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2 BEFORE THE
3 TEXAS RACING COMMISSION
4 AUSTIN, TEXAS

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8
9 COMMISSION MEETING
10 DECEMBER 2, 2009

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16 Reported by: Lori M. Bryant
17 Job #80449

1 BE IT REMEMBERED that the above-entitled matter
2 came on for hearing on the 2nd day of December, 2009,
3 beginning at 10:35 a.m., at The Texas Department of Public
4 Safety, 6100 Guadalupe, Criminal Law Enforcement, Building
5 E, First Floor Auditorium, Austin, Travis County, Texas
6 78752, and the following proceedings were reported by LORI
7 M. BRYANT, Certified Shorthand Reporter for the State of
8 Texas.

9 APPEARANCES

10
11 Commissioners: ROLANDO PABLOS
12 G. KENT CARTER
13 RONALD F. EDERER
14 ROBERT SCHMIDT
15 GLORIA HICKS
16 VICKI WEINBERG
17 C. TOM CLOWE, JR.
18 ANN O'CONNELL
19 SCOTT HAYWOOD
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1 CHAIRMAN PABLOS: Good morning. The time is
2 10:35. I'm calling the meeting of the Texas Racing
3 Commission to order.

4 Carolyn, will you please call roll.

5 MS. WEISS: Commissioner Tom Clowe?

6 COMMISSIONER CLOWE: Present.

7 MS. WEISS: Commissioner Ron Ederer?

8 COMMISSIONER EDERER: Here.

9 MS. WEISS: Commissioner Scott Haywood?

10 COMMISSIONER HAYWOOD: Here.

11 MS. WEISS: Commissioner Gloria Hicks?

12 COMMISSIONER HICKS: Here.

13 MS. WEISS: Ann O'Connell?

14 MS. O'CONNELL: Here.

15 MS. WEISS: Commissioner Robert Schmidt?

16 COMMISSIONER SCHMIDT: Present.

17 MS. WEISS: Commissioner Weinberg?

18 COMMISSIONER WEINBERG: Here.

19 MS. WEISS: Vice-Chairman Carter?

20 VICE-CHAIRMAN CARTER: Here.

21 CHAIRMAN PABLOS: Do we have a quorum?

22 MS. WEISS: Yes, we do.

23 CHAIRMAN PABLOS: Hi, everybody, thank you for
24 being here. I hope you had a happy Thanksgiving. Today
25 we have a new commissioner, Commissioner Scott Haywood.

1 Welcome.

2 COMMISSIONER HAYWOOD: Thank you.

3 CHAIRMAN PABLOS: I'd like to give you this
4 opportunity, if you have any words to say. We want to
5 make sure you feel welcome, and get ready for the ride.

6 COMMISSIONER HAYWOOD: I'm excited to be a
7 Commissioner and looking forward to it.

8 CHAIRMAN PABLOS: Thank you very much. Folks, at
9 this time what I'll do is I'm going to go ahead and
10 announce Executive Session. We're going to step into
11 Executive Session first, and we'll come right back out and
12 we'll proceed with our regular business. So at this time
13 I would like to take up Agenda Item VI, Executive Session,
14 out of order and have the attorneys brief us first.

15 We will enter Executive Session to discuss the
16 following pending and contemplative litigation. The first
17 one is Dallas City Limits Property v. Austin Jockey Club.
18 And the next one is Javier Marquez v. Texas Racing
19 Commission.

20 We'll also discuss the amendment contracts
21 between Gulf Greyhound, Gillespie County Fair and
22 Festivals Association and United Tote. So at this time
23 let's go ahead and go into Executive Session, and we'll be
24 back out as soon as possible. Thank you.

25 (Executive session from

1 10:45 a.m. to 11:50 a.m.)

2 CHAIRMAN PABLOS: Thank you. The time is 11:50.

3 We are reconvening out of the Executive Session. We have
4 discussed the Javier Marquez case. It is privileged
5 communication under the Texas Disciplinary Rules,
6 Professional Conduct and the State Bar of Texas in the
7 Open Meetings Act. At this time we're going to move to
8 our first item, Public Comment. Has anyone signed up to
9 speak, Mark?

10 MR. FENNER: Yes.

11 CHAIRMAN PABLOS: Thank you. We have Mr. Dave
12 Hooper signed up to speak. Mr. Hooper, good morning.

13 MR. HOOPER: Good morning, Mr. Chairman, members
14 of the Commission. I'm Dave Hooper, the Executive
15 Director of the Texas Thoroughbred Association. I just
16 want to call your attention to the fact that Saturday
17 night at Sam Houston Race Park is the Annual Texas
18 Champions Day celebration of Texas bred. We have seven
19 Texas bred stakes that night. It is the culmination of
20 the racing year. Several divisional championships will be
21 decided that night.

22 I talked with the racing secretary about 9:30
23 this morning, and the entries are filling well. On behalf
24 of the Texas Thoroughbred Association, I wanted to extend
25 an invitation to each commissioner and to the staff and to

1 your spouses to join us that evening in the winner's
2 circle dining room and we would be pleased to enjoy the
3 evening with you.

4 Thank you very much, Mr. Chairman.

5 CHAIRMAN PABLOS: Thank you. Any questions?
6 Anyone else signed up to speak?

7 Okay. Item III, General Business. We'll have
8 discussion and consideration of III(A), report on
9 racetrack inspections. Carol Olewin, please.

10 MS. OLEWIN: Good morning, Commissioners. I'm
11 Carol Olewin, inspection administrator. This is the
12 report on racetrack inspections for December 2nd. The
13 first two items are for Gulf Greyhound veterinary and
14 judge inspections. We had several unsatisfactory items.
15 Our staff is currently working with the staff at Gulf
16 Greyhound to correct these items right now.

17 The next inspection was for Gulf Coast Race Park,
18 which is also known as Corpus Christi. Those items have
19 all been resolved. The next set of inspections is for
20 Lone Star Park, this was the mid meet unannounced
21 inspections. We had no unsatisfactory items. The next
22 was from Manor Downs. This was unannounced, pari-mutuel
23 inspection, no unsatisfactory items.

24 The next is Retama Park, this again was a mid
25 meet unannounced inspection, with no unsatisfactory

1 items. And during this period we did not have any
2 training track inspections. Are there any questions,
3 Commissioners?

4 CHAIRMAN PABLOS: Any questions? Thank you very
5 much, appreciate that. Item III(B), report on racetrack
6 meets. Chuck Trout, please.

7 MR. TROUT: Good morning, Commissioners. Since
8 the October 20th Commission Meeting, Lone Star Park
9 completed its Quarter Horse meet this past Saturday.
10 Retama Park completed its Thoroughbred meet on November
11 7th. Thoroughbred racing returned to Sam Houston Race
12 Park this past Friday evening. At Retama attendance was
13 up 3%, but the handle was down 11.4%, compared to their
14 2008 Thoroughbred meet.

15 Attendance at the Lone Star Quarter Horse meet
16 was down 17%, and the handle was down 24% compared to the
17 2008 meet. I reported at the last Commission Meeting that
18 Sam Houston Race Park would be using their turf track for
19 the first time since the installation of the track
20 crossing. Staff, along with representatives from Sam
21 Houston, the Texas Thoroughbred Association, the Texas
22 Horsemen's Partnership, and the Jockeys' Guild inspected
23 the crossing on November 19th.

24 This inspection included having a horse gallop
25 over the crossing. All parties present agreed that the

1 crossing was safe. Two turf races were carded and run
2 this past Friday evening without incident. Following the
3 races, the crossing area was inspected again and no
4 problems were found. Staff will continue to monitor the
5 crossing as the meet progresses.

6 Gulf Greyhound Park continues to run six
7 performances a week, with an increase in attendance of
8 3.5% and an increase in handle of 1.5% over the same
9 period in 2008. Valley Greyhound Park's attendance and
10 handle are about the same as this time last year, with
11 approximately 1% decrease in attendance and 1% increase in
12 handle.

13 During the mid-year review of racing operations
14 at Gulf Greyhound Park, staff noticed a gradual increase
15 in the greyhound injury rate. To determine the causes of
16 the increase, staff held a meeting with the stakeholders
17 on November 6th. The meeting was attended by Commissioner
18 Hicks, commission staff, and stakeholders from the track,
19 the TGA, and the kennels.

20 The staff reviewed the problem, and after lengthy
21 discussions, three committees were formed to study track
22 safety, trainer practical examinations, and data
23 reporting. A follow-on meeting was conducted yesterday
24 with all three committees reporting progress toward
25 identifying possible causes and action plans. This group

1 will meet again in mid-December at Gulf Greyhound Park.
2 At this time Commissioner Hicks would like to comment on
3 these issues.

4 COMMISSIONER HICKS: We have had two meetings,
5 and we will have the third on the dogs' injuries. And we
6 did meet at Gulf and we did come up with working groups
7 and a plan of action. And I felt really good after the
8 meeting yesterday. Everyone is really trying to do the
9 best they can do to keep the dogs safe and to keep
10 injuries down and to keep the euthanasia rate down. We're
11 trying to get it down to zero, come up with a new plan to
12 possibly do that. So it was a great meeting. I thought
13 everyone really had good input.

14 Sally had some wonderful ideas, changes that they
15 can make at Gulf to make it safe for the dogs. So all in
16 all, I think it was a good meeting and I'm looking forward
17 to the one that we have in two weeks.

18 MR. TROUT: This concludes my report. I'll be
19 happy to answer any questions, sir.

20 CHAIRMAN PABLOS: Thank you. Are there any
21 questions of the Commissioners? Thank you very much.

22 Our next item is Item B2, report on safety and
23 medication. Dr. Quirk, our chief veterinarian, please.

24 DR. QUIRK: Mr. Chairman and Commissioners, good
25 morning, and all of you in attendance, for that matter. I

1 think you've already been briefed on the subject, but to
2 update you on the condition, of the disease condition that
3 exists in Texas, currently it's called Equine
4 piroplasmosis. Have you all been made aware of that
5 situation?

6 Technically it comes under classification of
7 exotic diseases. A disease that we thought we had
8 eliminated in this country, but apparently we haven't been
9 as successful of that as we had hopefully would have
10 been. It is a reportable disease that has fairly serious
11 consequences in terms of how the horses, the infected
12 animals have to be handled if they're identified as
13 positive.

14 It does affect all members of the family
15 equidae. Our interest in this case, of course, is the
16 horse. It is a tick-born disease. And the tick is an
17 obligate vector of the disease. It's required to have
18 that vector to be disseminated throughout a particular
19 population.

20 Having said that, it could also be transmitted
21 directly via contaminated needles or even blood
22 transfusions. But typically it's thought to be tick
23 born. The outbreak -- let me back off the word outbreak.
24 I think, actually, the numbers suggest that it's actually
25 an endemic condition in parts of Texas and a specific part

1 of Texas. And it's probably been there all along, even
2 though we thought we had eradicated the disease. That is
3 not the case.

4 The original case, the index case occurred -- was
5 discovered in early October. Additional tests, testing on
6 the so-called index branch revealed that well over 200 are
7 positive there already, 80% of the horses that they tested
8 are positive for piroplasmosis. They then engaged in what
9 they called a trace-back activity, where they traced or
10 followed horses that had been on the ranch in the previous
11 three years and had been either sold or moved to other
12 locations. And they've discovered that the condition
13 exists, the animals they traced that are positive
14 basically in 12 states.

15 There are 22 additional positives in other
16 locations in Texas. All of these horses have been
17 quarantined. And all of the animals that have been
18 co-mingled with these horses have been tested, and none of
19 those have proved to be positive, which is a big plus for
20 us.

21 What we haven't fully done yet is established the
22 full footprint of the disease in the South Texas Region, I
23 don't think. The testing thus far has been pretty much
24 voluntary. They haven't required that the adjoining
25 properties test all of their animals. Those that have

1 voluntarily tested their horses though have been negative,
2 which is encouraging.

3 Another encouraging aspect of this, from our
4 perspective, from the racing perspective, is it appears to
5 be limited to working horses. And so far no racehorse
6 positives have developed. What we have done to respond to
7 that, and this occurred in October, so we were racing at
8 Retama and at Lone Star at the time. And I think Lone
9 Star really took the initiative to develop a program to
10 require that any horse originating from that region of
11 Texas, from that particular county and contiguous counties
12 have to have a negative test within 14 days for
13 piroplasmosis. They also have to have a certificate of
14 veterinary inspection and they would have to be inspected
15 for ticks.

16 Upon arrival at Lone Star, they were going to be
17 directed to sort of a quarantine barn, if you will. As it
18 happened, there were no horses that entered races at Lone
19 Star at that time, so I don't think that facility had to
20 be used. I think Retama initiated a similar action. And
21 we talked with the folks at Sam Houston, and they've
22 provided an area as well. So I think from the condition
23 perspective and the standpoint of the industry, that we
24 should be in pretty good shape pending further
25 information.

1 There is no vaccine for the disease. It is a
2 disease that requires either euthanasia or quarantine.
3 The disease has a pretty high morbidity, but it has a
4 relatively low mortality. In fact, this case, the
5 interesting thing to me about this disease as far as we
6 know have one clinical case. All the others are positive
7 but have been subclinical. And, consequently, I think
8 they are technically carriers. And so that, again,
9 supports the idea that it's probably endemic. It has been
10 there for some time and just gone undiscovered.

11 But hopefully we'll continue to monitor that. We
12 are updated weekly, and it appears if we need to take
13 additional steps we will do that and make you aware of
14 it. I've also been asked to mention to you that we are
15 going to reconvene our medication working group, probably
16 in late January. We're going to get the industry
17 stakeholders together again in Texas, and we are going to
18 be visiting various topics that relate to medication.
19 Specifically in this meeting we're going to be looking at
20 the concept of establishing threshold levels for both --
21 well, particularly for therapeutic medications.

22 I will be in attendance at the meeting in Las
23 Vegas on Friday with the regulatory veterinary group from
24 the RCI, and this will be our principal focus. There's a
25 lot of movement on these issues, and hopefully we can

1 bring that back with us from that meeting and develop some
2 at least recommendations for your consideration. Any
3 questions?

