather than until only 10:30, to
25 assign a weight to each horse in a handicap race on the

1 day set for publication of the assigned weights.

2 Next is a proposal to amend 313.101,
3 entry procedure. The proposal streamlines the entry
4 process by eliminating the requirement that an entry
5 made by phone or fax be confirmed in writing no later
6 than three hours before the post time for the first
7 race of the day the entry is run and it adds new
8 language that requires an entry being made by phone or
9 fax to be confirmed in writing only upon the request of
10 the stewards or racing secretary. It clarifies that an
11 entry may be made in writing, by phone, or by fax.

12 Next is an amendment to 313.106, closing
13 entries. It requires a racing secretary to provide
14 notice of not less than 15 minutes before closing
15 entries to races formed when an overnight is split into
16 two or more separate races. The purpose of this is to
17 provide additional opportunity for making additional
18 entries to the split and to clarify that these are two
19 separate split races. It's not one race being run in
20 two separate races.

21 313.301, eligibility to claim. That
22 amends the rules for claiming races by requiring that
23 if the person making a claim is a minor, the claim must
24 be co-signed by an adult parent or guardian who is also
25 a Commission licensee and the parent or guardian who

1 then co-signs with them is liable for the claim.

2 Next we have a change to 313.406, colors
3 and numbers. Currently any horse starting in a race
4 must carry a conspicuous saddle cloth number as well as
5 a head number that corresponds to its number in the
6 program. The proposal changes the requirement for the
7 head number by clarifying that Quarter Horses, Paints,
8 and Appaloosas must wear the head numbers but
9 Thoroughbreds and Arabians are not required to do so.

10 It also changes the requirement regarding
11 head gear. It designates that it must be at least an
12 ASTM-approved safety helmet rather than having it of a
13 type approved by the executive director.

14 We have a proposal to amend 313.441, the
15 start, which really brings us into line with the
16 national model rules. It clarifies the circumstances
17 occurring at a starting gate that constitutes an unfair
18 start and clarifies the conditions under which they can
19 declare -- the stewards can declare a horse to be a
20 nonstarter or to exclude individual horses from all
21 pari-mutuel pools or to declare a no contest.

22 We have a proposal to amend 313.505,
23 workout requirements. It defines the types of
24 licensees that may ride a horse in an official
25 workout. The licensees must be a licensed jockey,

1 apprentice jockey, exercise rider, or the trainer or
2 assistant trainer of that horse.

3 It clarifies that a training facility
4 employee may not serve as both the timer and the
5 starter for the same workout. And it eliminates the
6 requirement that the person bringing the horse to the
7 training facility must be licensed.

8 And then the final proposal for
9 publication in the Register is a -- there's a
10 specification in the employees of training facilities
11 rule that a general manager and the chief executive
12 officer of a licensed training facility must obtain a
13 training facility general manager license, not a
14 training facility employee license, and it also adds
15 clarifying language pointing to the schedule of fees in
16 the rules as being the place to find the license fee.
17 Currently it's hard coded into 313.507 and we want to
18 adjust that.

19 Those are the proposals for publication
20 in the Texas Register so we can get public comment and
21 possibly adopt them at a later meeting. If you have
22 any questions, I'll try to answer them or Mr. Ferrara
23 can help.

24 CHAIRMAN PABLOS: Commissioners, by way
25 of background, we ran through these items at our last

1 rules committee meeting.

2 Commissioner O'Connell, do you have any
3 comments regarding these items? Do you feel
4 comfortable that they've been vetted?

5 MS. O'CONNELL: Fully vetted in a very
6 transparent manner.

7 CHAIRMAN PABLOS: Thank you so much.

8 Any other technical questions of Mark
9 regarding this item?

10 Okay. Well, what I'd like to do is I'd
11 like to entertain a motion to publish the proposed
12 amendments as described in the Agenda Items V-A-1
13 through 9 in the Texas Register for public comment. Do
14 I have a motion?

15 COMMISSIONER SCHMIDT: So move.

16 CHAIRMAN PABLOS: Moved by Schmidt. Is
17 there a second?

18 COMMISSIONER WEINBERG: Second.

19 CHAIRMAN PABLOS: Seconded by Weinberg.

20 Any discussion?

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

23 COMMISSIONERS: Aye.

24 CHAIRMAN PABLOS: Any opposed?

25 Okay. That motion carries.

1 Mark, next item, please.

2 MR. FENNER: The next item are rule
3 adoptions. These were as well discussed at the July
4 14th rules committee meeting. They've all been
5 published in the Texas Register. We've not received
6 any comments or objections to these publications in the
7 Texas Register.

8 They are, first, an amendment to 309.355,
9 the grading system. These make changes to the grading
10 rules to allow tracks to keep more greyhounds on the
11 active list and allows a racing secretary to advance a
12 second to fourth place greyhound in a maiden or Grade J
13 race to a Grade D or Grade C level. The current rule
14 only allows an advance to Grade C.