4 CHAIRMAN PABLOS: Thank you, Doctor. Any
5 questions? Next item is Item III, Personnel
6 Announcements. Charla Ann King.

7 MS. KING: Mr. Chairman and Commissioners, you
8 frequently hear me talk about our highly qualified and
9 experienced staff. In just the past few months out of 65
10 full-time employees, we have had two staff members that
11 have earned their 20-year service award; ten who have
12 earned their 15-year service award; 16 their ten-year
13 award; and 13 their five-year award. And that doesn't
14 count the rest of us who have other state experience.

15 These professionals account for about 65% of our
16 staff. And if you looked at all of those, we would be up
17 to about 95%. That's really a high rate of experience in
18 government, in particular racing. Unfortunately for us,
19 this experience eventually turns into eligibility for
20 retirement. Today we have four outstanding individuals,
21 members of our field staff who have reached this important
22 career and life transition. They are Dr. Marsh, Dr. Ron
23 Browning, Mr. John Ferrara, and Mr. Fred Winch.

24 And I would like to take a few minutes here this
25 morning and have you join me in thanking them individually

1 for their outstanding service in the State of Texas.
2 First in order of seniority, I'll begin with Dr. Marsh.
3 Unfortunately, he is unable to join us today. But I would
4 like to ensure that he is recognized, for the record.

5 After working in private practice in South Texas,
6 Dr. Marsh joined the agency in 1996 as a track
7 veterinarian. In 1999 he took on the added duties as the
8 chief veterinarian. He led the agency effort on several
9 advancements in drug testing, including designing the TCO2
10 testing program and the anabolic steroid testing program.
11 Dr. Marsh's effective drug testing policies that were not
12 only state of the art, but very important, very practical
13 to implement because he was ultimately practical. So a
14 sincere thank you to Dr. Marsh for his 14 years of service
15 and commitment to the agency and to the horses and the
16 greyhounds. He's truly made a difference in the health
17 and safety of the race animals in Texas.

18 Now, if John Ferrara will come forward.
19 I believe that John is here. John has had multiple roles
20 with the agency during the past 12 years as chief steward
21 and judge and director of racing. John's prior extensive
22 experience with pari-mutuel has been invaluable to me
23 personally, as well as to the entire staff, the
24 Commission, and the industry. We've all learned and
25 benefited from his calm, steady approach, and his wealth

1 of knowledge. John has a nationwide reputation as an
2 expert in racing, and I have found his commitment to
3 safety, fairness, and integrity unwavering and unmatched.

4 Although John is retiring from our agency, his
5 retirement is short-lived, as he has accepted an offer to
6 join the board of stewards over at Oaklawn Park in
7 Arkansas, not very far away, just over the border. I'm
8 sure we can still count on John to remain a valuable
9 resource, not only to us at the agency but to the industry
10 in general. Congratulations, John, we have a plaque for
11 you.

12 (Applause).

13 CHAIRMAN PABLOS: John, congratulations. Thank
14 you for all your work here. You are a very valuable
15 member of the team, and on behalf of the Commission I want
16 to congratulate you and wish you the best.

17 MR. FERRARA: Thank you.

18 MS. KING: And now, Fred, if you will join me.
19 Commissioners, Fred Winch joined our staff as a steward in
20 1998 after briefly serving with us as a steward at Bandera
21 Downs in 1991. Fred has worked at Retama, Manor, and
22 Gillespie County, as well as serving as a judge at Valley
23 Race Park. So he covered both horses and greyhounds.
24 Prior to the 1987 passage of pari-mutuel racing, Fred
25 worked as a steward for the AQHA at Piney Woods, Val Verde

1 Downs, and La Bahia, just to name a few.

2 Fred also worked at the Laredo International Fair
3 and Exposition in several roles, from loading the starting
4 gate to clerk of scales to general manager and then to
5 steward. In between all the racing work, Fred has also
6 been a horse tattooer, as well as an active rancher along
7 with his wife Shirley who is with us today who is a
8 rancher too. We are going to miss Fred's extensive
9 knowledge and experience gained over his lifetime devoted
10 to racing. Fred, the best of luck to you and Shirley. We
11 hope we will see you at Gillespie again this summer,
12 because it wouldn't be the same without the two of you.
13 So congratulations.

14 (Applause)

15 CHAIRMAN PABLOS: Fred, thank you very much,
16 appreciate it. We're going to miss you. Enjoy.

17 MS. KING: Now, if Dr. Browning would come
18 forward. Congratulations to Dr. Browning who joined the
19 staff in 1999 following his successful private practice in
20 North Texas. While most of his 10 years have been spent
21 at Lone Star Park, he also worked at Manor Downs, which is
22 very important to us, and Gillespie County Fair.

23 Dr. Browning has been a strong anchor to the
24 field team at Lone Star. He is one of the hardest
25 individuals I have -- hardest working individuals I have

1 ever known. From pre-race vet exams to checking horses at
2 the gate, to those early Saturday morning workouts at the
3 track, I will always value what he has taught us about the
4 practice of regulatory veterinary medicine.

5 Dr. Browning was also very good at assisting the
6 Austin staff with several legislative staff tours,
7 explaining the pre-race exams, and taking the group behind
8 the gate and on more than one memorable truck ride.

9 Dr. Browning, your ability to relate to everyone from the
10 groom to the trainers and the owners to the legislative
11 staff has served us very well over these past 10 years.

12 We thank you and we wish you the very best of luck.

13 DR. BROWNING: Thank you.

14 (Applause)

15 CHAIRMAN PABLOS: Doctor, thank you and thank you
16 for being hard on the field, we need that.

17 MS. KING: So to each of the gentlemen here
18 today, we want you to know how much we appreciate your
19 years of service, your hard work. We're going to miss
20 you, and we want you to know you each truly made a
21 difference in accomplishing the mission of this agency and
22 improving the quality of racing in Texas. That's all I
23 have, Mr. Chairman.

24 CHAIRMAN PABLOS: Thank you, Charla Ann, and
25 thank you for everything that you are doing. I know you

1 have some good staff members leaving, but I'm sure that
2 those that are coming up behind them will do a good job as
3 well. Thank you very much, I appreciate it. Thank you.

4 We'll move on to our next item, Item C, Report by
5 Rules Committee. I don't know if everyone has a copy of
6 the meeting report, but I'll speak to the major topic
7 discussed at that meeting, and that is the issue that we
8 have with inactive licenses. As you all recall, our
9 committee on race track licensing identified certain
10 issues, one of them being related to the inactive tracks.

11 We had members from the racetrack associations
12 breed registries and other interested parties at that
13 meeting, and basically what we talked about is having the
14 industry meet with staff to talk about how do we handle
15 these inactive licenses. And we basically looked at four
16 major items. One was to allow these inactive licenses to
17 modify the live racing. As you know, our goal is to get
18 everybody up to speed into live racing. And so the goal
19 is how do we get there. And one of the ideas is to allow
20 the tracks to modify the live racing. Also allow them to
21 conduct simulcasting for more than one year in advance.

22 Another topic for discussion was having a
23 detailed business plan presented by each of the inactive
24 license holders, so we can see what the plan is. And also
25 as it relates to that, following up on their progress,

1 creating some benchmarks. The group met with staff, and
2 we're going to be expecting the detailed business plan so
3 we can look at them. If we have a plan from each license
4 holder, then we can set up those benchmarks and we can
5 move along and observe the progress and also ensure that
6 progress is being made.

7 As a standing item for this meeting, we are going
8 to now request of these license holders a regular update
9 on their progress. And in general terms, that's what we
10 discussed. And with respect to time today, I'll ask you
11 to take a look at the meeting notes, and if you have any
12 questions please direct them to Charla Ann.

13 Commissioners, are there any questions on what
14 we're doing at the rules committee? I want to thank
15 Commissioner O'Connell, she is part of the committee, for
16 her input. We're moving forward on what we said we were
17 going to do, and I'm very happy with our progress. Any
18 questions or comments? If you don't have a copy of the
19 meeting report, please ask staff to get you one.

20 We'll move on to our next item, Item D, budget
21 and financial update. Shelly Harris.

22 MS. HARRIS-CURTSINGER: Commissioners, we are now
23 16.67% through the current 2010 fiscal year. This is as
24 of October 31st, and the agency has expended only 12.08%
25 of our appropriated budget. Our reports are currently

1 under reconstruction. We have added the unappropriated
2 cost to the reports so that you are able to see how much
3 the agency is expending on benefits costs. These costs
4 are funds that are not appropriated to the agency, but the
5 agency does have to have the cash on hand to cover these
6 expenditures. So as you see in the column title FY 2010
7 expended through 10/31/09, we have expended just over
8 \$1.225 million in appropriated costs, but with the
9 unappropriated costs added to that the agency has actually
10 expended \$1.365 million in actual cash outlay.

11 By the next Commission Meeting we should have the
12 revised reports to show not only appropriations and
13 unappropriated expenses, but also higher-level reports on
14 the agency's revenue collections. The goal of the revised
15 reports is to give you a complete picture of the agency's
16 fiscal operations at a quick glance. Thank you.

17 CHAIRMAN PABLOS: Thank you. Any questions,
18 Commissioners? Okay. Thank you very much for that
19 report. Our next item, Item E, approval of Commissions FY
20 2010 operating budget. Shelley, please.

21 MS. HARRIS-CURTSINGER: Under tab E.3.1, you will
22 find the operating budget that we proposed for fiscal year
23 10. This budget is in accordance with the appropriations
24 granted to the agency during the 81st Legislative
25 Session. With preparing the legislative appropriations

1 request for fiscal years 2010 and 2011, we did take the
2 opportunity to realign some of the strategies so as to
3 align departments with the strategies to make it easier
4 for the division directors to manage their budgets.

5 During the current 2010/11 biennium, the agency
6 has the flexibility to adjust to changes in the industry,
7 expending less with the two tracks running very little
8 live race meets or not running live race meets at all. Or
9 by increasing the appropriations through our riders should
10 a new track open. The 1.5 million in general revenue
11 funding received through Rider 12 will allow the agency to
12 position itself to carry more cash forward into fiscal
13 year 2011. I will be happy to answer any questions.

14 CHAIRMAN PABLOS: Commissioners, are there any
15 clarifying or technical questions? Charla Ann, do you
16 have any comments that you might want to add?

17 MS. KING: No.

18 CHAIRMAN PABLOS: Do you feel comfortable?

19 MS. KING: Yes, sir.

20 CHAIRMAN PABLOS: At this time I would like to
21 make a motion to approve the agency's proposed operating
22 budget for fiscal year 2010. Do I have a motion?

23 COMMISSIONER SCHMIDT: So move.

24 CHAIRMAN PABLOS: By Dr. Schmidt. Do I have a
25 second?

1 COMMISSIONER WEINBERG: Second.

2 CHAIRMAN PABLOS: Seconded by Commissioner
3 Weinberg. Is there any discussion on this item? Okay.
4 I'll take this up for a vote. All those in favor please
5 signify by saying aye.

6 COMMISSIONERS: Aye.

7 CHAIRMAN PABLOS: That motion is approved. Thank
8 you.

9 Item F, I recognize Mark Fenner, approval of the
10 MOU with the Texas Veterinary Diagnostic Laboratory for FY
11 2010, which is now information only item.

12 MR. FENNER: We have been working steadily on the
13 memorandum of understanding between the two entities, and
14 we have reached an agreement on the proposal to bring to
15 you. It will keep the same costs for the various tests
16 and will adjust the number of tests to reflect the number
17 of race dates that have been awarded.

18 It will also provide for additional flexibility
19 in using some of the higher-sensitivity testing equipment
20 that MOU has required in conducting testing of the
21 samples. So at this point it's just a matter of dotting a
22 few I's, crossing some T's, and getting a few last
23 provisions together and we'll be bringing that to you at
24 the next Commission Meeting. There is a carryover
25 provision in the existing MOU, so there is no emergency

1 that it be brought to you at this particular meeting,
2 especially since there is not going to be any changes in
3 the costs per test.

4 CHAIRMAN PABLOS: It is okay, Mark, to wait until
5 the next meeting given that carryover?

6 MR. FENNER: Yes, sir.

7 CHAIRMAN PABLOS: Any questions, Commissioners?
8 Thank you, Mark, appreciate it. We'll move on to Item IV,
9 proceedings on racetrack. I would like to call on Drew
10 Shubeck to give us a report on Magna Entertainment and the
11 auction of Lone Star Park.

12 MR. SHUBECK: Good morning, Chairman, good
13 morning, Commissioners. Over the last two meetings we had
14 an update from our national regulatory counsel, Gregg
15 Scoggins, he gave an update to the Commission in
16 September, with our make-up meeting from August and at the
17 normal October meeting. Since then I know he has sent the
18 Commission a letter, and I believe you're in possession of
19 it. And I would like to expand upon that.

20 I think as everybody knows, Magna Entertainment,
21 our parent company, went into bankruptcy last March. That
22 left Lone Star Park not in bankruptcy, but in a difficult
23 position. But we managed just fine through our
24 Thoroughbred meet. We were forced into bankruptcy in
25 September, and that was with the update that Gregg

1 Scoggins has given on the last two occasions, and he
2 speaks of it in his letter as well. We managed quite fine
3 through the previous Quarter Horse meeting. Even though
4 we were in the bankruptcy process ourselves, we have
5 sufficient cash on hand for the remainder of the year and
6 to carry us into next spring.

7 And we also believe we would be afforded DIP
8 funding from the parent corporation if we needed more
9 funding to get through to the new ownership. And that's
10 the second part of the update. We went through the
11 auction process. Global Gaming was a successful bidder.
12 They bid in excess of 47 million for Lone Star Park, and
13 we are preparing the documents to bring before the Racing
14 Commission for the transfer of the license right now. So
15 I would open it up to any questions that Commissioners
16 have for me.

17 CHAIRMAN PABLOS: Any questions, Commissioners?
18 Is your meet still going on, did it just end?

19 MR. SHUBECK: We just concluded the Quarter Horse
20 meet. We actually did -- the report was very accurate.
21 We were down about 27%, but that takes into effect that we
22 had about 10% less races this meet. Last year we had more
23 races per night. We did that to preserve purse money.

24 And I want to thank the cooperation of the
25 Quarter Horse HPA and the breeders. We took a long, hard

1 look at the Quarter Horse meet several months ago. I know
2 we went before the Commission to cut three days, three
3 Wednesdays because the purse funding was very low. So we
4 cut three days. We cut into some stakes races a little
5 bit. I believe we cut overnights about 9%. And we went
6 through the entire meet with an overpay of less than
7 \$200,000. And that's the lowest overpay ever for Lone
8 Star Park, I believe, for a Quarter Horse meet. We could
9 only do it with the cooperation of the horsemen by
10 limiting the amount of racing opportunities and to cut
11 purses. So we got by just fine.

12 CHAIRMAN PABLOS: What is the date of the start
13 of your next meet?

14 MR. SHUBECK: It will be April 8th before the
15 Thoroughbred meet will start. As I said before, we
16 believe we have sufficient cash on hand to go to that.
17 We're shutting down the barn area the next few days.
18 We're gonna do off duty -- off season, rather,
19 preparations for the Thoroughbred meet, cleaning stalls,
20 putting down clay, leveling things, working on horse pads,
21 working on the meeting track and the turf track. And we
22 expect to be fully operational and everything just fine in
23 April. And we'll be working again over the next few weeks
24 to get that application change to the Commission on behalf
25 of Global Gaming. And we expect that process to go

1 smoothly.

2 CHAIRMAN PABLOS: You don't expect any or
3 anticipate any problems in starting up the next meet?

4 MR. SHUBECK: No, sir. In fact, we're working
5 with Magna Entertainment and Global Gaming to secure our
6 capital for some items that we're going to need for the
7 upcoming year and upcoming meet, and we expect cooperation
8 from all parties.

9 CHAIRMAN PABLOS: If you begin to see that there
10 might be any problems, please let us know immediately. I
11 would ask you to do that.

12 MR. SHUBECK: Absolutely.

13 CHAIRMAN PABLOS: Any questions or comments,
14 Commissioners? Thank you very much, appreciate it.

15 We'll move on to our next item, Item IV B,
16 request by Gulf Coast Racing (Corpus Christi) for approval
17 of 20% change in ownership. Mark.

18 MR. FENNER: Commissioners, request by Gulf Coast
19 Racing in Corpus Christi for approval of a change of
20 ownership of 20% in the association to Michael Watts.
21 When the Commission is reviewing an ownership change,
22 there is two sections of the Racing Act that are
23 relevant. There are Section 6.13(b) and 6.031. 6.13(b)
24 requires that any transaction involving the acquisition or
25 transfer of pecuniary interests in an association must

1 have prior approval of the Commission.

2 Rule 309.11 and 309.151 set out the requirements
3 for receiving that approval. 309.11 says fees must be
4 paid. This is a transfer of more than 5% ownership
5 interest, but less than 50%. And it does not affect a
6 change in the controlling interest of the association.
7 Under that rule, therefore, the processing charge is \$500
8 and the investigation charge is \$1,000. And these amounts
9 have been paid by Gulf Coast Racing.

10 Under Rule 309.151, change of ownership, it
11 requires that the association be provided all written
12 documents related to the transfer, as well as the
13 description of how the buyer's ownership interest will be
14 held. Identifying information for the buyer, fingerprints
15 as well as completed background disclosure form. All of
16 those requirements have been met.

17 The Act, Section 6.031, background check,
18 provides Commission shall require a complete personal,
19 financial background check of the applicant and shall
20 refuse to issue or renew a license if in the sole
21 discretion of the Commission the background check reveals
22 anything that might be detrimental to the public interest
23 or the racing industry. The Commission may not hold a
24 hearing or any part of a hearing for the complete
25 background check unless it has been on file with the

1 Commission for at least 14 days.

2 In order to fulfill these requirements in 6.031,
3 they must complete and submit personal disclosure forms
4 and fingerprints to the Department of Public Safety which
5 then conducts the required background checks. The
6 checklist for 6.031 includes three primary items, has DPS
7 completed the background check? Yes, DPS has. Has the
8 background check been on file with the Commission for at
9 least 14 days? Yes, it has. It was submitted on October
10 1 and updated on November 12th. So both of those days are
11 more than 14 days from today.

12 And then did the background checks reveal
13 anything that the Commission terms to be detrimental to
14 the public interest or the racing industry. The
15 department's transmittal letter states that an
16 investigation did not reveal any negative findings, but
17 ultimately that decision belongs to you. At this time all
18 the regulatory requirements that are necessary for
19 Commission to review have been met, and Captain Reynolds
20 of the DPS is available to answer any questions you may
21 have.

22 You have received copies of the DPS investigation
23 forms. If you have any questions, Captain Reynolds is
24 here to answer any questions.

25 CHAIRMAN PABLOS: Commissioners, do you have any

1 technical or clarifying questions of Mark on this item?

2 Okay.

3 Mr. Moltz, please. Good morning.

4 MR. MOLTZ: Good morning, Mr. Chairman,
5 Commissioners. I really have nothing further to add. It
6 was pretty accurate, very accurate. The application has
7 been on file since June. We've really been waiting for
8 the DPS report to come through and be here on time. The
9 application was filed very soon after commissioners
10 approved the total change in ownership, and this is a
11 straightening-out factor. We request that it be
12 approved.

13 CHAIRMAN PABLOS: Any questions, Commissioners?

14 Thank you, Mr. Moltz.

15 Commissioner Clowe, I would like to take this
16 time to thank your agency, in particular Captain Reynolds,
17 for doing a great job. Every time we call on you, you're
18 there for us, and this time is no different. I've
19 reviewed the background check, very thorough, and just
20 wanted to pass that on to you. Thank you very much.

21 COMMISSIONER CLOWE: Thank you, sir.

22 CHAIRMAN PABLOS: So let me go ahead and ask, is
23 there anyone else signed up to speak that would like to
24 speak on this item? Okay. Let me ask for a motion before
25 we get into discussion. I would like to ask for a motion

1 to approve the 20% change in ownership requested by Gulf
2 Coast Racing. Is there a motion?

3 COMMISSIONER EDERER: So moved.

4 CHAIRMAN PABLOS: Is there a second?

5 VICE-CHAIRMAN CARTER: Second.

6 CHAIRMAN PABLOS: Seconded by Dr. Carter. So we
7 have a motion and a second. I'd like to open this up for
8 discussion, if you all so care to do that. Mark, it looks
9 like we've taken our checklist and we've checked
10 everything off and all of the criteria seems to have been
11 satisfied; is that correct?

12 MR. FENNER: Yes, sir. Commissioners, do you
13 have any comments on this item and concerns, questions?

14 CHAIRMAN PABLOS: Okay. Hearing none, what I
15 would like to do is I would like to take this up for a
16 vote at this time. All those in favor please signify by
17 saying aye.

18 COMMISSIONERS: Aye.

19 CHAIRMAN PABLOS: Any opposed? Okay. That
20 motion carries. Thank you very much. Thank you,
21 Mr. Moltz.

22 Our next item is Item C, request by Gulf
23 Greyhound Park for approval of amendment to Totalisator
24 contract with United Tote Company for Gulf Greyhound Park
25 and Gillespie County Fair and Festivals Association. I

1 will remind you that we are not able to discuss this in
2 public. This was an item for our executive session. I
3 would like to recognize Carol Olewin to give us a briefing
4 on this, please.

5 MS. OLEWIN: Commissioners, I am Carol Olewin.
6 This is submitted by Gulf Greyhound Park to extend their
7 contract with United Tote for an additional two years.
8 The original prime contract was approved in April of 2006,
9 and there have been no changes. United Tote is in good
10 standing. Are there any questions?

11 CHAIRMAN PABLOS: Any questions, Commissioners?
12 Thank you.

13 MS. OLEWIN: Thank you.

14 CHAIRMAN PABLOS: Anyone signed up to speak on
15 this item? Ms. Briggs. I have Sally Briggs, please.

16 MS. BRIGGS: Any questions? I would be glad to
17 answer them.

18 CHAIRMAN PABLOS: Any questions of Ms. Briggs on
19 this? Thank you.

20 MS. BRIGGS: Thank you.

21 CHAIRMAN PABLOS: Okay. I would like to
22 entertain a motion to approve the amendments to the tote
23 contract between Gulf Greyhound Park and United Tote and
24 between Gillespie County Fair and Festivals Association.

25 COMMISSIONER CLOWE: So moved.

1 CHAIRMAN PABLOS: Moved by Clowe. Is there a
2 second?

3 COMMISSIONER SCHMIDT: Second.

4 CHAIRMAN PABLOS: Seconded by Dr. Schmidt. Any
5 discussion on this item? Okay. At this time I would like
6 to take this up for a vote. All those in favor please
7 signify by saying aye.

8 COMMISSIONERS: Aye.

9 CHAIRMAN PABLOS: Any opposed? That motion
10 carries.

11 Item D, request by Laredo Race Park for an
12 amendment to its order for security compliance. I would
13 like to recognize Andrea Young, president of Laredo Race
14 Park.

15 MS. YOUNG: Good afternoon, Commissioners. I'm
16 here today to give you an update on Laredo Race Park, and
17 I'm going to end up combining on two agenda items.

18 CHAIRMAN PABLOS: Thank you for reminding me, I
19 was going to ask you to do that.

20 MS. YOUNG: It seems like a natural way to frame
21 up the issue. For the reasons I'm going to discuss today,
22 I'll start out by saying that we are not requesting that
23 the Commissioners take any action at this time, but rather
24 reset this matter for the next Commission Meeting where we
25 think we will be able to give a detailed and well-thought-

1 out plan of our ability to start simulcasting in Webb
2 County.

3 The second thing I'll say is I have a couple of
4 letters, one that we submitted kind of making that request
5 I think the Tuesday or Wednesday before Thanksgiving of
6 last week, and also a letter from the county judge in Webb
7 County, where Laredo is located, outlining, kind of
8 discussing our conversations with them in a meeting that
9 we had last week. I'm going to give them to Mark, there's
10 15 copies of each.

11 We went to -- you know, we tried to be really
12 transparent over the course of the last I think three or
13 four commission meetings on our progress in Webb County.
14 We remain really, really optimistic about that progress.
15 As we acknowledged I think at one of the prior meetings,
16 we had submitted a formal lease agreement after coming to
17 the conclusion that we would finalize most of our business
18 terms with the county on 135 acre location, which is
19 adjacent to the airport next to the Laredo Entertainment
20 District, a really nice location with an existing
21 facility, with an existing golf course operated and owned
22 by the county. Where we would be able to actually utilize
23 the clubhouse to begin simulcasting immediately.

24 We developed it, we have our plans internally
25 with our staff from either Sam Houston. Our operations

1 there are at Valley Race Park, you know, we would really
2 be able to get that up and running very, very quickly,
3 possibly within a period of 30 to 60 days. So we
4 submitted that, obviously they are a county agency so
5 sometimes things take a little bit longer than we
6 anticipate. That has certainly been the case there.

7 I am very proud to report or happy to report we
8 had a very productive meeting in Laredo on Monday of this
9 week. Shawn Herwitz, who is the president of our parent
10 company and the CEO of our racing operations, and myself
11 both attended. We were able to identify what I would say
12 are three remaining issues on the lease term. The letter
13 from County Judge Valdez identifies that. We met with the
14 county judge, the county attorney, who is really the
15 person responsible for handling this and the commissioner
16 where the location and site is, as well as kind of various
17 staff members of theirs.

18 We agreed that we will talk again. Today we are
19 supposed to get some additional feedback from them this
20 afternoon. We have scheduled a follow-up meeting for next
21 Wednesday, the 9th. So we will be back in Laredo on
22 Wednesday, the 9th. There is one more commissioners court
23 meeting where they could take up the lease agreements
24 scheduled for December 14th of this year, then they come
25 and take a little bit longer break for the holidays. If

1 for whatever reason we can't make that day, they actually
2 informed me yesterday they might be delaying that meeting
3 a couple of more days because of schedules. So that's
4 good for our efforts.

5 For whatever reason we can't make that 14th day,
6 they do meet every two weeks once they get into their
7 post-holiday schedule. We're really optimistic. We do
8 have a couple of items like any deal, you know, I think
9 most of you are in business so we do have a couple of
10 items that are important that we still need to address
11 with them. We feel very optimistic about the progress,
12 and certainly about their desire to want to be partners of
13 ours in Laredo.

14 So to that, I would open it up to any questions
15 that you might have.

16 CHAIRMAN PABLOS: Let me just for clarification
17 you are asking us to defer consideration until the next
18 meeting; is that correct?

19 MS. YOUNG: That's correct.

20 CHAIRMAN PABLOS: Commissioners, are there any
21 questions of Ms. Young? For this time being I don't have
22 any questions from the commissioners, I would like to ask
23 Mark to please come up. I do have questions for Mark.

24 Mark, we're being asked to defer consideration of
25 this security order until the February date.

1 Procedurally, are we able to do this?

2 MR. FENNER: With the direction of the
3 Commission, we have a staff, we have a security order in
4 place. Laredo Race Park put up \$140,000 in security and
5 committed to begin simulcasting July 15th of this year.
6 And the part of the security order is if they don't begin
7 simulcasting by July 15th, they forfeit \$1074 for each day
8 that they fail to simulcast. 1174 shall be forfeited for
9 each simulcast day they fail to run. Of that \$1174, 468
10 is supposed to go to the Commission, dedicated account for
11 the Accredited Texas Incentive Programs. \$665 of that
12 amount should be deposited to the benefit of the state
13 general revenue fund. \$41, which is 10% of our daily
14 simulcasting fee, would be deposited to the Commissions'
15 own account.

16 Without some sort of specific directive from the
17 Commission, the staff is in a position of having to go
18 forward with forfeiting that \$140,000. Because with them
19 having failed to simulcast since July 15th, that \$140,000
20 would have been exhausted by November 13th of this year.
21 So it's all marked off as gone.