15 Next we have an adoption of an amendment
16 to 309.363, the official program. This change requires
17 the associations to publish a Texas-bred emblem in the
18 program to denote an accredited Texas-bred greyhound.

19 The next adoption is of 309.307, lures.
20 This change requires a noisemaking squawker be added to
21 the lure. The squawker is activated when the brake is
22 applied and assists in the stopping and recalling the
23 greyhounds at the end of the race.

24 Then we have a new rule, 315.43, track
25 superintendent, which specifies the basic

1 responsibilities of the track superintendent, and
2 315.44, brakeman. This is another new rule specifying
3 the basic responsibilities of the brakeman who controls
4 the speed of the lure in a greyhound race.

5 All of these were initially proposed by
6 the Texas Greyhound Association. They've been vetted
7 at the rules committee meeting.

8 CHAIRMAN PABLOS: Thank you, Mark.

9 Are there any questions of Mark on these
10 items? Again, these items have been properly vetted.

11 Hearing none, I'd like to entertain a
12 motion to adopt the amendments as described in Agenda
13 Items V-B-1 through 5 as published in the Texas
14 Register. Do I have a motion?

15 VICE-CHAIRMAN CARTER: So move.

16 CHAIRMAN PABLOS: Moved by Carter. Is
17 there a second?

18 COMMISSIONER EDERER: Second.

19 CHAIRMAN PABLOS: Seconded by Ederer.

20 Any discussion?

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

23 COMMISSIONERS: Aye.

24 CHAIRMAN PABLOS: Any opposed?

25 That motion carries.

1 Before we enter -- thank you very much,
2 Mark.

3 Before we enter into executive session, I
4 want to say one thing because I'm assuming a lot of you
5 are going to leave during that. But, Charla Ann, I
6 just want to congratulate you and your staff. You guys
7 are doing an excellent job. As you saw here today,
8 almost everybody thinks that you're doing everything
9 you can to help them and so I was very proud and happy
10 to see that we are moving in the right direction, that
11 staff is doing the right thing, that we're including
12 all the stakeholders.

13 And so I just wanted to comment on that,
14 Commissioners. I think that that is a very, very
15 positive step that I'm seeing in this Commission. So
16 we're moving in the right direction. Thank you for
17 that.

18 Any comments before we enter into
19 executive session?

20 Okay. At this time we're entering
21 executive session to confer with our attorneys
22 regarding potential litigation resulting from our
23 decision on the request to change ownership and
24 location of Longhorn Downs and to discuss the
25 appointment, employment, and evaluation and duties of

1 the executive director. Thank you very much.

2 (Recess for executive session from 2:06
3 p.m. to 2:44 p.m.)

4 CHAIRMAN PABLOS: We are reconvening out
5 of executive session, and the time is now 2:45.
6 Regarding the Longhorn Downs agenda item and the
7 potential for litigation, we did not take any action at
8 this time. We did not discuss with the AG anything
9 related to Longhorn Downs. But we did discuss the
10 executive director's employment, evaluation, and
11 duties.

12 At this time I'd like to just fill you in
13 on part of the discussion; and that is, we're
14 considering the raise of her salary; and I'd like to
15 hear from the Commissioners if there's anything that
16 you'd like to talk about as it relates to Charla Ann's
17 salary. Yes, sir.

18 COMMISSIONER SCHMIDT: I think Charla Ann
19 has done a superb job and she has a very unique skill
20 set. I'd like to make a motion that we increase her
21 salary to the maximum recommended by the State
22 appropriations.

23 MR. CLOWE: Second.

24 CHAIRMAN PABLOS: There's a second.

25 Okay. So what I'll do, with your

1 permission, Commissioners, let me state a motion
2 regarding the executive director's evaluation. And
3 that is to increase the executive director's pay to the
4 maximum amount authorized by the General Appropriations
5 Act which equals to \$94,090. Would that be
6 acceptable?

7 COMMISSIONER SCHMIDT: That reflects my
8 intention, yes, sir.

9 CHAIRMAN PABLOS: So we have a motion and
10 a second.

11 Is there any discussion?

12 Hearing none, I'd like to take this up
13 for a vote. All those in favor please signify by
14 saying aye.

15 COMMISSIONERS: Aye.

16 CHAIRMAN PABLOS: Any opposed?

17 Okay. That motion carries.

18 And let me take up an item here of old
19 business, new business. Our next scheduled meeting is
20 for Tuesday, October 20th.

21 Is there any old or new business from any
22 of you?

23 Okay. Hearing none, at this time, 2:47,
24 I will adjourn today's meeting. Thank you very much.

25 (Proceedings concluded at 2:47 p.m.)

1 STATE OF TEXAS)

2 COUNTY OF TRAVIS)

3

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

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

14 GIVEN UNDER MY OFFICIAL HAND OF OFFICE at Austin,
15 Texas, this 22nd day of September, 2009.

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21

22 _____
SHERRI SANTMAN FISHER, Texas CSR 2336

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