22 CHAIRMAN PABLOS: Mark, by waiting until
23 February, do we waive our right to draw down on that money
24 at all?

25 MR. FENNER: No, the order is in place. If you

1 were to, for example, by Commission vote order us to wait
2 until then, we could certainly do that. However, my
3 question would be the purpose of the wait. Under the
4 security order and under the rules, it says that
5 exceptions to the requirement for forfeiture may only be
6 allowed if the delay in performing is caused by conditions
7 that are beyond the control of the association and which
8 are not due to an act, omission, negligence, recklessness,
9 willful misconduct or breach of contract or law by the
10 association. So by the terms of the commissions rules and
11 by the terms of the order, the flexibility to not forfeit
12 the money is pretty limited.

13 CHAIRMAN PABLOS: Just by way of background, and
14 correct me if I'm wrong. We have a situation here where
15 we have an inactive license in Laredo in a certain
16 location. The license holder has now identified that
17 location as not being a suitable location, so they've
18 identified I guess a better location. And in the past few
19 months they've been negotiating with the owner of that
20 piece of land, which is a golf course that is owned by the
21 community down in Webb County to take that land and use it
22 to begin simulcasting and eventually live racing; is that
23 correct?

24 MR. FENNER: That's what I heard them report.

25 CHAIRMAN PABLOS: Have you verified that?

1 MR. FENNER: No.

2 CHAIRMAN PABLOS: Okay. So, Commissioners, are
3 there any technical questions of Mark before we move on?

4 VICE-CHAIRMAN CARTER: I have one. We have two
5 other licenses in South Texas that had deposits?

6 MR. FENNER: Yes, sir.

7 VICE-CHAIRMAN CARTER: How were those handled? I
8 know they forfeited them, but was that not done at the
9 staff level?

10 MR. FENNER: Yes, sir. Both Laredo Downs, which
11 had a security of \$140,000 and Valle de los Tesoros, which
12 had \$180,000 security, they both requested that the
13 security not be forfeited. They were scheduled to begin
14 simulcasting on January 1 of this year. Now, they didn't
15 ask to go to the Commission and have this reviewed. They
16 only had staff review it. Staff did review it. We did
17 some checking on whether or not their explanations were
18 valid and supported. We were unable to validate that, and
19 so the staff did take the security in both of those
20 racetrack instances.

21 CHAIRMAN PABLOS: Any other questions?

22 COMMISSIONER EDERER: So just for clarification.
23 We can do what, Mark?

24 MR. FENNER: Well, you could do a number of
25 things. You could make a decision yourself as to whether

1 or not there has been -- whether or not there has been a
2 delay in performing was caused by conditions beyond the
3 association's control. You could say either yes or no and
4 resolve the matter today. Or you could say, staff, we
5 would like for you to go back and investigate and report
6 back to us as to whether or not this meets that criteria
7 and have us make the decision for the Commission. Or you
8 could say, staff, this is your call, go investigate and
9 find out what you decide and let us know what you decide.

10 COMMISSIONER EDERER: And you said we had a
11 number of things that we could do.

12 MR. FENNER: Those are three things.

13 COMMISSIONER EDERER: Okay.

14 CHAIRMAN PABLOS: Okay. Any other questions?
15 Okay. Mark, thank you very much.

16 So at this time we are being asked to defer
17 consideration until February. We've learned that the
18 license holder is negotiating with a government entity.
19 We've got letters showing that, but our staff hasn't been
20 asked to look into this. Let me go ahead and before we
21 begin discussion, let me go ahead and ask for a motion.

22 And the motion would be to defer consideration of
23 this security until the February Commission Meeting, and
24 also to direct staff to investigate and report whether
25 Laredo Race Park's delay in performing was caused by

1 conditions that are beyond its control.

2 COMMISSIONER EDERER: So moved.

3 CHAIRMAN PABLOS: I have a motion by Ederer. Is
4 there a second?

5 COMMISSIONER WEINBERG: Second.

6 CHAIRMAN PABLOS: Seconded by Commissioner
7 Weinberg. Open it up for discussion. Anyone have any
8 thoughts on this?

9 VICE-CHAIRMAN CARTER: Could I get
10 clarification. So in that process, they would have to
11 start working with staff immediately to document their
12 position and we will make a final decision in February?

13 CHAIRMAN PABLOS: That's correct. Well, they
14 have been working with staff in providing the
15 documentation. The only thing we haven't asked staff to
16 do is to physically go down in Laredo and hold meetings
17 with a Webb county judge, look at the land, and basically
18 as Ronald Reagan would say, trust but verify what is being
19 said.

20 And in order for that to take place, we would
21 have to defer until February, hear from staff as to what
22 their findings are. This would allow the license holder
23 the time they need to continue and complete their
24 negotiations on the piece of land. But by that February
25 date, making sure that the license holder -- I understand

1 that the Commission will expect or will have certain
2 expectations of them at that time. I've seen letters from
3 the county judge where it shows that they're moving
4 towards the right direction. You know, I'm of the opinion
5 that, you know, in this environment we need to reward this
6 good-faith effort. We're asking inactive license holders
7 to move quickly towards live racing, and certainly here is
8 a situation where they've proven that they're going in
9 that direction. So that's the thought process. Are there
10 any other comments, discussion?

11 COMMISSIONER EDERER: I believe with what you've
12 said, I believe that Ms. Young has demonstrated in the
13 past six months, at least, that they are trying to move
14 forward and they are dealing with a government entity down
15 in Laredo, and of course we know that's difficult. If
16 this would have come up a year ago I would have had a
17 different attitude. I think in the past six months, and
18 even more than that they have demonstrated a positive
19 attitude. I agree with the Chair.

20 CHAIRMAN PABLOS: The fact we're not waiving our
21 ability to draw down makes me feel much better. We can
22 always do that in February if we believe that, one, the
23 findings are not what they said they were; and, two, if
24 there's really no further movement from the licenser. Any
25 other comments? Charla Ann.

1 MS. KING: Mr. Chairman, if I may add just one
2 point, so we can see fully what would occur in February.
3 If the staff determines in their review that it was beyond
4 their control, an amendment to the security order would
5 need to occur. That is what would come before you is an
6 actual amendment to the security order, and that would
7 need to be worked out in advance as well.

8 CHAIRMAN PABLOS: Again, at that time we would
9 certainly expect a report from the license holder as to
10 their progress. But I must tell you from a personal
11 perspective, I'm very encouraged to see an inactive
12 license holder make everything possible to get moving on
13 what we've requested. So I thank you for that. Any other
14 comments?

15 COMMISSIONER CLOWE: My only comment, I agree
16 with your motion. I see no reason to postpone until
17 February. I think it's important to the Commission that
18 Laredo Race Park is consistent with Laredo Downs.

19 CHAIRMAN PABLOS: I think in this situation we
20 have a license holder who has actually demonstrated good-
21 faith efforts. In my opinion, the other license holder
22 really didn't reach this point.

23 MS. KING: Mr. Chairman, one more thing I think
24 that is important for us to get on the record is for us to
25 all be aware of the importance of the revenue that comes

1 from those security bonds and where it goes. And I know
2 that both the TTA and the TQHA are prepared to speak about
3 what they're doing with the funds that they have received,
4 because they are important. As well as we know the tax
5 revenue is important. But that's something we're all
6 keeping in mind, so that everyone understands how
7 seriously we take the forfeiture of the bonds and the
8 consistency issue as well.

9 CHAIRMAN PABLOS: Well, it's a balancing act.
10 And, again, that money is there. And we can draw down on
11 it as early as February if this body doesn't feel that
12 it's merited for an amendment. Okay. Any other comments
13 or questions? Okay. At this time I would like to take
14 this up for a vote. All those in favor please signify by
15 saying aye.

16 COMMISSIONERS: Aye.

17 CHAIRMAN PABLOS: Any opposed? Okay. That
18 motion carries, thank you.

19 The next item is Item E, request by Trinity
20 Meadows Raceway, L.P., to open an application period for a
21 Class 2 license in Parker County under Rule 309.3(b). At
22 this time I would like to recognize Mark Fenner, please.

23 MR. FENNER: Commissioners, I would like to just
24 give you an overview of what this process at Trinity
25 Meadows request is about. What they have done is ask you

1 to open what is called an application period for racetrack
2 licenses. People can't just send in an application form
3 without, you know, a formal opportunity by the Commission
4 being made to have a racetrack license being granted to
5 them.

6 The Commission actually has to say we are now
7 accepting applications for racing licenses in a specific
8 geographic area. And you have to specify what class of
9 racetrack license you are accepting applications for.
10 That's exactly what Trinity Meadows is requesting that you
11 do, is entertain applications. If you do this, it's not
12 going to be limited necessarily to just one application.
13 It's a notice to the business community that we're
14 entertaining applications for many people, and then we'll
15 make a decision after reviewing the applications and DPS
16 does the background check as to whether you qualify and
17 whether you should be granted a racing license.

18 Now, when you are making the determination as to
19 whether or not you're going to open an application period,
20 the rule says a number of factors that you shall
21 consider. And these include the availability of racing
22 and wagering opportunities in the proposed geographic
23 region. Also consider the availability of competitive
24 race animals for the class of racetrack, and shall
25 consider the workload and budget status of the

1 Commission.

2 Now, it doesn't say that these are the only
3 factors that you shall consider or that you may consider.
4 These are factors that you shall consider. But it's not a
5 limiting thing. You are able to consider other factors
6 and you may elect to do so. Do you have any questions
7 about that process? That's all I really wanted to make
8 sure everybody understood at this point.

9 CHAIRMAN PABLOS: Thank you, Mark. Signed up to
10 speak, I have Mr. David Freeman on behalf of Trinity
11 Meadows. Good afternoon.

12 MR. FREEMAN: Good afternoon. Mr. Chairman,
13 members of the Commission, thank you for allowing us the
14 opportunity to address you today with our request to open
15 a Class 2 pari-mutuel license application period for
16 Parker County. My name is Dave Freeman. I'm the managing
17 general partner for Trinity Meadows Raceway, L.P. In your
18 agenda packages I submitted written documentation of a
19 couple of the criteria that the Commission; that is, the
20 availability of race and wagering opportunities and in the
21 proposed geographic region and the availability of
22 competitive racehorses for the class of license we have
23 sought.

24 I can go into detail or if you would prefer and
25 if you would prefer to make this a little quicker, I don't

1 have to. But I think that our demonstration by what we've
2 provided with the background information supported by the
3 American Quarter Horse Association statistics, as well as
4 Texas Racing Commission statistics has shored up our
5 argument that there is an availability of racing and
6 wagering opportunities in the geographical region. And
7 that there is an availability of competitive racehorses
8 for the class of license being sought.

9 If you have any questions on those particular
10 items, I would be glad to go through them. If not, I
11 understand the situation. We're very sensitive to the
12 situation this Commission is in with the number of
13 inactive licenses. Should you open an application for
14 another one, very simply, the request for an application
15 period that Trinity Meadows is asking you to open is
16 unique. It's unlike any that has been brought to you
17 before. Very simply, Trinity Meadows has a facility that
18 has already been built. Trinity Meadows has a facility
19 that has already conducted, successfully conducted pari-
20 mutuel racing in the past.

21 We're not submitting architectural drawings or
22 renderings. We're not choosing -- I brought the picture
23 book out for everyone, if there is any doubt that we have
24 a racetrack, it is there. These pictures may have a
25 little date on them, but they fairly represent what

1 Trinity Meadows is today. The racing oval is still
2 there. We have horses in training in the barn area that
3 are using that racing oval. We do have -- the interior of
4 the grandstand is remarkably well-kept for the number of
5 years that racetrack has not been opened. I was actually
6 stunned when I went to look at it. All the televisions
7 are still there, all the equipment, desks, chairs, filing
8 cabinets, pencils, pens.

9 When you start adding all that up and you're
10 thinking about opening up a business, those are some
11 costly items sometimes you don't allow for that are
12 already in existence at Trinity Meadows. We do have
13 just -- it was a wonderful facility, and I don't know if
14 any of you attended Trinity Meadows and went to it while
15 it was open, by all accounts people loved the area. They
16 liked the atmosphere and it was successful. We believe
17 that even in today's market it can be again.

18 One of the things, again, that makes our request
19 I believe different is that Trinity Meadows is owned free
20 and clear. There is no debt on the racetrack. That
21 allows Trinity to dedicate its resources to renovating the
22 racetrack, to doing the things that are necessary to make
23 it a first-class racing and simulcasting facility at a
24 fraction of the cost and at a fraction of the time if we
25 were to be building a racetrack from scratch.

1 Frankly, and I'll be very candid, if we had to do
2 what is there today we wouldn't be before you. We think
3 this is very, very important. I can't stress it enough
4 that the facility is there and we have the resources to go
5 ahead and get the facility open if you open an application
6 period and award a license to Trinity Meadows.

7 Secondly, our location. The nice thing about the
8 facility being where it is, we are not going to try and
9 drag it anywhere. The land is paid for, we're staying
10 there. We are located 42 miles west of Lone Star Park in
11 Grand Prairie. We believe that there may be -- when
12 discussing race and wagering opportunities, perhaps the
13 Western part of Tarrant and the surrounding communities,
14 they may be underserved. We're hopeful that people who
15 may not be attending Lone Star Park will come to Trinity
16 Meadows. We certainly don't want to do anything -- we
17 really don't want to do anything that would be harmful to
18 the prospects of Lone Star Park maintaining or getting
19 better with its facility and wagering levels. We think we
20 can actually compliment the wagering opportunities in the
21 area.

22 As importantly, our goal, and it's been no
23 secret, I haven't tried to kid anybody, our goal is to get
24 live racing back to Trinity Meadows. I've heard it said
25 and said at a Rules Committee meeting you have to be crazy

1 to open a racetrack in this day and age. Perhaps, but we
2 believe given the business plan, especially given the
3 light of what the economic downturn has been, it's made us
4 adjust our business plan. Some of the things we want to
5 do, but not drastically. Again, because we have a paid
6 for, debt-free facility that we want to bring live racing
7 back.

8 There is a reduction in race days that's
9 occurring, and we believe that we can really help the --
10 we're not being just benefactors here, we believe we can
11 certainly contribute to live racing dates, to the
12 breeders, to purse levels, and do that in a timely
13 fashion. Again, though concerned, whether we open or
14 whether we'll build our facility, it's there. We have,
15 and without going into too great a detail, I have
16 attempted to have discussions with the current owners of
17 Lone Star Park. And also recently with the proposed
18 purchasers of the license of Lone Star Park how to work in
19 a cooperative effort to ensure that Lone Star Park is
20 successful. Trinity Meadows is successful. And find out
21 if there are ways that we can cooperatively market, use
22 each other's employees of pari-mutuel facilities, use
23 their printing facilities, a lot of things that I believe
24 that Trinity and Lone Star can accomplish together.

25 Nothing has come of it, quite frankly, with the

1 bankruptcy in place. They can't go into any agreements or
2 anything, but I'm hopeful and I want you to understand
3 that we have extended our hand in trying to ensure that
4 the race track in North Texas is not affected negatively.

5 Finally, again, we are very, very sensitive to
6 the issue of the inactive licensees. We have great
7 sympathy for them. I think everything is done in good
8 faith, but it's hard to get money, it's hard to do those
9 things. We have that sympathy for them, but we're hopeful
10 that you'll look at Trinity Meadows as a stand-alone type
11 of application. That has a facility. That has the
12 financial resources that can go forward. We would like to
13 be a part of the pari-mutuel scene. That is our first and
14 foremost goal, is pari-mutuel wagering and racing. If you
15 have any questions, I hope you have questions and I'll be
16 glad to answer them.

17 If not, I'm hopeful that you will agree that it
18 will be in the best interest of pari-mutuel wagering and
19 the horse racing industry and economic development of the
20 Parker County area and to open an application. Thank
21 you.

22 CHAIRMAN PABLOS: Thank you. Commissioners, are
23 there any questions of Mr. Freeman?

24 VICE-CHAIRMAN CARTER: I have a couple.

25 CHAIRMAN PABLOS: Dr. Carter, please.

1 VICE-CHAIRMAN CARTER: When were these
2 photographs taken?

3 MR. FREEMAN: About 12 years ago.

4 VICE-CHAIRMAN CARTER: When was the track closed?

5 MR. FREEMAN: The track closed in 1997.

6 VICE-CHAIRMAN CARTER: And why did the track
7 close?

8 MR. FREEMAN: There were a couple of reasons.
9 The most -- the biggest reason, as I understand it, is
10 that the partners, the Texas partners and the Ohio
11 partners who owned Trinity Meadows, after so many years of
12 a contractual agreement decided they didn't like their
13 contractual agreement. At the end of the agreement,
14 frankly, the Texas partners felt that the Ohio partners
15 were taking all the concession money out, all the gravy,
16 and they wanted part of it. They could not reach an
17 agreement, therefore they did not sign a contract to
18 extend their partnership and also didn't sign any
19 documents that would keep the cash flow going for the
20 racetrack.

21 I think part of that was they just were tired of
22 each other, frankly. They were making money, but looking
23 at the impact that Lone Star Park was going to have on
24 them and that they couldn't get along. They said we are
25 not going to stay in business anymore, and declared

1 bankruptcy.

2 VICE-CHAIRMAN CARTER: And the license was
3 rescinded under what circumstances?

4 MR. FREEMAN: At that time, as I recall, there
5 was an order issued to Trinity Meadows saying that here
6 are the things if you want to reopen that you have to do.
7 You have to pay the state what you owe it; you have to pay
8 the veterinary laboratory what it is owed; you have to
9 make the purse accounts whole; and you have to
10 recapitalize; turn in a management plan. And all of those
11 things were to happen by a certain -- by a date certain.
12 If they didn't, they would voluntarily surrender their
13 license.

14 Accordingly, those things didn't happen, and I
15 believe the Commission took action to take that license.

16 VICE-CHAIRMAN CARTER: Thank you.

17 MR. FREEMAN: That's the short answer.

18 CHAIRMAN PABLOS: Commissioner Weinberg.

19 COMMISSIONER WEINBERG: That was the main crux of
20 my questioning also, but just a little bit more. That was
21 another ownership. Has it just sat there? Who has owned
22 it, give me a little bit of history since 1997, and who
23 owns it now?

24 MR. FREEMAN: To my knowledge, a group came in
25 that was comprised of a few people, but after that

1 Mr. James R. Dunigan purchased the facility and is the
2 current owner of Trinity Meadows. Mr. Dunigan I think has
3 attempted I think in the past through different
4 applications through Squaw Creek or something attempted to
5 get a license but was unsuccessful. So we've come back
6 with a new business plan. He is the sole owner at this
7 point in time.

8 And the ownership structure is it's going to be
9 right now is it is a limited partnership. There is a
10 general partner, that is me, I will be the registered
11 agent, the person that you would call on your staff to
12 make sure things are done properly. I own 9.9%. The
13 Trinity Meadows Trust owns 90.9 -- 90.1%. That trust is
14 actually an irrevocable trust agreement with a trustee,
15 and Mr. Dunigan being a trustor.

16 VICE-CHAIRMAN CARTER: One more question. You
17 mentioned Squaw Creek. Is the application under the same
18 ownership?

19 MR. FREEMAN: No, sir.

20 VICE-CHAIRMAN CARTER: Different ownership?

21 MR. FREEMAN: Yes, sir.

22 VICE-CHAIRMAN CARTER: You said there had been a
23 change in business plans since that time, a substantial
24 change?

25 MR. FREEMAN: I would sure hope so. Because I

1 don't recall it, but it certainly isn't one that we're
2 putting forth. The business climate has changed so much,
3 the business plan has to be I think just to the penny,
4 well-thought out. It has to -- the main thing is, as you
5 are business people you very well know, you don't open for
6 business just day to day and see what happens. You have
7 to do things that will happen three to six, nine months
8 ahead, and you prepare it.

9 I don't know if they did or not, but I know that
10 our business plan will.

11 COMMISSIONER EDERER: How long have you been
12 involved in the company?

13 MR. FREEMAN: With Trinity Meadows? For the past
14 two years.

15 COMMISSIONER EDERER: The past two years?

16 MR. FREEMAN: Yes.

17 COMMISSIONER EDERER: What have you been doing
18 for the past two years?

19 MR. FREEMAN: Working with trying to get support
20 for an application to be made to reopen Trinity Meadows.

21 COMMISSIONER EDERER: If this application was
22 let's say it happened, how long would it take you to get
23 Trinity Meadows functioning?

24 MR. FREEMAN: It would --

25 COMMISSIONER EDERER: I don't mean pari-mutuel

1 and the machine, I'm talking about the racetrack?

2 MR. FREEMAN: The racing facility itself?

3 COMMISSIONER EDERER: Yes.

4 MR. FREEMAN: It would be 2011, Commissioner
5 Ederer. The rules require that the racing will be seven
6 furlongs. So we would have to expand the racing oval.
7 That does take time. The paddock jockey test barn would
8 have to be replaced. The fire burned down the jockey
9 quarters in that area. That would have to be replaced.
10 So live racing would not be conducted until 2011.

11 COMMISSIONER EDERER: Do you have any estimate as
12 to the cost?

13 MR. FREEMAN: We believe it is going to cost us
14 about \$3.5 million to bring the facility to just to the
15 point of being able to have a first-class simulcasting
16 facility available in short order. The balance is going
17 to be roughly under \$2.5 to \$3 million to expand the oval
18 and rebuild and replace. So we estimate overall phasing
19 things in our simulcast \$6 to \$7 million over the next two
20 years.

21 COMMISSIONER EDERER: And you have the ability to
22 do that?

23 MR. FREEMAN: The Dunigan family trust.

24 COMMISSIONER EDERER: Is that with or without
25 simulcast?

1 MR. FREEMAN: I'm not clear.

2 COMMISSIONER EDERER: Well, I mean, if all of a
3 sudden the license is approved and you could start running
4 the simulcast, are you planning on that? Can you pay for
5 it?

6 MR. FREEMAN: Absolutely. We are not dependant
7 on the proceeds on simulcast to open a simulcast. We have
8 the family trust. The trust has sufficient access to
9 assets to pay for the immediate improvements to the
10 facility.

11 COMMISSIONER EDERER: As far as Lone Star is
12 concerned, you say you've really had some dialogue but
13 there's been no agreements whatsoever. I know they can't
14 make any agreements because they're in bankruptcy. Has
15 that been a positive dialog?

16 MR. FREEMAN: In my estimation it has.

17 COMMISSIONER EDERER: What about the horsemen?

18 MR. FREEMAN: I've had discussions with the
19 horsemen. I believe I have been very consistent with all
20 of them. I have not asked the Thoroughbred breeders, the
21 Quarter Horse breeders, to support our application. I
22 asked them if they would please support our request to be
23 on the agenda for the Commission to determine whether to
24 open the application period. I have asked no one to
25 support our application, because they haven't seen it.

1 And until we have the opportunity to prepare an
2 application, then I thought it was, frankly, it was
3 premature to sit down and determine how many race dates
4 would be best served and during what time to depend on the
5 Thoroughbred breeders and owners and trainers, Quarter
6 Horse owners and trainers to determine with us the
7 availability of which breeds would be available when.

8 So my discussions with them, I'm not very good at
9 pandering. I've been very candid with them. I have not
10 asked for their support, nor your support for the
11 application today until you've had an opportunity, the
12 Department of Public Safety has had an opportunity, other
13 racetrack licensees, the horse people, the Community of
14 Willow Park and other interested parties to look at that
15 application and decide if they feel that they can support
16 it. I simply, in all candor, am just asking that we be
17 allowed to let the process proceed.

18 CHAIRMAN PABLOS: Any other questions?

19 MR. FREEMAN: I'm sorry, did I answer your
20 question?

21 COMMISSIONER EDERER: Yes, you did. One of the
22 questions, are the horses going to be available to support
23 the facility if it was opened? And it appears to me all
24 the statistics that we get every other month, they're
25 showing that that support will not be there. Taking the

1 current status of racing in the State of Texas.

2 MR. FREEMAN: Yes, sir. And addressing -- and I
3 tried to address what the rules called for, and that is to
4 the availability of racing and wagering opportunities, and
5 then the availability of racing competitive race animals
6 for the class of license being sought. And that's why I
7 was trying to make that distinction, that both Gillespie
8 County Class 3 racetrack and Manor Downs racetrack is
9 Class 2. Their average field size is larger than the
10 Class 1 racetrack, albeit not much, but it is larger.

11 We focused on trying to optimize the time of
12 year. I believe horse racing or the availability of
13 horses I think I can stand here and say, oh, there will be
14 plenty. But I'm not going to do that. The horse people I
15 think are the ones who will tell us or can tell us in
16 2011, we'll either have horses or we will not. I'm
17 hopeful through the next couple of years, year and a half,
18 or whatever it is before we are open for live racing, that
19 we will have been able to simulcast long enough to make a
20 purse schedule that is good enough that -- where the money
21 is, people will generally take the horses.

22 We're hopeful that given our projections on what
23 the wagering levels will be on a daily basis in
24 simulcasting, that we can put together and we will have
25 enough money and therefore draw the horses. I can't

1 guarantee you that and say there will be 10 horses, I
2 won't do that today.

3 I think once we have the ability to get into the
4 application and have those meetings with the various
5 breeds, how to best utilize the horses that are available
6 and then that will be.

7 COMMISSIONER EDERER: I think that all of us want
8 to encourage racing and all of us want to encourage nice
9 facilities for the horses to run at. But what we're not
10 interested in building a gambling casino. And we're not
11 interested in doing that and racing goes by the wayside.
12 I mean, if they were combined that would be one thing, but
13 that's not what we're here for. And that, of course, is
14 not available at this point in time. But we're not
15 interested in putting and approving a facility that can
16 just sit there, and like I said, have gambling rather than
17 seriously going towards racing. I just don't know. It
18 just seems to me this may be a little premature right now.

19 MR. FREEMAN: Commissioner Ederer, I understand.
20 I really do. And I absolutely appreciate what you're
21 saying. You have no reason to believe me. I'm hopeful
22 that you have no reason not to believe me. But my
23 granddad ran horses. He owned and trained Thoroughbreds.
24 He never had a good one. And my dad, that's all he ever
25 did was the racing business, and for the most part that's

1 all I've done. I love horse racing. I like Greyhound
2 races.

3 COMMISSIONER EDERER: I don't want to discourage
4 you and I don't want to discourage Trinity Meadows. I'm
5 not so sure the timing is right now. I just have a feel
6 for that.

7 CHAIRMAN PABLOS: Are there any other questions
8 or comments, Commissioners? Okay. Don't go too far, I've
9 got people signed up to speak. And if we have any further
10 questions we'll call you up.

11 MR. FREEMAN: Thank you very much.

12 CHAIRMAN PABLOS: Rob Werstler, you have signed
13 up to speak, do you wish to come up?

14 MR. WERSTLER: Good afternoon, Mr. Chairman,
15 Commissioners. My name is Rob Werstler. I'm Executive
16 Director for the Texas Quarter Horse Association. As I
17 stated in my letter, I'm here to support Trinity Meadows'
18 request to open a Class 2 license application period for
19 Parker County. And other than that, I'm here to entertain
20 any questions you might have for me representing the
21 Quarter Horse breeders from Texas.

22 CHAIRMAN PABLOS: Commissioners, are there any
23 questions? Dr. Schmidt.

24 COMMISSIONER SCHMIDT: I just have one question
25 of a broader nature. You represent the Quarter Horse

1 Association. Help me a little bit. We heard testimony
2 earlier or comments earlier that actually the Quarter
3 Horse meet at Lone Star was down a couple of digits. This
4 trend has continued five years, and actually had to reduce
5 the number of races in order to support the purses which
6 are available.

7 I guess my question to you is what do you and the
8 horsemen really need in this state? Do you need larger
9 purses hopefully supported by VLTs and Internet gambling,
10 or do you need more races? It seems to me the purse issue
11 is the key issue, larger purses and fewer races; am I
12 thinking incorrectly?

13 MR. WERSTLER: You are thinking correctly. It
14 depends on the breed as well. Quarter Horses have
15 historically run for smaller purses, and they really do
16 need more racing opportunities. Thoroughbreds, obviously,
17 have to have a certain purse level to attract the better
18 horses to be competitive, to keep their signals strong.
19 But Quarter Horses, we need higher purses as well. One of
20 the -- this almost seems like a catch-22 when I am sitting
21 back there listening to Commissioner Ederer.

22 Because the criteria that you have to use to make
23 your decision is availability of racing horses.
24 Racehorses. Well, if you don't know how many races he
25 plans to run, Trinity Meadows plans to run, what their

1 purse structure will be, how many race days; when they're
2 going to race; what time of year they're going to race.
3 Those are all criteria that will tell you whether or not
4 they will have enough racing animals available.

5 However, if you look at what's going on in Texas
6 now, our three Class 1 racetracks and Manor Downs have
7 each year come before you and requested fewer race days.
8 So do we have a need for more racing opportunities,
9 absolutely. And you're absolutely right, it would be
10 ludicrous to add a bunch of races if you didn't have the
11 purse structure to race. I have some statistics. You
12 know, ours are basically what you looked at racing Quarter
13 Horses were down across the board. But I would like to
14 point out something I got from Louisiana Quarter Horse
15 Breeders Association, and their numbers are staggering.

16 Accredited -- now, this is over a 10-year period,
17 so from '99 through 2008. Accredited Louisiana-bred
18 Quarter Horse foals is up 170%. Out-of-state mares
19 boarded in Louisiana to obtain accredited Louisiana-bred
20 Quarter Horse foals is up 516%. Mares bred to stallions
21 standing in Louisiana is up 147%. They were all over from
22 147 to 500% increases.

23 Those horses, the majority of them are from
24 Texas. They've moved because why? They have higher
25 purses and they have better breeding funds. Breeder

1 awards, stallion awards, owner awards. So they're leaving
2 Texas. Oklahoma now has VLTs, so they are supplementing
3 their purses. Louisiana has them, they're supplementing
4 their purses. I looked at some numbers from New Mexico a
5 few years ago, they even put out a really nice brochure
6 and put in the brochure the amount of the percentage of
7 horses indigenous that has come from Texas to New Mexico.
8 The one thing missing for us is a way to supplement our
9 purses.

10 But to get back to Trinity Meadows. Yes, they're
11 going to need to find a way to augment their purses.
12 Because if they can't, they can't attract the horses. Are
13 the horses out there, absolutely. Do we need more racing
14 opportunities, absolutely. Can they raise enough purses
15 to attract those horses, I don't know.

16 CHAIRMAN PABLOS: Okay. Any other questions?

17 Thank you.

18 MR. WERSTLER: Thank you.

19 CHAIRMAN PABLOS: Appreciate it. David Hooper,
20 Texas Thoroughbred Association.

21 MR. HOOPER: Mr. Chairman, members of the
22 Commission. Once again, I'm David Hooper, Executive
23 Director of the Texas Thoroughbred Association. There are
24 two letters from TTA in your agenda packet. And I
25 understand that the letter from the Texas Quarter Horse

1 Association dated September 1st has been distributed to
2 you. And it wasn't in the agenda packet, but that was the
3 letter Rob referred to where TQHA was in support of
4 Trinity Meadows to open a Class 2 license for Parker
5 County.

6 We have slightly modified our position, relative
7 to we are supportive of the opening of the application
8 period, but we're hinging it on behind, so to speak, the
9 Texas Quarter Horse Association. I stated this in a
10 letter that is dated today that was hand-delivered to your
11 executive director with copies and distributed to you. We
12 learned in reviewing the agenda packet and also upon
13 seeing the September 1st letter from Rob Werstler on
14 behalf of TQHA, that the plans call for this Trinity
15 Meadows basically to rely on Quarter Horse racing with
16 some Thoroughbred racing. And that's fine, that's fine
17 with us.

18 That's a similar mixed format as presently exists
19 with Class 2 racing in Manor Downs and Class 3 racing at
20 Gillespie County Fair. There is a need for a second level
21 of Texas Thoroughbred -- Texas-bred Thoroughbreds for an
22 opportunity to race more than just 18 or 14 days at Manor
23 Downs and eight days at Gillespie County Fair. And a lot
24 of those horses end up migrating to the Retama Park meet,
25 but they have difficulty at Sam Houston Race Park. And

1 they have difficulty competing at Lone Star Park.
2 Therefore, there is an additional need for racing
3 opportunities for some of these second-level Texas
4 Thoroughbreds.

5 Obviously, our support of any future license
6 applications from Trinity Meadows will be contingent on
7 many factors, several of which Rob has just got through
8 testifying to. We're especially concerned about the
9 impact on live and simulcast pari-mutuel handle at Lone
10 Star Park, and we want to do a good analysis of that. We
11 would hope that, and Dave Freeman spoke to this, that
12 there could be some kind of agreement between Trinity
13 Meadows and Lone Star Park. Whatever that agreement might
14 incorporate in the way of provisions, but hopefully there
15 would be possibly some revenue stream because of impact
16 that Trinity could have on Lone Star that would help
17 offset that impact and have a revenue stream flowing to
18 the Class 1 track in the Dallas/Fort Worth metroplex. I
19 would be pleased to answer any questions.

20 CHAIRMAN PABLOS: Any questions, Commissioners?

21 Mark, I have a few questions, please.

22 MR. FENNER: Yes, sir.

23 CHAIRMAN PABLOS: We talked about the three
24 requirements or the three-item criteria we need to look
25 at. I understand staff has done an analysis of these

1 items?

2 MR. FENNER: Yes, sir.

3 CHAIRMAN PABLOS: Are you prepared to go over the
4 analysis?

5 MR. FENNER: No, sir.

6 CHAIRMAN PABLOS: Would Sammy be the right person
7 for that or Charla Ann?

8 MS. KING: Sammy.

9 CHAIRMAN PABLOS: Sammy, we're being asked to
10 take a look at the availability of wagering racing
11 opportunities, you know, with respect to the agency itself
12 and our ability to handle this. Can you walk us through
13 your analysis of this, please.

14 MR. JACKSON: I would be happy to do so,
15 Mr. Chairman. Underneath 309.3(b)(5), it lists out those
16 three factors that you're to consider. The first, the
17 availability of racing and wagering opportunities in the
18 posed geographical region. In my analysis, I think I
19 spelled out for you, I think those are almost two separate
20 factors in this era of pari-mutuel racing and wagering in
21 2009. And I would like to talk about the racing
22 opportunity first.

23 CHAIRMAN PABLOS: Please.

24 MR. JACKSON: In the briefing document I had
25 prepared for you, I actually did a geographical radius

1 chart, because it doesn't define a mileage of what the
2 geographic location is. It just says geographic location,
3 and leaves that to the individual to somewhat interpret.
4 I took, and basically drew from a radius from the proposed
5 facility site and initially went 150 miles. And if you
6 did that, you would have one pari-mutuel facility that
7 falls within that radius of location, and that's Lone Star
8 Park. And it's I think approximately 49.1 miles, give or
9 take, from the proposed location.

10 They have granted to them, and I tried to look at
11 2010 dates. At this time they have 29 Quarter Horse dates
12 approved for 2010. I think they have an additional 60
13 Thoroughbred days. So from a racing opportunity and 150
14 mile radius, that's what you have. You have 29 live
15 Quarter Horse days, 60 Thoroughbred days. You're looking
16 at a 365-day-calendar year. If you moved out another 100
17 miles, increase that radius to 250 miles, you would add an
18 additional three facilities. You would add in Manor Downs
19 in Manor, Texas; Remington Park, in Oklahoma City,
20 Oklahoma; and Gillespie County Fair in Fredericksburg,
21 Texas. They would range 207.5 miles, 231.6 miles, and 240
22 miles, respectively, from the location of the proposed
23 facility.

24 Between those three facilities, focusing in on
25 Quarter Horse now, you would add an additional 22 days of

1 mixed racing at Manor and Gillespie, and an additional 50
2 days of Quarter Horse racing. So within the 250 mile
3 radius we're up to about 101 days of live racing in a
4 365-day-calendar year. If you move out another 100 miles,
5 you go to 350 miles, add in another five facilities.

6 We'll add Louisiana Downs in Bossier City,
7 Louisiana; we'll add Retama Park, Selma, Texas; Sam
8 Houston Race Park in Houston, Texas; Fair Meadows in
9 Tulsa, Oklahoma; and Saddle Brook Park, who you're going
10 to hear a little later and give an update on their
11 facility. You heard Mr. Freeman talk about 2011 is when
12 they can run, that is when they had requested race dates.
13 So I put them in here. If you expanded out to 350, these
14 facilities come on board. And with that focusing on the
15 Quarter Horse dates, you increase the Quarter Horse
16 opportunities about 220 days of racing in a 365-day-
17 calendar year.

18 I went ahead and added another 100 miles to this
19 radius, went out to 450 miles. If you do that, you add in
20 Oaklawn Park in Hot Springs, Arkansas, who runs no Quarter
21 Horse dates at all. They only run Thoroughbreds. You
22 will add Will Rogers Downs, in Claremore, Oklahoma; Zia
23 Park in Hobbs, New Mexico; and Delta Downs in Vinton,
24 Louisiana, my hometown. The furthest distance away was
25 387.6 miles. And by adding those additional tracks, you

1 would increase at that point in time to 373 Quarter Horse
2 days.

3 So you would have to go out 450 miles as a radius
4 to finally have enough facilities to cover Quarter Horse
5 racing in basically every day of the calendar year. So
6 I'm gonna not make a decision as to, or try to even
7 speculate, what are we going to call geographical region.
8 I wanted to give you that information. And this is why I
9 talked about this being different from the horse
10 perspective of live racing, the owner, the breeder, the
11 trainer, differently from the wagering aspect. It's
12 pretty I think obvious that horsemen are willing to travel
13 further, they have always had to have their animal enter
14 and participate in racing.

15 It's been common-practice talk at this Commission
16 meeting issuing race dates, what we call hauling horses or
17 people who do not stable back side of the track, they keep
18 them off site and they haul them back and forth between
19 the tracks. Even many stables position their business
20 strategically in a central point between racetracks so
21 they can take advantage of that. So that's quite common
22 in the horse industry for people to do that. So they are
23 almost expected, in many cases, to have to travel to get
24 their animal into wagering opportunities -- excuse me,
25 racing opportunities.

1 So setting that aside, I think it's realistic to
2 say, as you heard from Mr. Werstler, yes, there is a need
3 for more live racing opportunities. And I think that
4 bears out, depending on where you pick as the geographical
5 radius. Wagering opportunities though is a little
6 different.

7 If you look at it from a racing fan who only
8 wants to go out and see live racing, then it will parallel
9 what we just discussed. However, in this day and age, 80%
10 of the business or 82, somewhere around there, in this
11 state is wagering on simulcast racing. That means you can
12 show up at a facility and wager on the live races 100
13 miles away or 200 miles away, or wherever it is at this
14 location, and the dollars through that generates and funds
15 purses through the facility where you are at. At Lone
16 Star Park, within that additional radius 49 miles away,
17 you can wager approximately 364 days a year.

18 So in looking at that, I think the pari-mutuel
19 fan is given a lot more opportunity to wager in that
20 geographical area than the horsemen have to participate
21 and run their animal. However, saying that, I think
22 everyone knows that the convenience of location often
23 plays a great deal of role in the patron's frequency at a
24 facility where they wager. And we have heard testimony
25 before at this facility, advance-deposit wagering and how

1 that's impacted the wagering in this state because of not
2 having that many outlets and people can stay at home and
3 wager and that makes it more of an attraction.

4 So I'll bear out that's kind of where the
5 analysis went there, is that there was obviously
6 opportunities for the race animal. And that geographical
7 area is far more questions than that's a possibility.
8 Wagering opportunities, it depends on how you look at it.
9 364 days of simulcasting 49 miles away to 89 days of live
10 racing.

11 From the aspect of availability of the race
12 animals to participate, which was the second factor to
13 consider. I think Mr. Werstler pretty much articulated it
14 absolutely where I went in this. I think it's in
15 question. You know, those other criteria that he laid
16 out, how many days, what's the purse level. We are in a
17 position of being surrounded by states who have very high
18 money to pay out to attract horses.

19 He talked about all these huge increases in the
20 Quarter Horse industry in Louisiana. There's a reason for
21 that, and that's because the industry there in Louisiana
22 committed huge amounts of money to purses as well as the
23 breeding program for Quarter Horses, and then on top of
24 that restricted it to 75% of every dollar that went to
25 those programs must be spent on accredited Louisiana-bred

1 race animals. That's why Texas breeders have picked up
2 their stock and moved to Louisiana, is because they cannot
3 breed them here and run them there and participate for
4 that money. They must physically relocate their animals,
5 breed them there so that those foals that are born are
6 accredited Louisiana bred so they can participate in that
7 program.

8 So they reap the reward of the higher purses, the
9 breeder money, and they also reap the reward of running
10 the animal through the sales ring at a much higher value
11 because those animals are allowed to participate in those
12 lucrative levels. We cannot do that. So when you hear
13 the discussions, and I put into your briefing report
14 testimony given before us over the last couple of years of
15 our breeders reporting lower foal crops, double digit
16 lower foal crops repeatedly year after year after year.
17 Talking about loss of horses to our neighboring states
18 because of that, I think we have an issue. The question
19 then becomes can we attract those horses that has moved
20 out of state to come run here if we need them to make the
21 program. That will be dependent upon time of year and
22 purse money, just as Mr. Werstler said. So I think that's
23 somewhat in doubt at this point.

24 The other factor is workload and budget status of
25 the Commission. The staff workload will be dependant on

1 several factors, the most important will be the number of
2 applications submitted. This allows for open-ended number
3 of applications to be submitted during this period.

4 Obviously, the more applications submitted, exponentially
5 more work would be needed to be done by staff to review
6 those applications. We do not have a dedicated staff for
7 a racetrack application review. In the past we've pulled
8 from the field staff as well as the administrative staff
9 to formulate a team to do that.

10 You've heard announcement of retirement today.
11 Two of the people that retired were part of that team. So
12 we've lost a lot of the experience with that. Obviously
13 one of the solutions could be to contract for some of
14 this. We've cut back on staff because of the decline in
15 race dates and stuff, we would have to contract for some
16 help to do that. From a funding standpoint, the agency is
17 given a rider to cover additional expenses for this actual
18 scenario. So for each application that's given, we get an
19 additional \$75,000 in appropriation, of that the first
20 \$15,000 for the year we cover in our existing budget.
21 Everything after is an additional appropriation, and the
22 applicant must furnish us that money. Initially, the
23 first 75,000, and then any additional cost that exceeds
24 that they have to reimburse us for that as well.

25 So from a dollar standpoint we're covered in

1 that. That was kind of the analysis I did. I don't
2 know -- if there's anything else I can answer,
3 Mr. Chairman, I would be glad to do so.

4 CHAIRMAN PABLOS: Thank you, Sammy, you were very
5 thorough. I appreciate your analysis. Any technical
6 questions Sammy can clarify, technical questions,
7 Commissioners? Okay. Thank you very much.

8 Okay. So I think we've heard the testimony,
9 we've heard from the staff. Mark, from what I understand,
10 we have these three items we shall consider, but that
11 doesn't limit us to considering other aspects of the
12 racing industry, the agency, et cetera, correct?

13 MR. FENNER: Yes, sir.

14 CHAIRMAN PABLOS: Okay. For purposes of taking
15 now this item into a discussion phase, I'm going to
16 require or ask for a motion. And so at this time I'm
17 looking for a motion to open an application period for a
18 Class 2 horse racing license in Parker County under Rule
19 309.3(b). Do I have a motion? I'm not hearing a motion.

20 COMMISSIONER CLOWE: I have a motion,
21 Mr. Chairman.

22 CHAIRMAN PABLOS: Thank you, Commissioner Clowe.
23 Is there a second?

24 COMMISSIONER CLOWE: I'm not making that motion
25 that you called for. I have another motion.

1 CHAIRMAN PABLOS: Oh, I'm sorry. Commissioner
2 Clowe, please proceed with your proposed motion.

3 COMMISSIONER CLOWE: I move that the application
4 to the Commission, that this application be opened be
5 denied.

6 CHAIRMAN PABLOS: Okay. We have a motion to deny
7 the request. Is there a second?

8 COMMISSIONER SCHMIDT: I'll second that motion.

9 CHAIRMAN PABLOS: We have a second. So on the
10 table we have a motion to deny. Let's enter our
11 discussion. Is there any discussion?

12 COMMISSIONER CLOWE: I would like to make a
13 comment.

14 CHAIRMAN PABLOS: Yes, sir.

15 COMMISSIONER CLOWE: I am very respectful and
16 encouraging of the entrepreneurial spirit of these
17 individuals that have brought this request to us. This
18 kind of willingness to invest money in this industry and
19 in the economy of the State of Texas is I think what makes
20 this state what it is, and that's a great state. There's
21 higher risk here. I don't see the reward, but the
22 proposed investors obviously do. And as I say, I'm
23 respectful and appreciative of their effort and their
24 spirit.

25 On the other hand, as a member of this board, I

1 feel it is my responsibility to look at a number of
2 factors that exist in this industry at the present time.
3 In addition to the fact that the tracks that are operating
4 in this state today are not creating earnings and are not
5 creating an economic benefit to the industry or the state
6 in total, we have an issue of licenses that have been
7 issued that are not producing. And we have recently
8 granted race dates that hopefully in 2011 will bring about
9 racing, but that is yet to be determined.

10 This state is experiencing in its racing history
11 a period of a downturn that is certainly exacerbated by
12 the competition in the states around this state. We don't
13 have the expansion of gaming that has benefited the
14 industry in other states. And the principals in a number
15 of organizations that hold licenses have told me if they
16 don't get an expansion of gaming they're not going to
17 survive.

18 So I feel as a member of this board my
19 responsibility to execute the statutes and the rules of
20 this agency, and additionally look at the economic
21 conditions that exist in this state and the status of this
22 agency in regard to its budget and its staff. And thank
23 you, Sammy, for a very thoughtful and candid survey that
24 really is extremely well-done.

25 My responsibility is to vote against the opening

1 of this application. I hate to be -- if I am a
2 contrarian, but as a businessman it just doesn't make
3 sense to me to go in the direction that this application
4 would take this industry in at this time. I am concerned
5 about the simulcasting that's going to begin with the
6 license holders that we've granted live race dates to. I
7 don't think the people of this state want a bunch of
8 gambling halls opened up that don't have live racing. And
9 that won't benefit the industry either.

10 Thank you, Mr. Chairman.

11 CHAIRMAN PABLOS: Commissioner Clowe, thank you.
12 Any other comments?

13 COMMISSIONER EDERER: I agree with all the
14 comments from the Commissioner. I have a question for
15 counsel. This does not preclude Trinity Meadows from
16 coming back, you know, as the situation changes six months
17 and again try to get on the agenda for this type of
18 thing?

19 MR. FENNER: That's correct, sir, they can always
20 make another request.

21 COMMISSIONER EDERER: They can always make
22 another request if the situation changes in the State of
23 Texas. But at the present time it will be denied. Thank
24 you.

25 CHAIRMAN PABLOS: Any other comments?

1 Commissioner Clowe, I agree with your assessment. I think
2 the timing is not on your side, Mr. Freeman. I think the
3 timing is bad. I don't want to discourage you from coming
4 back, but I certainly agree with Commissioner Clowe's
5 position and comments and basis for making those
6 assertions. And so I will be supporting Commissioner
7 Clowe's motion to deny.

8 Is there any other discussion or comments?

9 Okay. Then let's take this for a vote. The motion is to
10 deny the request for opening an application period.

11 All those in favor, please signify by saying
12 aye.

13 COMMISSIONERS: Aye.

14 CHAIRMAN PABLOS: Any opposed? Okay. That
15 motion carries. Let's take a 10-minute break, please.
16 And we'll be back. We've been going for a while. Thank
17 you.

18 (A break was taken)

19 CHAIRMAN PABLOS: We'll begin again, Item IV,
20 reports on preparations to begin live racing report on
21 Austin Jockey Club. I would like to recognize Bryan
22 Brown, please, and Joe Archer.

23 MR. ARCHER: Good afternoon. My name is Joe
24 Archer. I am president of Austin Jockey Club, Austin
25 Racing Partners, Inc. For those of you who I don't know,

1 because I spent an awful lot of time up here a few years
2 ago. My partners and I are all basically horsemen. I was
3 the president of the Thoroughbred Breeders Association on
4 two occasions. I was on the board for 10 or so years.

5 Berry Madden was the president of the Texas
6 Quarter Horse Association for two terms and was on their
7 board. Joe Strauss, one of our partners, I'm sure most of
8 you know, Retama, and he's been a horseman long before
9 that.

10 Dr. Graham, who we can't tell you exactly how
11 long he's been in the business. He admits to about 50
12 years.

13 DR. GRAHAM: Got that right.

14 MR. ARCHER: And having said that, our intention
15 years ago when we started this was to move a track into
16 Austin, Texas, and have good, quality racing. Because our
17 interest was always in building a racetrack for horsemen
18 to run horses. Back in those days when we started all
19 this, there was very little talk about any other kind of
20 gambling. As this evolved and we went through two
21 different sites in Austin, and having dealt with the City
22 of Austin on multiple occasions and then having to deal
23 with the Pflugerville situation, we spent an awful lot of
24 money and had grown tired of carrying the oar or the load,
25 and we decided what we needed was a developer who did this

1 full-time and would take this to fruition.

2 So we entered into a deal with Dallas City
3 Limits. And we were enticed of this entertainment center
4 and this grandiose plan of having this wonderful track in
5 the Dallas City Limits. We went to Dalhart on more
6 occasions to meet with Chairman Dike Rogers and explain
7 all this situation, along with Billy Bob Barnett, who was
8 originally with Billy Bob's. I'm giving you more
9 information than you probably want. It is to set the
10 scene where we are today. You almost have to know these
11 things.

12 And we evolved through that four-year process
13 where they fought and fought and couldn't get their stuff
14 together. And continued to fight with the Commission in
15 spite of Mike Burleson and Paula Flowerday and me and
16 Berry and all of us telling them work through the
17 process. Get a site and let's build a track.

18 I tell you this not as an excuse for the Austin
19 Jockey Club, I tell you this because we're as frustrated
20 as you are. So having watched what happened at the
21 September 15th meeting, and I was present, as you recall.
22 I had no influence or no input, nor had I seen the
23 application that was filed before the Commission. Having
24 witnessed what Mr. Shamoun did in front of you, and having
25 heard him misrepresent his involvement to you when he said

1 in answer to I think your question have you been involved
2 -- how long have you been involved. And I think he said
3 one year.

4 And he's been involved for almost two and a half
5 years. And knowing what has happened, finally seeing the
6 Commissions' file and reading the letters that have come
7 from Dr. Alameel and Mr. Shamoun to the Commission, after
8 the September 15th meeting we did two things. First of
9 all, I asked for a clarification of the ruling from the
10 Commission because I was under the impression that it was
11 a little bit confusing about whether Dallas City Limits
12 would even be welcome again.

13 In response to that, I got a letter from Charla
14 Ann King, which I immediately forwarded on to Dallas City
15 Limits requesting that they comply with the mandates and
16 directives of the Commission.

17 On October 8th, prior to her letter, I had sent
18 under our contract a 30-day demand that you cure all
19 deficiencies, which I thought I was required to do on
20 behalf of my partners. The letter from Charla Ann King
21 said that we want you to be here on November 6th. We want
22 you to deliver items to us. And on November 12th we want
23 to have another meeting and go over those items.

24 As I say, I sent that on to Dallas City Limits.
25 The response that I got only came after the meeting that I

1 had with the Commission on behalf of Austin Jockey Club on
2 November 6th. We came here because immediately following
3 the meeting we had sought out and entered into relations
4 with -- we had several people we had talked to but we
5 chose a particular group for several reasons. I'll get
6 into in a few minutes so you can see where we are today.

7 We set out looking for a site, looking for a
8 developer, carrying this load ourselves with the idea that
9 we were going to separate ourselves from Dallas City
10 Limits once and for all. Having not heard a word from
11 them on November 6th in compliance with the executive
12 director, I came to Austin, Texas. Waited out here in the
13 parking lot until noon, which was the time that she gave
14 us. Until shortly before noon, checked back with my
15 office, found out they had called my office that morning
16 and asked for my fax number, Dallas City Limits. I said,
17 great, call me if you have anything they want me to
18 deliver to the Commission. I got no response. So at
19 11:15, whatever the entry shows in the book where you sign
20 in, myself and other members of this new group I'm going
21 to tell you about in a few minutes, came in to the
22 Commission staff's office and asked to meet with
23 Ms. King.

24 We brought with us a contract whereby the Austin
25 Jockey Club is entering into an agreement with this new

1 group. We brought with us a redlined version of several
2 attempts back and forth on a particular site and piece of
3 property in Travis County, Texas. We left that with the
4 Commission saying we'll be back on the 12th as you asked,
5 and we will have more for you. We expect to have a
6 finalized contract. We expect to have traffic studies
7 already instituted. We expect to be far down the road on
8 this.

9 On November 6th when I'm going back to Boerne to
10 play golf at Fair Oaks, I get a call saying I've been
11 enjoined. Actually, restrained. For the non-lawyers,
12 temporary restraining order and temporary injunction. So
13 not knowing what the restraining order even said and
14 having absolutely no notice, it took us a little while for
15 everybody, probably took us a week or so to even get a
16 grasp of what all this meant. So we had -- this was all
17 done ex parte, I might add.

18 So on November 20th, as you probably have already
19 learned in executive session, we went and we had a
20 hearing. It could have been much worse, because the
21 Austin Jockey Club was only enjoined, obviously, in the
22 future. We had already submitted this contract. We had
23 already entered into this relationship with a group called
24 Longhorn Downs Holding, Inc. We had already submitted
25 this contract to the Racing Commission, and that group is

1 not enjoined, nor is Austin Jockey Club from representing
2 itself.

3 So with that in mind, we have continued with
4 exactly what we've been doing. We expect to have within
5 this week, at the very latest next week, the final
6 absolute contract, the Austin contract on the land, the
7 specific site. I would be happy to tell you. I would
8 rather not tell you until it's signed, but I will be happy
9 to tell you if you really want me to the exact site. We
10 expect -- we have already authorized traffic studies to
11 begin.

12 Now, let me say a word about the group. The
13 group is headed by a man named Cliff Thomas. Mr. Thomas
14 is a well-known figure in this state. He is an appointee
15 by the Governor to the Guadalupe Blanco River Authority
16 where he is vice-chairman of that board. He has already
17 gone through probably the same DPS background checks you
18 had to go through. Part of the group has already been
19 approved by the DPS. His financial ability is that he
20 owns Thomas Oil and 150 sites in this state. I assume
21 most of them are the larger gasoline retail sites. He has
22 50-some-odd locations in Travis County. He is extremely
23 familiar with working with Travis County and Austin, if
24 need be. His financial ability is without question.

25 The reason that we chose Mr. Thomas is that he

1 already has on staff the ability to do all this traffic.
2 He works with these people everyday. He can get this
3 thing built. He can develop this site. We have -- none
4 of our group are really developers or even close to that
5 sort of thing. So to get this expedited and to move on
6 with this, that's why we chose Mr. Thomas. Mr. Thomas --
7 because of this injunction, I can't now bring Mr. Thomas
8 before you. I can't as the Austin Jockey Club. But since
9 I've already given the contract to the staff, there's
10 nothing that prevents the Commission from entertaining
11 conversations with Mr. Thomas. And I'm sure he'll be here
12 at the next meeting and will be meeting with staff and you
13 individually, I assume. But I can't because of the
14 injunction on behalf of the Austin Jockey Club make this
15 presentation. Everything I have to do I have to do in the
16 name of the Austin Jockey Club.

17 But, like I said, they're not enjoined, so we're
18 going on with this. We fully anticipate -- by the way,
19 the contract says January 15, 2010. Everything has to be
20 filed with the Commission. Our side of it will be over.
21 Then it will be the DPS, the staff, and then in the normal
22 course of business for the Commission to do this. I fully
23 believe that by the end of the year most of this will
24 already be done. But certainly by the time we come back
25 here in February, I believe that you will be very

1 satisfied as to where the Austin Jockey Club site, the
2 location, the transfer, and you will be satisfied that we
3 do intend to go forward with this and not be the problem
4 that we obviously have been for the Commission all these
5 years.

6 Again, I say because of our background we wanted
7 a track built. We entered into this contract with
8 absolutely no new consideration whatsoever. Not \$100 and
9 other value consideration changed hands. We want a track
10 built. We have no interest, no interest in the pari-
11 mutuel side at all. There are many things in response to
12 your questioning, or anticipating your questioning, on
13 simulcasting this sort of thing on live racing.

14 There are many things, many innovations that the
15 Commission is going to have to envision if we don't get
16 some type of help on the gambling. And it's increasing
17 the purses. And the purses to carry the race dates. If
18 you have great purses, you have great horses, then you
19 have great crowds. It just follows that way. But the
20 idea of building, for instance, I'm just giving this as an
21 example. This may not end up being the business plan, but
22 the idea of dealing with Retama Park and having their
23 support and having a a track where you race at the end of
24 the meet. If you're not a horseman, you don't understand
25 the biggest cause for a horseman is moving.

1 You can have great racing, but if you have to
2 move from the Class 1 San Antonio to the Class 1 in
3 Dallas, you can't in Austin for two weeks. What you do is
4 you tack it on the end of the meet or you race an extra
5 day or two during their meet. You don't build 22 barns,
6 you build four. You haul in like they do in California
7 from training centers, the horsemen don't even have to
8 move. With the idea that it is the purses in question.
9 There are so many different things like that you can do
10 that takes innovative thinking and it takes the horsemen's
11 involvement, which was the biggest problem with Dallas
12 City Limits. They never, ever talked to a horseman. They
13 brought in Mike Burleson and they brought in Paula
14 Flowerday. I've gone on too long.

15 CHAIRMAN PABLOS: Not at all, Mr. Archer. Thank
16 you for that background, I think that was important. I do
17 want to reiterate to you that four years ago we asked you
18 to or this body asked you to come up with a solution. And
19 this past September you brought to us a grossly
20 unqualified buyer, in my opinion. So my concern is
21 wondering this new potential buyer, what you've told us
22 today that you believe that this new buyer or this new
23 partner would be qualified.

24 My concern is if that's really going to be the
25 case. Your license right now, sir, is in jeopardy of

1 being sent for a revocation hearing, simply because back
2 in September the potential buyer that you brought forward
3 to us was not qualified. And now we're back to square
4 one. So I'm encouraged in hearing what you're saying.
5 I'm encouraged in knowing that you're taking a position to
6 try to cure what is going on. So with respect to that, I
7 thank you for what you are doing, but at the same time I
8 just want to put you on notice that we are very concerned
9 about this situation. And I hope that everything that you
10 said today comes true. All of the documentation that
11 you're saying is going to be submitted. Seeing that, I
12 will feel more comfortable. So I really appreciate you
13 taking those steps.

14 Are there any questions or comments,
15 Commissioners?

16 MR. ARCHER: That is why we have taken this
17 drastic action and separating ourselves and actually
18 exposing my partners to this lawsuit.

19 CHAIRMAN PABLOS: Commissioner Clowe.

20 COMMISSIONER CLOWE: Chairman, I think I heard
21 you say that this license is subject currently to a
22 revocation hearing.

23 CHAIRMAN PABLOS: That's correct.

24 COMMISSIONER CLOWE: Would you give me a little
25 background on that.

1 CHAIRMAN PABLOS: Sure. Back four years ago this
2 body had asked Austin Jockey Club to resolve an issue with
3 respect to their proposed property and were given a
4 certain time line to comply. Instead of proposing a new
5 property, Austin Jockey Club came to us proposing a
6 potential buyer. And so in light of that, this Commission
7 agreed to entertain the possibility of having a potential
8 buyer. That took four years. And as we saw this past
9 September, the potential buyer came forward to us and we
10 all know what happened there.

11 That being said, Charla Ann and Mark, you can
12 speak to this if you like. Charla Ann now as the
13 executive director, has the authority to refer this
14 license to SOAH for a revocation hearing based on the fact
15 that the license holder has not complied with the orders
16 of this body. If that is incorrect in any way, Mark, I
17 ask you to please correct me.

18 MR. FENNER: You are correct that the executive
19 director has the authority to refer an association for
20 revocation proceedings that will be a full evidentiary
21 hearing before the State Office of Administrative
22 Hearings. The administrative law judge would make a
23 proposal for decision which would be sent back to the
24 Commission for further review and make a decision.

25 And so I would at this point I would make a

1 little bit of a caution here about what you say. You
2 don't want to put yourself in a position of having
3 prejudged at this point before the evidentiary hearing has
4 been held. So we have to be careful. But as matter of
5 law, you are absolutely correct. Charla Ann has the
6 responsibility and has the authority to make a referral to
7 SOAH if she believes there is grounds for revocation that
8 are listed in the act.

9 COMMISSIONER CLOWE: That helps me because it
10 says that the executive director can do that. I was under
11 the impression that that process was in motion. And I'm
12 not hearing that to be the case.

13 MR. FENNER: This case has not -- the Austin
14 Jockey Club has not yet been referred to the State Office
15 of Administrative Hearings and there is no guarantee that
16 they will be or won't be.

17 CHAIRMAN PABLOS: I am comforted in knowing that
18 you are taking a proactive stance in correcting that.

19 MR. ARCHER: On behalf of Austin Jockey Club, we
20 simply ask for you to wait until the next hearing to see
21 if we have accomplished what we proposed.

22 CHAIRMAN PABLOS: Any other comments or
23 questions? Thank you.

24 We have two Commissioners who have to catch a
25 flight. Please feel free to head to the airport any time

1 you would like, if that's what you would like to do,
2 okay. Thank you very much. I thank you for being here
3 today. Bryan Brown, do you wish to speak?

4 MR. BROWN: Only if there's further questions.

5 CHAIRMAN PABLOS: I don't think there are any,
6 unless I'm wrong, okay. Thank you. And thank you,
7 Mr. Archer, for that update, I appreciate that. Thank you
8 very much.

9 The next item report by Saddle Brook Park. I
10 would like to recognize Drew Alexander, please.

11 MR. FENNER: Can the record reflect Commissioner
12 Weinberg and Commissioner Hicks is leaving, but we still
13 do have a quorum.

14 CHAIRMAN PABLOS: Thank you very much.

15 MR. ALEXANDER: My name is Drew Alexander. I'm
16 from Saddle Brook Park in Amarillo, where it is actually
17 warmer there than it is here today. I'm glad to be before
18 you today. I flew down yesterday and met with staff
19 members of the Commission, Ms. Charla Ann, Mark, Sammy.
20 And we spent a couple of hours together. I brought a lot
21 of information that they had as far as blueprints and
22 surveys and so forth in Amarillo. In the time we spent we
23 were able to break that down, Phases 1, 2, 3, 4 and 5,
24 which I won't go into right now. They have a wealth of
25 information they can share with you when they feel like

1 that time is appropriate.

2 But kind of the gist we wound up meeting, we all
3 know what we're trying to get to. We don't know how long
4 it's going to take to get there, live racing. But we know
5 we have to start somewhere, and the simulcasting is
6 obviously the place to start first. That's the only way
7 that you have any revenue. It's probably where you spend
8 the least amount of money. So that's where we're
9 starting. And we outlined some of the problems and some
10 of the things that we have to do to get where we're
11 going. And we'll be talking some more. One of the people
12 I need to spend some time with is Sally Briggs with Gulf
13 Greyhound. She's going to help us with some of our
14 technical information and so forth.

15 So we were I guess the first group to really
16 bring you a whole set of plans and an itinerary and Phase
17 1, 2, 3, 4 for the completion of what we're trying to do.
18 And I would like to say that the cohesiveness that I felt
19 with the Racing Commission during our meeting yesterday
20 and how much help they're trying to afford guys like me
21 that are sitting out here with this license that hasn't
22 been built was extremely pleasant. And I was really glad
23 to see it and I am real excited for what I feel is maybe a
24 change of attitude in wanting to really help. We all know
25 where we have to go to. We're trying to save the life of

1 the horse business in the State of Texas. And they're
2 going to be a lot of support. They offered all of that
3 yesterday. It made me feel really good when I walked out
4 of there. So that's kind of where we are right now.

5 CHAIRMAN PABLOS: Thank you. Are there any
6 questions, Commissioners? Thank you.

7 Our next item is F3, report by Valle de los
8 Tesoros. Steve La Mantia.

9 MR. LA MANTIA: I believe before the meeting
10 started or sometime previous to the meeting they handed
11 out a letter from the City of McAllen concerning water and
12 sewage on our property in the Rio Grande Valley. This
13 property was purchased a number of years ago for the
14 facility. We're in the process of waiting for the City of
15 McAllen to connect us with water and sewage, at which time
16 we will be able to go forward with our plans. Do you want
17 me to address, go ahead on both these items or just one at
18 a time? Or how do you want to do this?

19 CHAIRMAN PABLOS: One at a time, but you can
20 certainly speak to both of them.

21 MR. LA MANTIA: That's the latest update I have
22 as far as Valle de los Tesoros.

23 CHAIRMAN PABLOS: Let's move on to Laredo Downs,
24 please, F4.

25 MR. LA MANTIA: We have been very open about the

1 fact that we would like to move that license. At the
2 behest of I guess the Staff or the Commission, we haven't
3 put an application in to that license. I think that we
4 would be willing to do that and could be able to do that
5 within 60 days to 90 days, if that is the request of the
6 Commission. We have a site picked out, I think we know
7 where we want to go. So that's our position on Laredo.

8 CHAIRMAN PABLOS: Okay. Commissioners, are there
9 any other questions or any questions, rather? Okay.
10 Thank you very much, appreciate the update.

11 Item F5, I would like to recognize Andrea Young
12 of Laredo Race Park. Is there anything else you would
13 like to add, Andrea.

14 MS. YOUNG: No.

15 CHAIRMAN PABLOS: Thank you. Okay. We'll move
16 into item V(A), proceeding on rulemaking. Let's take up
17 the entirety of A, rule adoptions. Mark Fenner, please.

18 MR. FENNER: Commissioners, those nine rule
19 proposals which relate to the trainers and officials were
20 approved for publication in the register, the September
21 Commission meeting. They were subsequently published in
22 the October 30th edition of the register, we've received
23 no written comments in response to the publication. And
24 they were developed by staff based on the RCI model rules,
25 discussed at length and modifications were made in the

1 July 14, 2009 rules committee meeting and then discussed
2 again at the November 16, 2009, rules committee meeting.

3 The committee recommended for approval by the
4 Commission. I could walk you through each one of them if
5 you like or answer questions if you have any of any
6 particular one.

7 CHAIRMAN PABLOS: Are there any questions of
8 Mark?

9 COMMISSIONER CLOWE: Mr. Chairman, would you
10 accept a motion to approve all nine proposed rules?

11 CHAIRMAN PABLOS: I thought you would never ask.

12 COMMISSIONER CLOWE: So moved.

13 COMMISSIONER CARTER: Second.

14 CHAIRMAN PABLOS: Second is by Dr. Carter. Any
15 further discussion on this? I think I'm very comfortable
16 in the fact that these rules, these proposals have been
17 vetted thoroughly. So I'm very comfortable with it. So
18 at this time if I hear no other comments, I would like to
19 take it up for a vote. All those in favor, please signify
20 by saying aye.

21 COMMISSIONERS: Aye.

22 CHAIRMAN PABLOS: Any opposed? Okay. That
23 carries. Mark, let's take up Item B, rule review.

24 MR. FENNER: Rule review. The Texas Government
25 Code requires that each agency review each of their rules

1 every four years to ensure that they are still necessary.
2 And the time has come to review Chapters 307, which is
3 proceedings before the Commission; Chapter 321, entitled
4 pari-mutuel wagering; and Chapter 323, which is
5 disciplinary action and enforcement. During the rule
6 review process we will put something in the Texas
7 Register. We will also talk to the stakeholders,
8 including companies with pari-mutuel wagerings ties to see
9 whether or not there is any modifications that should be
10 made to each of those rules. We'll bring those back to
11 the Commission for proposal and adoption to the regular
12 rule making process. This process can take up to a year.

13 But we recommend going ahead and starting that
14 process by publishing these rules -- chapters for rule
15 review in the Texas Register.

16 CHAIRMAN PABLOS: Okay. Any questions of Mark?
17 Okay. Commissioner Clowe, you want to help us out again?

18 COMMISSIONER CLOWE: So moved.

19 COMMISSIONER SCHMIDT: Second.

20 CHAIRMAN PABLOS: We have a second by
21 Dr. Schmidt. Any further discussion on this? Okay.
22 Taking this up for a vote, all those in favor please
23 signify by saying aye.

24 COMMISSIONERS: Aye.

25 CHAIRMAN PABLOS: Any opposed? Okay. That

1 motion carries. That takes us into old/new business. I
2 have none. Commissioners, any old or new business to
3 discuss before we adjourn? Okay. I thank everybody. Our
4 next meeting is scheduled for February 16, 2010. I want
5 to wish everybody Happy Holidays. Stay safe and warm.
6 The time right now is 2:21, and I would like to adjourn
7 today's meeting of the Texas Racing Commission. Thank you
8 very much.

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1 STATE OF TEXAS)
2 COUNTY OF TRAVIS)

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5 I, LORI M. BRYANT, a Certified Shorthand Reporter
6 in and for the State of Texas, do hereby certify that the
7 above-captioned matter came on for hearing before the
8 TEXAS RACING COMMISSION as 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 12th day of December, 2009.

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LORI M. BRYANT, Texas CSR 4317

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